Dostęp do wymiaru sprawiedliwości w sprawach dotyczących środowiska

Słowenia

Więcej krajowych informacji na temat dostępu do wymiaru sprawiedliwości w sprawach dotyczących środowiska można znaleźć na stronach poniżej:

1. Dostęp do wymiaru sprawiedliwości na poziomie państwa członkowskiego
2. Dostęp do wymiaru sprawiedliwości wykraczający poza zakres dyrektywy w sprawie oceny oddziaływania na środowisko, dyrektywy dotyczącej zintegrowanego zapobiegania zanieczyszczeniom i ich kontroli/dyrektywy w sprawie emisji przemysłowych, dyrektywy w sprawie dostępu do informacji oraz dyrektywy w sprawie odpowiedzialności za środowisko
3. Inne istotne przepisy dotyczące odwołań, środków zaskarżenia i dostępu do wymiaru sprawiedliwości w sprawach dotyczących środowiska

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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 the environment and procedural rights of persons (natural, legal, NGOs) in the specific national order

The protection of a healthy environment is a constitutional right, although not in the chapter of human rights, but nevertheless recognised as such. The legislative body is the National Assembly of the Republic of Slovenia, which consists of the elected deputies. The National Council of the Republic of Slovenia (as the lower chamber of the Slovenian Parliament) consists of members who represent local and functional interests. The executive power is exercised through the Government – the president and ministers are elected by the National Assembly. There are 16 ministries. For the environment, the Ministry of the Environment and Spatial Planning and its bodies are competent (bodies under the ministry: the Slovenian Environment Agency[1], the Inspectorate for the Environment and Spatial Planning, the Surveying and Mapping Authority, the Slovenian Nuclear Safety Administration, the Slovenian Water Agency). For nature conservation, there is the Institute of the Republic of Slovenia for Nature Conservation. The Government can adopt decrees and ordinances; the ministers can adopt rulings as binding general legal acts. On the local level, there are 212 local communities (main bodies are the mayor and the community council). There is no regional level organised in Slovenia. Legislation is presented in a legal information system[2].

As a party to the Aarhus convention, Slovenia granted the right to protect the right to a healthy environment to the ombudsman, to affected natural and legal persons, and to NGOs working in the public interest in certain areas (environmental protection, nature conservation, spatial planning). The conditions under which these individuals or organisations have legal standing are defined in environmental legislation. Apart from the subjects mentioned above, anyone can pursue their rights at the Constitutional Court, provided they can demonstrate legal interest.

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

The Constitution of the Republic of Slovenia[3] declares that everyone has the right to a healthy living environment in accordance with the law and that the state shall promote a healthy living environment (Article 72). Also, everyone has the right to safe drinking water (Article 70a). The manner in which property is acquired and enjoyed shall be established by law so as to ensure its economic, social, and environmental function (Article 67). Ratified and published treaties shall be applied directly (Article 8) and Slovenia is a party to the Aarhus convention.

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

Environmental legislation is extensive and frequently changing. Through strategic environmental assessments (SEAs) and environmental impact assessments (EIAs), it is connected with spatial planning and construction permission regulation. All legislation is presented in the legal informational system of the Republic of Slovenia. There is also some legislation translated into English, but mostly it is not fully accurate. Access to justice is defined in the Environmental Protection Act, the Nature Conservation act, the Spatial Planning Act and the Building Act.

The Environmental Protection Act[4] is a basic act for the overall protection of the environment in Slovenia. It regulates horizontal common instruments and principles such as: the basic principles of environmental protection, environmental protection measures, strategic documents for environmental protection, strategic environmental assessment (according to the SEA Directive), environmental impact assessment and environmental consent (according to the EIA Directive), environmental permits (according to the IED), environmental monitoring and environmental information collection, emission trading, liability for environmental damage (according to the ELD), competent bodies in the areas of environmental protection, NGOs and their role in procedures and inspection. Access to justice is defined as a general right to exercise the constitutional right to a healthy environment (Article 14 – right to act against polluters) and as a right for a defined circle of affected persons and NGOs with the status of “public interest – environmental protection” (complaint against negative EIA screening decision, party in EIA procedure, IED procedure and environmental liability procedure).

The Government of the Republic of Slovenia determines the thresholds for emissions and most of the executive regulation for administering the areas listed above with decrees.

According to the Environmental Protection Act, the National Programme for Environmental Protection is the national programme constituting the framework for environmental protection in Slovenia and is adopted by the National Assembly[5] for a certain period (it also includes the Nature Conservation Plan as per the Nature Conservation Act and the National Water Plan as per the Waters Act).

The Nature Conservation Act[6] transposed the Convention on Biological Diversity into Slovenian legislation. It establishes biodiversity conservation measures (protection of wild plant and animal species, including their genetic material, their habitats and ecosystems) and the system for the protection of valuable natural features in order to contribute to nature conservation. It regulates:

different types of protected areas: a habitat type, an ecologically important area, an area of special protection (the Natura 2000 areas are determined and regulated by the Decree on special protection areas (Natura 2000 areas)[7]), landscape;

measures for the protection of species and their habitats; the executive regulation is adopted by the government (in the form of decrees, according to the Habitats and Birds Directive);
instruments for assessment of the environmental acceptability of plans and programmes (appropriate assessment for plans is carried out within the strategic environmental impact assessment and appropriate assessment of activities affecting nature is carried out within the environmental impact assessment, if this is carried out, otherwise separately);
nature conservation permit;
competent bodies for nature conservation;
conditions for NGOs to obtain the status of "public interest – nature conservation" and their rights (the right to represent interests of nature conservation in all administrative procedures and disputes);
inspection.

The Waters Act[8] lays down basic water regulations (it also transposes the Water Framework Directive). It emphasises that water is a public good. The Act introduces the institute of 'right on water' (obtaining permission for special use of water, for example, fish farms, irrigation and hydroelectric power plants) and water consent (as a permit for intervention in the area of a certain water by influencing the water regime). In order to protect drinking water, protected water areas are defined, in which the disposal of waste, the use of fertilisers and other actions are prohibited. Water management is defined in more detail by the specific water management plans. The Water Act also defines the basic principles of water management. The highest strategic national water management plan is a national programme (adopted by the National Assembly for a maximum of 12 years). The water management plans include the implementing action plans. There are no special provisions for legal standing for NGOs or individuals in the administrative procedures related to water, therefore the general rules for legal standing in administrative procedure apply.

There are other important acts related to environmental protection, among them: the Act on Forests[9]; the Game and Hunting Act[10], the Animal Protection Act[11], the Underground Cave Protection Act[12], the Mining Act[13], the Ionising Radiation Protection and Nuclear Safety Act[14], the Triglav National Park Act[15], the Management of Genetically Modified Organisms Act[16], the Chemicals Act[17]; and others which fall under the competence of different ministries.

Where spatial planning and construction permission has an impact on the environment, the strategic environmental assessment and environmental impact assessment are carried out within the procedure of spatial planning or construction permission. The **Spatial Planning Act**[18] provides access to justice regarding spatial plans, and the **Building Act**[19] does so in the part where the environmental impact assessment is integrated into the building permits procedure.

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

The Supreme Court has no special or particular role in environmental matters. It acts as a second-instance court of the Administrative Court, if the complaint is allowed, and for revision in cases of extraordinary appeal. It also decides on jurisdiction matters between the Administrative Court and the courts of general jurisprudence.

The core of case law (on the initiative of the NGOs) is generated by environmental impact assessments (the EIA Directive), appropriate assessments (the Habitats Directive), environmental permits (the IED), environmental liability (the ELD), water permits, nature conservation permits and spatial planning at the Administrative Court.[20] Several cases were initiated not only because of opposition to the content of the administrative decision, but also because of recognition of standing in the administrative procedure for NGOs that was not recognised or rejected. At regular court there are civil claims for compensation and for termination of harmful practices or emissions[21]. There are also many cases concerning review of the constitutionality and legality of regulations and general acts, constitutional complaints for violation of human rights with individual acts.[22]

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?

According to Article 8 of the Constitution, ratified agreements shall be applied directly, therefore you can also directly rely on international environmental agreements, especially in matters where they are not correctly transposed or transposed at all into national law (besides the national end EU transposing regulation). It is also important that you rely on international agreements in the administrative procedure in order to build up the case for a potential procedure before the Administrative Court, and later the Constitutional Court in the potential case of human rights violation.

1.2. Jurisdiction of the courts

1) Number of levels in the court system

Generally, there are three levels in the Slovenian court system: 44 local and 11 district courts on the first level, 4 higher courts on the second, and the Supreme Court as the third instance. There are also specialised courts: the Labour and Social Court and the Administrative Court. The vast majority of environmental cases are dealt with by the Administrative Court, which has status equal to the second level courts. The rest of the cases are dealt with by the courts of general jurisdiction (on the first level by local or district courts). In the event that appeal against the Administrative Court's decision is allowed, the second instance is the Supreme Court.

The Constitutional Court is the highest judicial authority for the protection of constitutionality, legality, human rights and fundamental freedoms.

Also, there is a State Prosecutor General as part of the general justice system and as an independent state authority.

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

The Courts Act[23] defines the jurisdiction of local, district, high courts and the Supreme Court. The Administrative Dispute Act[24] defines jurisdiction of the Administrative Courts, and the Labour and Social Courts Act[25] defines jurisdiction of the Labour and Social Courts. The Administrative Court is competent for judicial protection of the rights and legal interests of individuals and organisations in decisions and actions of state authorities, local community authorities and bearers of public authority - administrative decisions and (legality) of individual acts and actions with which authorities have encroached on the human rights and fundamental freedoms of an individual, unless a different form of judicial protection has been guaranteed (Articles 1 and 4). The core procedural act is the Civil Procedures Act.[26] It sets out the rules for resolving conflicts or uncertainties regarding jurisdiction. The addressed court assesses its jurisdiction according to the statements in the suit and its own findings. If it establishes that another body (like arbitration) is competent for the case, or that the case is not of Slovenian court jurisdiction, it dismisses the suit. If it establishes that the case falls within another court's jurisdiction, it stops the procedure and sends the case to the other court. The high court has jurisdiction for resolving disputes about jurisdiction among (regular) courts, and the Supreme Court resolves disputes about jurisdiction among lower courts.

There is also the Arbitration Act,[27] which defines sets out rules on arbitration in Slovenia. The district court in Ljubljana has jurisdiction in relation to some concerns regarding the arbitration agreement: admissibility of the arbitral proceedings, the appointment or exclusion of an arbitrator, the award for the arbiter, the declaration of enforceability of domestic and recognition of foreign arbitral awards. The appeal against the court decision can be lodged with the Supreme Court. But the subject of arbitration agreement can only be pecuniary claims, and other claims only if the parties can agree on them.

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

There are no specialised courts for environmental disputes. Most environmental cases are processed by the Administrative Court, since there are a lot disputes regarding decisions of state institutions in administrative procedures. There are some specialised judges for environmental and spatial planning cases, but not as a separate organisational unit. There are no laypersons contributing; the process is led by the senate of three judges or one judge.
A minority of environmental disputes are processed before regular (local or district) courts – these are civil suits against polluters. There are no specialised judges for the legal area of the environment.

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

The Administrative Court is not bound by the legal grounds of the request of the plaintiff, but to the factual claims set out in the lawsuit. Each party proposes evidence for their requests, but the court decides which evidence will be used. The Administrative Court is not bound by the proposals of the parties and may hear any evidence which could contribute to resolution of the case.
If the court grants the claim of the plaintiff, it can decide to:
abolish the administrative decision and return the case to the administrative level (this is the most commonly the case);
abolish the administrative decision and decide about the matter; this occurs if the case has a solid base in facts, and especially if a new administrative procedure would cause irreparable damage to the plaintiff (this is never the case in environmental matters).

1.3. Organisation of justice at administrative and judicial level

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

Administrative bodies, defined by the State Administration Act[28], are: ministries, bodies/institutions within the ministry and administration units. For environmental protection, nature conservation and spatial planning, the following institutions are relevant:
the Ministry of the Environment and Spatial Planning;
bodies within the ministry: the Slovenian Environment Agency[29], the Inspectorate for the Environment and Spatial Planning, the Surveying and Mapping Authority, the Slovenian Nuclear Safety Administration, the Slovenian Water Agency;
the Institute of the Republic of Slovenia for Nature Conservation;
administrative units, which are the basic building blocks of the administrative system covering geographical areas.
The first level of administrative decision-making can be undertaken by all the institutions above, depending on the type of permit/consent. Usually or most commonly, the first level is covered by administrative units or bodies within the Ministry of the Environment and Spatial Planning, and the second level (appellate instance) is the ministry itself.

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

Against the final decision at administrative level, a suit can be filed with the Administrative Court in accordance with the Administrative Dispute Act[30]. The suit can be filed by the plaintiff, and representation by attorney is not a necessary condition. The court fee should be paid (148 EUR), and is returned to the plaintiff if they are successful. There is a possibility for the court to decide without a hearing. The average time for a decision is approximately one year.
The administrative body (a state institution) as a defendant is represented by the State Attorney's Office.
The procedural rules are set out in the Administrative Dispute Act and in the Contentious Civil Procedures Act.

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

There is no special environmental court.

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

In administrative procedures, except where the Ministry of the Environment and Spatial Planning decides as first-instance body, complaint is possible (within 15 days) unless it is specifically excluded (for example, in environmental liability proceedings). The Ministry carries out the second-instance administrative procedure regarding the complaint and issue the decision. The administrative procedure is regulated by the General Administrative Procedure Act[31].
Where complaint is not possible, administrative dispute at the Administrative Court is allowed.
Against the final decision (judgment) of the Administrative Court, appeal to the Supreme Court is possible. According to the Administrative Dispute Act, this is the case only where the court establishes different facts than the administrative body (defendant) and changes the administrative decision on this ground on its own motion, or finds out that the decision or action of the administrative body is illegal. In the judgment, the Administrative Court defines if appeal is allowed. Against a decision about temporary injunction, appeal against the decision to the Supreme Court is possible.

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

Revision, as extraordinary appeal to the Supreme Court, is possible if the Supreme Court allows it. The Supreme Court decides about the proposal of the interested party; the proposal should be filed within 15 days after receiving the judgment. The Supreme Court allows the revision if the decision about important legal question is expected. If the revision is allowed, it can be filed only because of violation of the procedural rules, or if the application of law is wrong. The revision appeal is allowed only with the representation of an attorney.

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

Mediation between parties is always possible on a voluntary basis[32], but it is not used often for environmental cases. In civil disputes, the regular courts offer mediation as part of the court procedure (Act on Alternative Dispute Resolution in Judicial Matters[33]).
The parties could also agree on an arbitration agreement, if the matter concerns a pecuniary or other claim on which the parties can settle. This can be the case only in civil suits regarding compensation claims against polluters. It is not used in practice.

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

The Ombudsman has a strong role to play in protecting the constitutional right to a healthy environment.[34] According to the Human Rights Ombudsman Act[35], the Ombudsman acts on the basis of individual initiatives if the state or a local body violates human rights. If the administrative or court procedure is already addressing the matter, the Ombudsman does not intervene unless there is a substantial delay in proceedings or there are signs of obvious abuse of power. The Ombudsman can accept or reject the initiative. If it accepts it, then it begins the inquiry. After receiving the explanation of the competent body, it prepares a report where it expresses an opinion about the violation of human rights and proposes what action should be taken to stop the violation.

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)?

There is no general rule for all cases. There is a status of working in the public interest for NGOs, regulated by the Non-Governmental Organisations Act[36] - this means that the state acknowledges that some NGOs are operating not only in their own interest or in the interest of their members but for common welfare. This is recognised in different areas if NGOs fulfil certain conditions and can present accomplishments defined by the rules of different sectors (culture, sports, environment, etc). The NGO has to apply for the status at the competent ministry and the ministry issues an administrative decision. The NGO has to fulfil the conditions for the status at all times and has to report to the ministry every two years. Sectoral rules/conditions for environmental NGOs are set out in:
the Environmental Protection Act and rules on detailed conditions and criteria for acquiring the status of a non-governmental organisation operating in the public interest in the field of environmental protection[37] for NGOs with the status of "public interest – environmental protection". According to the

Environmental Protection Act, they can be a party in certain administrative procedures (file a complaint against the negative EIA[38] decision, be a party in the EIA[39] and IED procedure and the environmental liability procedure);
the Nature Conservation Act and rules on the criteria determining the significant achievements of an NGO in order to be granted the status of an NGO operating in the public interest in nature conservation[40] for NGOs with the status of "public interest – nature protection"; they have to fulfil some additional criteria (if the NGO is an association, it must have 50 members; if the NGO is an institute, it must have two employees with a certain level of education; if the NGO is a foundation, it must have 10,000 EUR of property); NGOs with this status can participate in administrative procedures or in administrative disputes if they advocate nature protection interests in the way determined by the law;
the Spatial Planning Act and rules on the criteria determining significant achievements of NGOs in order to be granted the status of an NGO operating in the public interest in spatial planning[41] for NGOs with the status of "public interest – spatial planning". They have the right to file a suit with the Administrative Court against some aspects of spatial plans (like land use).
Natural and legal persons have:
the right to participate (and therefore to use the legal remedies) in certain procedures (environmental impact assessment (EIA), environmental permits (IED)) applicable for those who permanently reside, or are owners or other possessors of real estate, in the impact area (Environmental Protection Act);
the right to be a party in administrative procedures, provided they demonstrate legal interest. Legal interest shall be demonstrated by a person who claims to be joining the procedure in order to protect their legal benefits – these shall be direct personal benefits based on an Act or other regulation (General Administrative Procedure Act[42], Article 43);
Civil initiatives can be a party in the integral building permission procedure (integral means that the building permission procedure is combined with the environmental impact assessment (environmental consent) procedure). There should be 200 signatures of residents (natural persons of age) who live in the local community where the installation will be sited or in a neighbouring community (Building Act[43], Article 54).

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

There is a general rule in the General Administrative Procedure Act concerning who has the right to be a party in an administrative procedure – those who demonstrate their legal interest (the person should claim to be joining the procedure in order to protect their legal benefits; these shall be direct personal benefits based on an Act or other regulation). In addition to that general rule, there are some specific rules in *lex specialis*:
- The Nature Conservation Act – defines the conditions for NGOs to hold the status of "public interest – nature conservation", and the right of such NGOs to represent nature conservation interests (be a party and use legal remedies) in all administrative procedures and in all administrative disputes in the way determined by the law. Legal remedies involve the administration appeal to a second-instance authority and/or filing a suit with the Administrative Court (administrative dispute).
The Environmental Protection Act defines the conditions for NGOs to hold the status of "public interest – environmental protection" and their right to participate (be a party and use legal remedies) in certain procedures: to appeal against a negative EIA screening decision, to be party in the EIA procedure, the EID procedure and the environmental liability procedure. The defined circle of affected individuals has the right to participate in EIA and IED procedure (be a party and use legal remedies). Legal remedies involve administrative appeal to a second-instance authority and/or filing a suit with the Administrative Court (administrative dispute). There is also a more general right to exercise the constitutional right to a healthy environment: individuals, their societies, associations and organisations can file a request with the court against the polluter to stop harmful activities. The competent courts for such cases are regular first-instance courts (district).
- The Building Act regulates integral building permission procedure (joint building permission and environmental impact assessment – environmental consent) and defines the parties in this procedure. Civil initiatives (groups of 200 inhabitants of the affected local community) are also included in the defined circle of affected persons and NGOs with the status of "public interest – nature conservation / environmental protection". All have the right to participate in the administrative procedure (be a party and use legal remedies – filing a suit with the Administrative Court).
- The Spatial Planning Act: against the spatial plan, legal remedy is possible (a suit with the Administrative Court) for a defined circle of persons and NGOs with the status of "public interest – environmental protection / nature conservation / spatial planning / cultural heritage conservation". They can use the legal remedy provided they actively participated in the public discussions in previous stages of the procedure. The State Attorney's Office has the same right for protection of the public interest. There are limited aspects of the plan that can be challenged.

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

The Constitutional Court has the general rule[44] that anyone who demonstrates legal interest may lodge a petition that the procedure for the review of the constitutionality or legality of regulations or general acts issued for the exercise of public authority be initiated. Legal interest is deemed to be demonstrated if a regulation or general act is issued for the exercise of public authority and its review has been requested by the petitioner for reasons of its direct interference with their rights, legal interests or legal position. Constitutional complaint against the violation of human rights by an individual act can be filed after all other legal remedies have been exhausted.
Administrative procedure:
The general rule for all administrative procedures applies for all persons – whether individual or NGOs. This rule is applicable unless a particular Act (e.g. the Nature Conservation Act or the Environmental Protection Act) defines other specific rules. The right to be a party in an administrative procedure is available to those who demonstrate their legal interest (the person should claim to be joining the procedure in order to protect their legal benefits; these benefits shall be direct personal benefits based on an Act or other regulation). The procedure usually goes further at the level of judicial review (administrative dispute at the Administrative Court) at the initiative of the party in the administrative procedure. Specific rules are defined in:
- The **Nature Conservation Act** – NGOs with the status of "public interest – nature conservation" have the right to represent nature conservation interests (be a party and use the legal remedy) in any administrative procedure and in administrative disputes in the way determined by the law.
- The **Environmental Protection Act** defines different rights for individuals and NGOs with the status of "public interest – environmental protection":
strategic impact assessments: there are no provisions for NGOs to participate in SEA procedures, but (according to the Nature Conservation Act) an association with the status of "public interest – nature conservation" did succeed at the Administrative Court in getting a position in an SEA procedure (case II U 145/2016); on the basis of this case, the Ministry of the Environment and Spatial Planning allowed 9 NGOs with the status of "public interest – environment protection / nature conservation" to be parties in the SEA procedure for the National Energy and Climate Plan[45]; the legal remedy here is complaint to the Government (semi-administrative procedure) if the authority that prepares a plan is at state level or suit with the Administrative Court if the authority that prepares the plan is at local community level;
environmental impact assessment screening procedure (Article 51a): NGOs with the status of "public interest – environmental protection" can appeal against negative screening decisions (within 15 days after publishing of the decision on the website of the Slovenian Environment Agency);
environmental impact assessment (Article 64): the law presumes the existence of legal interest for persons who permanently reside, or are owners or other possessors of real estate, in the impact area, and NGOs with the status of "public interest – environmental protection" shall have a legal interest to enter the

procedure for issuing an environmental consent in order to protect their rights, provided they apply for the procedure within 35 days after publishing of the public consultation documents (but it is recommended that the party in this application also presents all the comments and arguments in the case); a recent decision by the Administrative Court states that this legal assumption of legal interest does not exclude the existence of legal interest according to general rules of administrative procedure, widening the circle of possible parties[46];
environmental permit – IED (Article 73): persons who permanently reside, or are owners or other possessors of real estate, in the impact area of the installation and NGOs with the status of "public interest – environmental protection" have a legal interest in participating in the procedure for issuing an environmental permit, provided they apply for the procedure within 35 days after publishing of the public consultation documents (but it is recommended that the party in this application also presents all the comments and arguments in the case);
other environmental permits, but not SEVESO (Article 84a): the Ministry of the Environment and Spatial Planning will publish the documentation for the procedure if it gets five applications for party status in the procedure. If so, anyone can apply for party status in the procedure within 30 days of public announcement of the procedure;
environmental liability procedure (110g and 110e): legal or natural person who are harmed or could be harmed by environmental damage and NGOs with the status of "public interest – environmental protection" have the right to inform the Slovenian Environment Agency about the environmental damage and demand that the agency acts. They can also be a party in the procedure for determining the remedy measures.
There is also the right to the protection of a healthy environment, which is "open" to all individuals and NGOs (not only those with the status of public interest) – Article 14. According to this, citizens may, as individuals or through societies, associations or organisations, file a request at a court that the person responsible for an activity affecting the environment terminates the activity if it causes, or would cause, an excessive environmental burden or presents, or would present, an imminent threat to human life or health, or that the person responsible for the activity affecting the environment be prohibited from starting the activity if there is a high probability that it will cause such consequences. For these cases, the first-instance regular courts are competent.
- The **Building Act** regulates integral building permission procedure[47] (combined building permit and environmental impact assessment – environmental consent). Parties in the procedure can be (Article 36, 38, 50, 54) persons who can be a party in the regular building permission procedure, persons who permanently reside, or are owners or other possessors of real estate, in the impact area, other persons claiming that building and its environmental burdens would have an impact on their rights and benefits, NGOs with the status of "public interest - environmental protection / nature conservation", civil initiative (200 signatures of residents in the local community or a neighbouring community). They can be party if they apply after they are invited by the administrative body (namely the Ministry of the Environment and Spatial Planning) or in the procedure according to the Environmental Protection Act if they apply (with their reasons for objection) in the procedure within 35 days after publishing of public consultation documents. NGOs with the status of "public interest – environmental protection / nature conservation" also have the right to legal remedy (suit with the Administrative court) if they were not a party to the procedure within 30 days after publishing on the online platform e-administration (Article 58);
- **Spatial Planning Act** (Article 58): against the spatial plan, legal remedy is possible (a suit with the Administrative Court within 3 months after enforcement) for persons if the plan determines ground for his rights and in this part significant consequences; NGOs with the status of "public interest – environmental protection / nature conservation / spatial planning / cultural heritage conservation" can participate if they actively participated in the public discussion in the previous stages of the procedure and the State Attorney's Office has the same right for protection of the public interest. There are limited aspects of the plan that can be challenged: land use, conditions for spatial interventions and choice of the best option.
There are no rules for foreign NGOs.

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

The general rules are set out in the Civil Procedure Act; the procedure at the court takes place in Slovene or a language that is used at the court (for Italian and Hungarian minorities). Parties or other participants can use their own language according to the Act – they can ask for a translator for the hearings and for a translation of the documents used at the hearings. The translators are official translators as per the Court Experts, Certified Appraisers and Court Interpreters Act[48]. All other documents should be in Slovene or another official language of the court. The costs for the translator are part of the costs of the procedure (the burden of the party who caused the cost).

1.5. Evidence and experts in the procedures

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

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

In administrative procedures, according to the principal of substantive rule the administrative authority is obliged to determine the true facts and all relevant facts so that a lawful and correct decision can be established. It can order the presentation (ex officio) of any evidence if it concludes that this is necessary to clarify the case.
Each party proposes the evidence for their requests, but the court decides which evidence will be used. The Administrative Court is not bound by the proposals of the parties and may hear any evidence which could contribute to resolution of the case.

2) Can one introduce new evidence?

The parties can propose evidence up to the end of the first hearing, except where the party can reasonably justify not presenting it sooner.

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

In the procedure, experts can be nominated by the court at the proposal of the party. The court shall take evidence from an expert if it is necessary to establish or clarify a fact with expertise (knowledge) which the court does not have at its disposal – the proposal of certain experts is consulted on with the parties. Before the expert begins work, the costs shall be covered in advance – otherwise the court stops the procedure. Usually the expert opinion should be presented as evidence with the filing of a suit or in response to it. In such cases, the expert represents a cost for the party presenting the expert opinion (you can find an expert on the free market) and hiring an expert does not mean that another expert will not be nominated later in the procedure. The court decides which evidence should be used. It can call upon another expert if the parties present substantiated arguments for doing so, and the cost burden lies with the party who proposes or insists on this. Actually, if expertise is presented by a party, it is evaluated according to the principle of free evaluation of the evidence: it can be accepted by the court, but the court may also consider it to be a mere claim by the party and nominate another expert. The main rule is that experts are to be nominated by the sitting court. The court experts are regulated by the Court Experts, Certified Appraisers and Court Interpreters Act. They are listed in a special register for court experts (area of ecology – there are 8 experts). The court is not bound only to court experts; it can also nominate expert institutions or other experts.

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

In evaluating expertise, the judge assesses which facts are considered to be proven on the basis of evaluation of each piece of evidence individually and combined. Since the basic reason for nominating the court expert is that the court does not have the knowledge necessary for establishing all relevant facts in the matter, the discretion is actually limited, as the court will not have the knowledge necessary to differ from it. However, if the court is not persuaded by

the expertise (and is capable of explaining this), there is no obligation to follow it. The parties in the dispute comment on the expertise, and if the arguments are relevant they can also propose another expert. The other expert can be approved by the judge, but the rules are restrictive – it is possible only if the expertise is unclear, incomplete, internally contradictory or in contradiction of other facts and this cannot be eliminated by an additional hearing of the expert.

3.2) Rules for experts being called upon by the court

The court can nominate an expert if the parties in the dispute propose it, or to establish or clarify a fact with expertise (knowledge) which the court does not have at its disposal – but if the costs are not covered in advance by the plaintiff or the party that proposed this evidence, it stops the procedure. If expertise is presented by a party, it is evaluated according to the principle of free evaluation of the evidence: it can be accepted by the court, but the court may also consider it to be a mere claim by the party and nominate another expert.

3.3) Rules for experts called upon by the parties

The nominated court expert is obliged to respond to the invitation of the court, but they can be excused of duty if there are circumstances: concerning what the client (party) has entrusted to them as their attorney or confesses to them as a religious confessor, or concerning the facts that they have learned as their lawyer or doctor or in the exercise of any other profession or activity where there is a duty to maintain secrecy or on the grounds of other excusable arguments. They can also be excluded for the same reasons as are valid for exclusion of the judge from the case. The expert is nominated by court order. The judge decides whether the expert is only invited to the hearing or if he must prepare a written expert opinion (in practice, the judges decide for both). The procedure does not provide for separate complaint against the decision about the expert.

If the expert declines to perform the work or does not come to the court without a substantial excuse, the judge can impose on them a penalty of 1,300.00 EUR and costs for delaying the procedure.

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

The estimated expert's fee should be paid in advance by the party which proposed the evidence of the expert, or by the plaintiff if it is proposed by the court. The payment is ordered by court order. If the fee is not paid, the expert evidence is not included. There are no standard expert fees. They are determined by the rules on court experts, certified appraisers and court interpreters[49] - the work is divided into different phases and each phase of the work is then divided up in accordance with the level of complexity. The amounts are then determined using different categories for each phase: pages or hours. For instance, taking into consideration all phases of the procedure, the cost for the simplest expertise would be around 550 EUR and for the most complex around 2,000 EUR. But the upper limit is not fixed, and there are also fees for additional pages and hours.

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

Lawyers are regulated by the Attorneys Act[50] and are part of the general justice system's independent service. They are organised by the Bar Association, which also holds the register of all attorneys (they can be selected by areas of "specialisation", but "environment protection" is not included – civil or administrative areas should be selected). In the environmental area, the attorney is compulsory only in extraordinary legal remedies in court procedures. Otherwise, the parties can represent themselves in court procedures (at the regular courts and the Administrative Court). If they do not represent themselves but choose another person to represent them, this latter person should be an attorney or a person who has passed the bar exam. Revision as extraordinary legal remedy at the Supreme Court can only be filed for by an attorney.

The representative of the public interest in an administrative dispute is the State Attorney General.

1.1. Existence or not of pro bono assistance

There is the possibility of free legal aid assistance under the Legal Aid Act[51] for NGOs with public-interest status in disputes regarding the pursuit of activities in the public interest for which they were established. For individuals, the condition for free legal aid is low incomes of the member of the family. Another condition is that the case is not clearly unreasonable and/or that the applicant in the case is likely to succeed, such that it is reasonable to initiate the proceedings. The free legal aid can cover the costs of the attorney for legal counselling and representation in court procedures, as well as other costs of procedure (Art. 26/5). The attorney can also provide pro bono legal aid: every year the Bar Chamber organises a pro bono day in December. The attorney decides voluntarily to participate on this day or to provide pro bono aid otherwise. The Code of Professional Ethics for Lawyers of the Bar Association of Slovenia imposes a (moral) duty on a lawyer to provide legal assistance to clients. The client's inability to adequately pay for a lawyer's work is not a reason to refuse legal aid in an emergency. Representing and defending the socially disadvantaged is an honourable task of lawyers in the practice of the legal profession. This task should be performed by a lawyer with special understanding. We should say that some pro bono work has been done for NGOs in environmental matters, but it is not usual. Since 2018, free legal advice has also been available to all from the Green Counsel, provided by an NGO[52].

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

The free legal aid can be approved on the basis of application in administrative procedures. Against the decision, the applicant can file a suit with the Administrative Court. All information about free legal aid, the procedure and application is available on the general webpages of the courts[53]. Other pro bono assistance has no formality; it is a personal decision of the individual attorney.

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

The free legal aid is approved by the district court which has jurisdiction for the dispute. It considers the seat of the NGO and the place of residence of individuals. The administrative dispute is decided by the Administrative Court. The court has a special service for free legal aid. Pro bono assistance is a matter for arrangement with the attorney.

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

There is a Bar Association, which has a register of attorneys, but there is no list with specialisation for environmental law listed. Regarding experts, there is no list of such experts, but we can use:

the list of court experts,

the list of accredited emission measurement providers listed in the registry of ARSO,

experts for environmental impact assessments for projects – those who have participated in already finished environmental impact assessment procedures are listed on the webpage of ARSO.

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

There is no list of NGOs active in the field, only a register of NGOs with public-interest status in the state business register AJPES (Legal Entity Identifier)[54]. Regarding participants for procedures in the areas of environmental protection, nature conservation and spatial planning, there are relevant NGOs with public-interest status in the areas of environmental protection, nature conservation, spatial planning and cultural heritage protection. The tables below present the NGOs with public-interest status in areas of environmental protection, nature conservation and spatial planning, presented by name. NGOs with public-interest status in the area of cultural heritage protection are less relevant for environmental protection, though they can have limited access to court procedures against a final spatial planning decision (advocating only cultural heritage interests).[55]

Table 1 List of NGOs with the status of "public interest – environmental protection" (on 12.3.2020)

Inštitut za mladinsko participacijo, zdravje in trajnostni razvoj
Lutra, Inštitut za ohranjanje naravne dediščine
Društvo za ohranitev Udinboršta
Ribiška zveza Slovenije
Društvo krajinskih arhitekov Slovenije
Društvo Planet Zemlja
Društvo Ekologi brez meja
Društvo prebivalcev "Ronket"
Inštitut za uporabno ekologijo Maribor
Slovenska potapljaška zveza
Društvo Proteus, gibanje za naravo in okolje Bela krajina
Focus, društvo za sonaraven razvoj
Umanotera, Slovenska fundacija za trajnostni razvoj
Okoljsko raziskovalni zavod
Sobivanje - Društvo za trajnostni razvoj
Lovska zveza Slovenije
Regionalno okoljsko združenje okoljevarstvenikov, Združenje ROVO
Društvo za opazovanje in preučevanje ptic Slovenije
Prihodnost, društvo za varovanje in ohranjanje naravnega okolja
Inštitut za politike prostora
Slovensko združenje za trajnostno gradnjo, Green building council Slovenia
Vitra, Center za uravnotežen razvoj
Društvo za okoljsko vzgojo Evrope v Sloveniji (DOVES - FEE Slovenia)
Društvo Bober - Okoljsko gibanje Dolenjska
Pravno-informacijski center nevladnih organizacij - PIC
Eko krog - društvo za naravovarstvo in okoljevarstvo
Alpe Adria Green, Mednarodno društvo za zaščito okolja in narave
Društvo Gibanje za trajnostni razvoj Slovenije - TRS
Zveza ekoloških gibanj Slovenije - ZEG

Table 2 List of NGOs with the status of "public interest – nature conservation" (as of 12.3.2020)

Društvo za raziskovanje jam Ljubljana
Jamarska zveza Slovenije
Slovensko društvo za zaščito voda
Jamarski klub Kamnik
Lutra, Inštitut za ohranjanje naravne dediščine
Društvo JASA
Ribiška zveza Slovenije
Planinska zveza Slovenije
Koroško Šaleški jamarski klub Speleos-Siga Velenje
Društvo za raziskovanje jam Simon Robič Domžale
Društvo Planet zemlja
Društvo krajinskih arhitektov Slovenije
Slovensko odonatološko društvo
Forum za Pohorje, združenje za trajnostni razvoj
Turistično okoljsko društvo Slovenj Gradec
Zavod SYMBIOSIS
Društvo Proteus, gibanje za naravo in okolje Bela krajina
Gobarsko mikološko društvo Ig
Društvo za biološko dinamično kmetovanje Podravje
INTERSO Integracija ekonomije, razvoja, sociale in okolja, Inštitut za individualno in družbeno odgovornost
Turistično društvo Barje
VIVAMAR – Društvo društvo za trajnostni razvoj morja
Gobarsko društvo Lisička Maribor
Lovska zveza Slovenije
Društvo za preučevanje rib Slovenije
Turistično društvo Cer Cerovo
Društvo za opazovanje in proučevanje ptic Slovenije
Prihodnost, društvo za varovanje in ohranjanje naravnega okolja
Društvo ljubiteljev Križne jame
Društvo za okoljsko vzgojo Evrope v Sloveniji (DOVES - FEE Slovenia)
Društvo Bober - Okoljsko gibanje Dolenjska
Herpetološko društvo - Societas herpetologica slovenica
Dondes, Društvo za ohranjanje naravne dediščine Slovenije
Alpe Adria Green, Mednarodno društvo za zaščito okolja in narave
Gobarsko mikološko društvo slovenske Istre
Cipra Slovenija, Društvo za varstvo Alp
Društvo Druščina polharjev "Polh" na Dolenjskem

Društvo za proučevanje in ohranjanje metuljev Slovenije
Mikološka zveza Slovenije
Morigenos - slovensko društvo za morske sesalce
Zveza društev za obvarovanje reke in sonaravni razvoj ob Muri - Moja Mura
Slovenska zveza za sokolarstvo in zaščito ptic ujed
Društvo gobarjev Štorovke-Šentrumar-Hočevje
Jamarski klub Novo mesto
Gobarsko mikološko društvo Ljubljana
Društvo za ohranjanje, raziskovanje in trajnostni razvoj Dinaridov Dinaricum
Table 3 List of NGOs with the status of "public interest – spatial planning" (as of 12.3.2020)
DUPPS – Društvo urbanistov in prostorskih planerjev Slovenije
Kulturno društvo Prostorož
Est=etika - Društvo za vzpodbujanje etike v prostoru
Inštitut za politike prostora
Društvo Pazi!Park
Društvo krajinskih arhitektov Slovenije
Društvo arhitektov Ljubljana
Združenje FIABCI
Center arhitekture Slovenije
DESSA Ljubljana
Kulturno društvo MOTA

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

Greenepeace – office in Slovenia (Društvo Prihodnost)
WWF Adria – office in Zagreb also covers Slovenia
CIPRA – CIPRA Slovenia
BirdLIfe - Birdlife Slovenia (Društvo za opazovanje in preučevanje ptic)
Friends of the Earth (via the office of Focus Association for Sustainable Development).

Some NGOs are also members of other international networks such as the European Environmental Bureau, Climate Action Europe, Friends of the Earth, Justice and Environment.

1.7. Guarantees for effective procedures

1.7.1. Procedural time limits

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

15 days, according to the General Administrative Procedure Act.

2) Time limit to deliver decision by an administrative organ

According to the General Administrative Procedure Act, the organ must generally decide within 30 days or at least within 60 days. There are some special provisions for certain environmental procedures in other acts (e.g. the Environmental protection Act), but in those cases the decision period is even longer.

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

It is possible to challenge the first level administrative decision directly before court when the Ministry of the Environment and Spatial Planning is the first-level administrative organ and in environmental liability procedures.

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

Generally, no. The court should decide without unnecessary delay, according to court order. But for certain procedures (environmental consent and environment permission), the Environmental Protection Act demands the court decisions in three months.

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

In the administrative procedure, the evidence should be submitted at the same time as an application is submitted. It can be submitted later if there are certain reasons for it, or other if parties claim something different and there is a need for further evidence. In the court procedure, evidence should be submitted by filing the suit or until the end of the first hearing (civil procedures). Since there is usually no hearing at the Administrative Court, the last opportunity for submitting evidence is by answering the official response of the opposing party. The party can submit the evidence later if it can reasonably justify not presenting it sooner.

All written documentation is sent to other parties in the procedure and usually there is not less than 15 days to answer in administrative procedures and 30 days in court procedures.

1.7.2. Interim and precautionary measures, enforcement of judgments

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

Generally, the appeal against an administrative decision by the second-instance authority always has suspensive effect, except when a specific Act stipulates otherwise. An appeal against a final administrative decision (the suit with the Administrative Court) does not have this effect, unless provided for by a (special) law. Only when the specific Act defines that certain decision can be effective only after the final court decision (or after the period for filing the suit and nobody does this).

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

Injunctive relief is possible in first-instance administrative procedures. This is implemented in the form of a temporary decision and primarily relates to the time "during" the procedure. There are no specific provisions about injunctive relief in environmental procedures.

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

In the administrative procedure, a proposal for a temporary injunction is possible during the first-instance procedure. The law does not stipulate specific conditions.

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

Immediate execution irrespective of the appeal is possible if a specific Act defines this in regard to a certain decision. The general rule under the General Administrative Procedure Act also allows a verbal decision in the case of measures necessary in the public interest, and the authority can decide that the appeal does not have suspensive effect.

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

Generally, challenging the administrative decision before the court does not suspend the decision, but for certain decisions the Act can determine suspensive effect (e.g. environmental consent, environmental permission).

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?

In the administrative procedure, a temporary injunction is not conditional on the financial deposit. The local courts are competent to provide injunctive relief according to the Claim Enforcement and Security Act. Initially the interested party has to pay the costs of the procedure in advance. Appeal against the order on injunction relief is allowed.

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.

When we calculate costs, there is a distinction between whether a person or an NGO is a party in the administrative procedure (and then challenges the administrative decision at the Administrative Court or, in civil procedure, at the regular court (against polluters)).

Free legal aid (described in section 1.6.) is available only for court procedures. It is available for natural persons with low income and for NGOs with public-interest status. If the case is lost, the costs of the opposing party are not covered.

The general framework for calculating costs is as follows:

In administrative procedures (as a party in the procedure) natural persons with low income and NGOs with public-interest status (in matters concerning their area of public interest) are excused of taxes;

In the case of challenging an administrative decision at the Administrative Court, there is a court tax (148 EUR), which is returned if the plaintiff is successful (Court Fees Act[56]). There is no significant risk for the costs of the opposing party, because the procedure at the Administrative Court is mostly without hearing, not long and the State Attorney's Office is entitled to reimbursement of costs in accordance with the Attorney tariff.

In the case of filing a suit with the regular court, there is an obligation to pay a court tax according to the Court Fees Act[57] and in consideration of the value of each case (rules for determining the value are regulated in the Contentious Civil Procedure Act);

The costs of attorneys are regulated in the Attorney Tariff[58] and calculated case by case, depending also on the timeframe of the procedure (a longer procedure can be expected than in standard civil cases), the number of legal remedies, hearings, filed papers. The different tasks are evaluated with points, each point being 0.6 EUR, and the number of points depends also on the value of the case;

The costs for experts cannot be estimated in advance but only on a case-by-case basis. We can expect that an expert institution should be engaged in a particular case. There are different sums in relation to the complexity or volume of materials to study.

We have to be aware that there is no average environmental case as a basis for calculating the average costs. There is a considerable difference between an administrative dispute (the opposing party is a state body) and an environmental request at the regular (local or district) courts (the opposing party is a polluter). It depends also on the length of the whole procedure up to the final solution. It may be that the same case proceeds two or three times at the Administrative Court in the same administrative procedure. And similarly for cases at the regular courts (one case against polluters lasted 20 years from filing of the suit up to the final decision). We can conclude that middle-income individuals or NGOs can afford the administrative procedure and administrative disputes, but taking an environmental lawsuit to the regular courts would be very risky for the same plaintiffs.

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

The court fee should be paid for the procedure (74 EUR); for other deposits, the court decides from case to case. It depends on measures which need to be executed during the process.

3) Is there legal aid available for natural persons?

Free legal aid is available for natural persons with low income.

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?

Free legal aid is available only to NGOs with public-interest status in matters concerning their area of public interest and to legal persons under certain (limited) circumstances. Free legal aid is explained under 1.6.

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

There are no other financial mechanisms available to provide financial assistance.

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

The "loser party pays" principle applies. There are no rules about exceptions in environmental cases. But there are some additional rules for administrative disputes:

Parties shall always be billed for costs incurred through their own fault, as well as costs incurred by any chance occurrence affecting the party. If the court granted the action and annulled the administrative act contested in the administrative dispute, or established the illegality of the contested administrative act, the lump sum of costs shall be reimbursed to the plaintiff with respect to the performed procedural actions and the method by which the administrative dispute was processed, in compliance with the rules on the reimbursement of expenses to plaintiffs in administrative disputes.[59] The determined amount shall be paid by the defendant. If shared costs arise in the case the court shall decide what proportion of the costs each party shall bear.

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?

Yes, as explained under the previous question.

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?

There is no official website with rules on environmental access to justice. There is only information about conditions and the process for NGOs with public-interest status. However, the Ministry of the Environment and Spatial Planning encourages NGOs to generate such information. Currently all relevant information is available on the Environmental Defenders website[60].

There is a general rule of free access to all environmental information, and each authority is also obliged to publish basic information about the environment and relevant procedures. The obligation is based on the Public Information Access Act[61] and the Environmental Protection Act. The Information Commissioner ensures free access to information.

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

There is no system for providing procedural information. Anyone can address the competent authority with a request for access to information.

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

There is information on the websites of the Ministry of the Environment and Spatial Planning and the Slovenian Environment Agency, but mostly focused on providing investors with useful information and less on informing members of the public concerned about access to justice. However, the ministry supports NGOs in spreading this information (call for tenders for NGOs). There is no other active dissemination of information on access to justice.

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

Every administrative or court decision has instructions about possible legal remedies against it.

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

There are no specific rules about translation for any foreign participants in environmental procedures. There are only general rules for the court procedure (described in section 1.4., 4th question). In administrative procedures, all written documentation and hearings are in Slovene (except in the case of Italian and Hungarian minorities), but if participants do not know the language, they have the right to participate in the procedure with the help of a translator. The authority is obliged to inform them of this, but the costs of the translator must be borne by the party who needs translation.

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)

All applications for screening decisions and the subsequent decisions are published on the website of the Slovenian Environment Agency. There is no public consultation, and there are no provisions that would enable natural or legal persons or NGOs to be party to the procedure. Only NGOs with the status "public interest – environmental protection" can file a complaint against a negative screening decision, within 15 days after the decision is published. However, persons who can demonstrate legal interest are not expressly excluded and it is possible that the court would support their claim for standing (on the basis of CJEU decision C 570-13). The Administrative Court also decided that the NGO can be a party in the screening decision.[62]

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

There are no provisions for participation in the scoping phase. After the screening decision, the application for environmental consent, the impact assessment report and the draft administrative decision have been published, there is an open public consultation period of 30 days.

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

NGOs with the status of "public interest – environmental protection" and those who permanently reside, or are owners or other possessors of real estate, in the impact area can become a party in the procedure if they announce it within 35 days from the beginning of the public consultation (the authority invites them through a public announcement). This means the interested party should send an application for joining the procedure and present its arguments in the matter at the same time. The competent authority decides about the standing of the party – the decision can be challenged. If the decision is positive, then the interested person or NGO has a right to challenge the final EIA decision at the Administrative Court (if EIA is carried out as an integral procedure together with building permission, otherwise there is first a complaint to the second-instance administrative authority and then a challenge at the Administrative Court).

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

Legal or natural persons who permanently reside, or are owners or other possessors of real estate, in the impact area and NGOs with the status of "public interest – environmental protection" have the right to be a party in the procedure and can therefore then challenge the EIA decision (assuming the decision of the authority to accept someone as a party is positive).

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

There are no specific rules for EIA judicial review. General rules are applicable (see under 1.3., 4th question), and substantive and procedural legality can be reviewed.

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

When the competent authority adopts the final decision.

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

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

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

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

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

There are no specific provisions for environmental cases. There is a general rule about fairness of court procedures.

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

There are no specific provisions for environmental cases (see explanation under 1.7.1., 4th question). The deadline for appealing against a negative EIA screening decision is 15 days from the day the decision is published on the website of the Slovenian Environment Agency. In the EIA procedure, if the Slovenian Environment Agency is the deciding authority, there are also 15 days to appeal against a final EIA decision. If the deciding authority is the Ministry of the Environment and Spatial Planning (integral procedure), there are 30 days after the decision is published on the website to begin the administrative dispute. There is also provision for the Administrative Court to decide within 3 months in EIA cases.

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?

There are no specific provisions for injunctive relief in an EIA procedure. There are only general rules (see under 1.7.2.).

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

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

The Slovenian Environment Agency, as the competent authority for environmental permits, publishes the application for an environmental permit, BAT reference documents and drafts of the administrative decision for public consultation of 30 days. Within 35 days of public announcement, the parties that have standing can file a request to be a party in the procedure (Article 73 of the Environmental Protection Act).

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?

In accordance with the Environmental Protection Act, legal or natural persons who permanently reside, or are owners or other possessors of real estate, in the impact area and NGOs with the status of "public interest – environmental protection" have the right to be a party in the procedure and can therefore then challenge the environmental permit decision if they do so within 35 days from the beginning of public consultation. Legal standing may be recognised by the Administrative Court if the person demonstrates legal interest according to the general rules of administrative procedure (Article 43 of the General Administrative Procedure Act on protecting personal benefits based on the Act or other regulations).

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

There are no special provisions other than those explained under the previous question.

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

There are no special provisions other than those explained under question 2.

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

NGOs with the status of “public interest – environmental protection” and those who permanently reside, or are owners or other possessors of real estate, in the impact area can become a party in the procedure if they announce it within 35 days from the beginning of the public consultation (the authority invites them through the public announcement). This means the interested party should send an application for joining the procedure and present its arguments in the matter at the same time. The competent authority decides whether to allow standing as a party – the decision can be challenged. If the decision is positive, then the interested person or NGO has the right to appeal the final decision about the environmental permit to the Ministry of the Environment and Spatial Planning and to challenge the ministry’s decision at the Administrative Court.

6) Can the public challenge the final authorisation?

Only those referred to under the 2nd question above have standing.

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?

There are no specific rules for the environmental permit judicial review. General rules are applicable (see under 1.3., 4th question), but both substantive and procedural legality can be challenged.

8) At what stage are these challengeable?

It is challengeable at the final stage of the environmental permit decision.

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

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

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

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

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

There are no specific provisions for environmental cases. There is a general rule about fairness in the court procedure.

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

There are no specific provisions for environmental cases (see explanation under 1.7.1., 4th question), but there is a provision in the Environmental Protection Act that the Administrative Court should decide within 3 months.

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?

There are no specific provisions for injunctive relief in the IED procedure. There are only general rules (see under 1.7.2.).

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

It is provided by publishing the documents relating to a particular permit on the website of the Slovenian Environment Agency for public consultation. In the announcement of the public consultation, there are also details of who can apply to join the procedure, and the timeframe for such.

1.8.3. Environmental liability[63]

Country-specific legal rules relating to 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?

Legal or natural persons who are or could be affected by the environmental damage and NGOs with the status of “public interest – environmental protection” can be a party in the environmental remediation procedure. In such cases, they can challenge administrative decisions at the Administrative Court.

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

30 days after receiving the decision of the Slovenian Environment Agency.

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

Information about the existence of environmental damage should be presented. The Slovenian Environment Agency initiates the procedure if the probability of environmental damage is proven.

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

There are no specific requirements.

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)?

If legal or natural persons or NGOs with public-interest status are a party in the procedure of environmental remediation, they receive the decision as a party in the procedure. Otherwise, there is no notification obligation.

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 MS applies an extension of the entitlement to request action by competent authority from damage to the environment in cases of imminent threat of such damage.

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

The Slovenian Environment Agency.

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

The administrative decision about the environmental remediation can be directly challenged at the Administrative Court.

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?

Other countries can be involved in the procedure of the strategic environmental assessment and the environmental impact assessment. If the plan or project could significantly impact on other countries, the Ministry of the Environment and Spatial Planning or the Slovenian Environment Agency informs them, as a minimum in the phase of public announcement, of the draft plan or project and the environmental report or environmental impact assessment report, and gives them time to answer whether they are interested in participating. The competent authority of the other country can decide if it wants to participate in the procedure within time limits determined by the national ministry. If it decides to participate, the authorities of both countries agree on the period for opinions and comments, or on other forms of consultation. The Ministry then defines the period for domestic public participation in a timeframe agreed with the other country (if it is longer then 30 days). The Ministry sends the opinions of the other country to the authority that is preparing the plan. In EIA procedure, the Ministry is obliged to explain how it has taken into consideration the opinions of the other country.

The same rules are valid for environmental permits (under the Industrial Emissions Directive) if the facility could have cross-border impacts.

2) Notion of public concerned?

There are no provisions about the concerned public. It is assumed that the other country informs their public.

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

There are no provisions about NGOs of the affected country.

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

There are no specific provisions about individuals. Generally, persons who permanently reside, or are owners or other possessors of real estate, in the impact area can be a party in the procedure for the environmental consent.

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

The information is provided together with the decision of the affected country if it has an interest in participating in the strategic environmental assessment and the environmental impact assessment.

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

There are no provisions.

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

There are no provisions.

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

There are no provisions in the Environmental Protection Act. Since these are administrative procedures, the rules on administrative procedures can be applied (see under 1.4., q.4).

9) Any other relevant rules?

There are no other relevant rules.

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[1] https://www.gov.si/drzavni-organi/organi-v-sestavi/agencija-za-okolje/ (there is ongoing transfer of the official websites to a new platform and the process is not complete yet); the old page is here.

[2] http://www.pisrs.si/Pis.web/ - in the right menu there are also some acts translated into English; in the upper right corner there is an option for translation of the page into different languages.

[3] Official Gazette, 33/91-I, 42/97 – UZS68, 66/00 – UZ80, 24/03 – UZ3a, 47, 68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121,140,143, 47/13 – UZ148, 47/13 – UZ90,97,99 in 75/16 – UZ70a.

[4] Official Gazette of RS, št. 41/04, 17/06 – ORZVO, 187, 20/06, 49/06 – ZMetD, 33/07 – ZPNačrt, 57/08 – ZFO-1A, 70/08, 108/09, 108/09 – ZPNačrt-A, 48/12, 57/12, 92/13, 56/15, 102/15, 30/16, 61/17 – GZ, 21/18 – ZNOrg, 84/18 – ZIURKOE, http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1545.

[5] National Environment Protection Programme with programmes of measures until 2030, Official Gazette RS 31/20, http://www.pisrs.si/Pis.web/pregledPredpisa?id=ODLO1985.

[6] Official Gazette RS 56/99, 31/00 – popr., 119/02, 41/04, 61/06 – ZDru-1, 8/10 – ZSKZ-B, 46/14, 21/18 – ZNOrg, 31/18, http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1600 , English version from 2014 published on http://www.svz.gov.si/fileadmin/svz.gov.si/pageuploads/prevodi/List_of_Slovene_laws_and_regulations_in_English.pdf.

[7] Official Gazette RS 49/04, 110/04, 59/07, 43/08, 8/12, 33/13, 35/13 – popr., 3/14, 21/16, 47/18, 32/20 http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED283.

[8] Official Gazette of RS 67/02, 2/04 – ZZdrI-A, 41/04 – ZVO-1, 57/08, 57/12, 100/13, 40/14, 56/15, http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1244.

[9] Official Gazette of RS, 30/93, 56/99 – ZON, 67/02,, 110/02 – ZGO-1, 115/06 – ORZG40, 110/07, 106/10, 63/13, 101/13 – ZDavNepr, 17/14, 24/15, 9/16 – ZGGLRS, 77/16, http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO270.

[10] Official Gazette of RS, 16/04, 17/08, 46/14 – ZON-C, 31/18, http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3780.

[11] Official Gazette of RS, 98/99, 126/03, 61/06 – ZDru-1, 14/07, 23/13, 21/18 – ZNOrg, http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1353.

[12] Official Gazette of RS, 2/04, 61/06 – ZDru-1, 46/14 – ZON-C, 21/18 – ZNOrg, http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO2068.

[13] Official Gazette of RS, 61/10, 62/10 – popr., 76/10, 57/12, 111/13, 61/17 – GZ, http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5706.

[14] Official Gazette of RS, 76/17, 26/19 , http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7385.

[15] Official Gazette of RS, 52/10, 46/14 – ZON-C, 60/17, http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5487.

[16] Official Gazette of RS, 67/02, 73/04, 21/10, 90/12 – ZdZPVHVVR, http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3052.

[17]Official Gazette of RS, št. 36/99, 11/01 – ZFfS, 65/03, 47/04 – ZdZPZ, 61/06 – ZBioP, 16/08, 9/11, 83/12 – ZFfS-1, http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1391.

[18] Official Gazette of RS 61/17, http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7341.

[19] Official Gazette of RS 61/17 in 72/17 – popr., http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7108.

[20] For example: the case of Lafarge Cement Industry (IED permit and EIA consent) – the case resulted in the closure of the facility; cases concerning the protection of wolves - I U 1522/2015, I U 168/2017-18, I U 102/2018-8 (Habitats Directive) – the regulation for culling was not in line with the Habitats Directive; wind power plants I U 1809/2010 (EIA and Habitats Directive) – environmental consent was finally rejected; SEA procedure for hydro power plants – the NGO with the status of public interest – nature conservation can be party to the SEA procedure (I U 1635/2015).

[21] There is one important civil law case (the duration of the case was 21 years) – the farmers in Zasavje valley sued 5 polluters in the valley for damage caused to the environment and therefore to their crops and forests (II Cp 511/2016).

[22] Case of violating the right of public participation in the spatial planning process (U-I_43/13); the wolf case - Act on Intervention Culling of Wolves (U-I-194/19).

[23] Official Gazette of RS, št. 19/94, 45/95, 26/99 – ZPP, 38/99, 28/00, 26/01 – PZ, 56/02 – ZJU, 16/04 – ZZZDR-C, 73/04, 72/05, 49/06 – ZVPSBNO, 127/06, 67/07, 45/08, 96/09, 86/10 – ZJNepS, 33/11, 75/12 – ZSPDSLS-A, 63/13, 17/15, 23/17 – ZSSve, 22/18 – ZSICT, 16/19 – ZNP-1; http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO332.

[24] Official Gazette of RS, št. 105/06, 62/10, 109/12, 10/17 – ZPP-E; http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4732.

[25] Official Gazette of RS, 2/04, 10/04 – popr., 45/08 – ZArbit, 45/08 – ZPP-D, 10/17 – ZPP-E; http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3657.
[26] Official Gazette of RS, 26/99, 96/02, 2/04, 2/04 – ZDSS-1, 52/07, 45/08 – ZArbit, 45/08, 10/17, 16/19 – ZNP-1; http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1212.
[27] Official Gazette of RS 45/08; http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5288.
[28] Official Gazette od RS 52/02, 56/03, 61/04, 123/04, 93/05, 126/07 – ZUP-E, 48/09, 8/10 – ZUP-G, 8/12 – ZVRS-F, 21/12, 47/13, 12/14, 90/14, 51/16; http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3225.
[29] https://www.gov.si/drzavni-organi/organi-v-sestavi/agencija-za-okolje-delovna/ (there is moving the official websites on new platform and the process is not complete yet); the old page is on https://www.arso.gov.si/en/.
[30] Official Gazette of RS, 105/06, 62/10, 109/12,, 10/17 – ZPP-E; http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4732.
[31] Official Gazette RS, 80/99, 70/00, 52/02, 73/04, 119/05, 105/06 – ZUS-1, in English here.
[32] More info on the webpage of the Association of Mediators Slovenia https://www.slo-med.si/.
[33] Official Gazette of RS, št. 97/09, 40/12 – ZUJF; http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5648.
[34] Defined in Article 14 of the Environmental Protection Act.
[35] Official Gazette of RS, št. 71/93, 15/94 – popr., 56/02 – ZJU, 109/12, 54/17; http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO300.
[36] Official Gazette of RS, 21/18, http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7129.
[37] Official Gazette of RS, 34/14, http://pisrs.si/Pis.web/pregledPredpisa?id=PRAV11963.
[38] For example, the case of the extension of operation of nuclear power plants I U 2135/2018-17.
[39] For example, the case of environmental consent for hydro power plants I U 2589/2018-25.
[40] Official Gazette of RS, 46/19, http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV13676.
[41] Official Gazette, 52/19, http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV13314.
[42] Official Gazette of RS, 80/99, 70/00, 52/02, 73/04, 119/05, 105/06 – ZUS-1, 126/07, 65/08, 8/10, 82/13; http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1603.
[43] Official Gazette of RS, 61/17, 72/17, http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7108.
[44] Article 24 of the Constitutional Court Act, Official Gazette of RS, 15/94, 64/01 – ZPKSMS, 51/07, 109/12, http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO325; English version.
[45] Info also here.
[46] I U 1417/2019-10
[47] Some rules for integral procedure were modified up to the end of 2021 as interventional measures by the Act Determining the Intervention Measures to Contain the COVID-19 Epidemic and Mitigate its Consequences for Citizens and the Economy (Official Gazette RS, 49/20 and 61/20) and the Act Determining the Intervention Measures to Mitigate and Remedy the Consequences of the COVID-19 Epidemic (Official Gazette RS, 80/20), which are being challenged at the Constitutional Court with regard to the new conditions for NGOs with the status of public interest to have the right to participate in integral procedure.
[48] Official Gazzette of RS, 22/18, http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7726, list of interpreters https://spvt.mp.gov.si/tolmaci.html.
[49] Official Gazette RS, 84/18, http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV13490.
[50] Official Gazette of RS, 18/93, 24/01, 54/08, 35/09, 97/14, 46/16, 36/19, http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO265.
[51] Official Gazzette of RS. 48/01, 50/04, 23/08, 19/15; http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1265.
[52] Legal-informational center for NGOs, Slovenia (Pravno-informacijski center nevladnih organizacij – PIC) offers this service on webpage Environmental defenders as project activity financed by the Ministry for the environment and spatial planning and Eko fund.
[53] This is a project activity financed by the Ministry of the Environment and Spatial Planning and the Eco Fund.
[54] https://www.ajpes.si/?language=english and https://www.ajpes.si/eeno#/isci (free registration).
[55] There are 114 such NGOs in the register of AJPES as of 12.3.2020.
[56] Official Gazette of RS, 37/08, 97/10, 63/13, 30/16, 10/17 – ZPP-E, 11/18 – ZIZ-L, http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4729.
[57]Official Gazette of RS, 37/08, 97/10, 63/13, 30/16, 10/17 – ZPP-E, 11/18 – ZIZ-L, http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4729.
[58] Oficial Gazette of RS, 2/15, 28/18, http://www.pisrs.si/Pis.web/pregledPredpisa?id=TARI184.
[59] Official Gazette of RS, 24/07, 107/13, http://pisrs.si/Pis.web/pregledPredpisa?id=PRAV8161.
[60] Only in Slovene language for now; the page is managed by the Legal-Informational Centre for NGOs (Pravno-informacijski center nevladnih organiazcij – PIC).
[61] Official Gazette of RS, 24/03, 61/05, 109/05 – ZDavP-1B, 113/05 – ZInfP, 28/06, 117/06 – ZDavP-2, 23/14, 50/14, 19/15 – odl. US, 102/15, 7/18, http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3336.
[62] Case I U 1417/2019-10.
[63] See also case C-529/15.
Last update: 05/08/2021

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?

There is a general rule – an article which protects the constitutional right to a healthy environment – Article 14 of the Environmental Protection Act:

“In order to exercise the right to a healthy living environment, citizens may, as individuals or through societies, associations and organisations, file a request with a court that the person responsible for an activity affecting the environment should terminate the activity if it causes, or would cause, an excessive environmental burden or presents, or would present, an imminent threat to human life or health, or that the person responsible for the activity affecting the environment should be prohibited from starting the activity if there is a high probability that the activity will cause such consequences.”
According to this Article, individuals and NGOs of any kind can initiate a court procedure (regular court) against anyone (private company, state or local authorities) for acts or omissions that cause harm. There are no other provisions that would set timeframes or other conditions. There have been a few court cases based on this article. One such case, which was won, concerned the Zasavje valley farmers (mentioned in footnote 28). Usually the legal grounds for such a suit would be Article 133 and/or 134 of the Civil Code together with the above-mentioned Article 14 of the Environmental Protection Act. The judges of the courts of general jurisdiction are as well informed about environment protection as their colleagues at the Administrative Court.
Other options outside EIA, IED and ELD lie in nature protection: NGOs with the status of “public interest – nature conservation” can defend nature conservation interests in all administrative and administrative disputes in the way determined by the law. Such an NGO has to be a party in an administrative procedure in which a permit is given to be able to appeal and/or file a court claim.
NGOs with the status of “public interest – environmental protection / nature conservation / spatial planning / culture heritage protection” can file an action against some spatial plans with the Administrative Court; any person enjoys the same such right if the spatial plan affects any of this person’s other rights.
There are also some protective instruments in civil law connected with the environment:
Law of Property Code[2] (Articles 75 and 99): Any disturbances from neighbours’ property that exceed the normal level (nuisance) are prohibited. The owner of the disturbed property may bring the action against the owner of property that causes the nuisance. Compensation can be claimed.
Obligations Code[3] (Articles 133): Any person may request that another person removes a source of danger that might cause major damage to them or other persons, and the court shall order appropriate measures to prevent the occurrence of damage or disturbance. This is also the case if the damage arises from activities that are in the public interest and have all permits (though compensation for such damage can be claimed only for the proportion exceeding the customary thresholds). This Article is “connected” with Article 14 of the Environmental Protection Act. In environmental matters, it can sometimes be useful to use Article 134 of the Obligations Code: in the case of violation of individuality, personal or family life or any other personal right, anyone can request that the court orders such action to be prevented or the consequences to be eliminated.
The Administrative Court can also be the court competent for protecting constitutional human rights in the case of violation by acts of state or local authorities where there is no other court competent for such protection (Administrative Dispute Act, Article 4).

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 scope of the administrative procedure and of the administrative dispute covers procedural and substantive legality.

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

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

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

This condition has to be fulfilled only in the case of challenging a spatial plan at the Administrative Court.

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

In the case of challenging a spatial plan, there are limited aspects of the spatial plan that can be challenged (e.g. provisions related to land use).

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

There are no specific provisions for environmental cases. There is a general rule about fairness of court proceedings.

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

There are no specific provisions for environmental cases (see explanation under 1.7.1., 4th question).

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?

There are no specific provisions for injunctive relief, only general rules (described under 1.7.2.).

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?

There are no specific cost rules besides those described under 1.7.3. The ‘losing party pays’ principle applies together with additional rules explained under point 6 of section 1.7.3. There are no provisions against costs being prohibitive. A party should refer directly to Article 9(4) of the Aarhus Convention and the grounds of Article 8 of the Constitution of the Republic of Slovenia (ratified and published treaties are to be applied directly) to potentially obtain a better position regarding costs in the given procedure.

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[4]

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

There are no provisions that would enable NGOs or individuals to have standing for administrative review or challenge in the SEA procedure. But as the Nature Conservation Act enables NGOs with the status of “public interest – nature conservation” to represent nature conservation interests in all administrative and court procedures, one NGO with this status succeeded in becoming a party in an SEA procedure (Administrative Court case II U 145 /2016) after being rejected by the Ministry of the Environment and Spatial Planning. After that case, NGOs with the status of “public interest – nature conservation / environmental protection” are allowed to be a party in SEA procedures. There is no procedural timeframe for applying to be a party in the procedure, but after the ministry’s decision that an SEA will be performed, it would be appropriate to participate from the earliest phases of the procedure.
For individuals, it could be used as a general rule for being a party according to the General Administrative Procedure Act (Article 43 – explained under the section 1.4., 1st question), since the SEA procedure is an administrative procedure.
Against negative SEA screening decisions or omission of decisions in a screening procedure, we do not yet have any practice or court decisions, but some rules could be used:
the rules about standing described above in relation to negative SEA screening decisions;
the rules about standing described above in relation to challenging omissions at the Administrative Court (Article 4 of the Administrative Dispute Act).
If the case comes before the Administrative Court, the court consistently follows the judgments of 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?

The scope of the administrative procedure and of the administrative dispute covers procedural and substantive legality.

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

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

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

There is no need to participate in the public consultation procedure. However, a person/NGO has to be a party in the SEA procedure to have standing before the Administrative Court.

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

There are no specific provisions for injunctive relief, only general rules (described in section 1.7.2.). But temporary relief would be in place as a result of challenging the final SEA decision.

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?

In the case of challenging SEA decisions at the Administrative Court, the court fee has to be paid (148 EUR). The amount is returned in the case of success. There is a general rule that the procedure should be carried out at the lowest costs possible (Article 11 of the Contentious Civil Procedure Act). There are no other safeguarding rules against costs being prohibitive.

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[5]

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

There are provisions for public participation (environmental plans/programmes, spatial plans, nature conservation plans/programmes, water management programmes and others), but no provisions for protecting this right. This is a weakness of the Slovenian legal system with respect to the Aarhus Convention. So there is no “direct” way of obtaining an administrative review or challenging the final decision about a plan/programme before a court. There are two possible options:

if the plan or programme is adopted as a general legal act, it could be challenged at the Constitutional Court (conformity with the Constitution);

if not, it could be challenged at the Administrative Court as an act or omission of the state or local authority (Administrative Dispute Act, Article 4, see under 2.1., 1st question). Legal standing can be granted to NGOs with the status of “public interest – nature conservation” and to environmental protection NGOs or individuals on the basis of Article 43 of the General Administrative Procedure Act if legal interest can be demonstrated; the person should claim to be joining the procedure in order to protect their legal benefits. The legal benefits should be direct personal benefits based on an Act or other regulation.

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 scope would be only if public consultation was enabled or not, thus if the requests of the Aarhus Convention were met.

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

If there is an administrative procedure for the plan, the administrative review procedures should be exhausted.

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.?

There is obligation to participate in the prior participation process when using a legal remedy in the spatial planning process (filing a suit with the Administrative Court against a spatial plan) – this is the only provision of such kind in the Spatial Planning Act (Article 58).

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

There are no specific provisions for injunctive relief, only general rules (described under 1.7.2.). But temporary relief would be in place as a result of challenging the plan or programme.

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

There is no court fee for going to the Constitutional Court. For the Administrative Court, there is a court fee (148 EUR), which is returned in the case of success.

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

It depends on who adopts the decision and in what legal form:

if it is a law (act) or an executive regulation (decree, ordinance, ruling), see explanation in section 2.5., 1st question;

if it is an administrative decision, there are legal remedies in the administrative procedure and then the administrative dispute at the Administrative Court. Legal standing can be granted to NGOs with the status of “public interest – nature conservation” for representing nature conservation interests. For other NGOs and individuals, legal standing can be granted on the basis of Article 43 of the General Administrative Procedure Act if legal interest can be demonstrated (the person should claim to be joining the procedure in order to protect their legal benefits, which should be direct personal benefits based on an Act or other regulation).

CJEU case law contributes much to effective access to national courts and definitely expands the right to access to justice in practice.

There can be a situation where a particular plan is adopted by governmental decision (but not as a general legal act) but the plan/programme is not legally binding. There are two options:

to initiate the court procedure at the regular court to defend the constitutional right to a healthy environment (on the basis of Article 14 of the Environmental Protection Act – see explanation in section 2.1., 1st question);

less probably, to challenge the decision at the Administrative Court as an act of a national or local authority.

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

As explained under the 1st question above and under section 2.5.

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?

There are no provisions and cases yet.

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

There are no provisions.

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.?

There are no provisions except in the case of spatial plans. To initiate the administrative dispute, the NGO with the status of "public interest – spatial planning / environmental protection / nature conservation / cultural heritage protection" must have previously participated in the procedure with comments.

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

There are no provisions. In the case of Article 14 of the Environmental Protection Act, there are no grounds/arguments precluded.

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

There is only a general rule about fairness of court procedures.

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

There are no specific provisions for environmental cases (see explanation under 1.7.1., 4th question).

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?

There are no specific provisions for injunctive relief, only general rules (described under 1.7.2.).

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?

There are general rules, described in section 1.7.3, 1st question.

1.5. Executive regulations and/or generally applicable legally binding normative instruments used to implement EU environmental legislation and related EU regulatory acts[7]

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?

There are three options for challenging executive regulations:

Laws and their executive regulations are a general legal act. As such they can be challenged only at the Constitutional Court. According to Article 24 of the Constitutional Court Act (explanation in section 1.4., 3rd question), legal standing is granted to anyone who demonstrates a legal interest in the review of the constitutionality or legality of regulations. There is no difference in the standing of NGOs, NGOs with public-interest status or other legal or natural persons – all must justify the reasons for direct intervention in executive regulations with their rights, legal interests or legal position. There are other limitations only for executive regulations: a) generally they can be challenged within 1 year after their enforcement or after the day the petitioner learns of the occurrence of harmful consequences; b) all legal remedies should be exhausted (usually meaning challenging the individual act issued on the basis of the executive regulation) – this is a general opinion of the Constitutional Court adopted in many of its decisions.

The general legal act can be challenged also at the Administrative Court if it regulates individual relationships[8]. The 30 day limit for filing the suit to the court should be respected. If there is an individual administrative decision issued on the basis of the executive regulation, the administrative procedure has to be exhausted before going to the Administrative Court.

There is a third, indirect option: if a decision is based on an executive regulation which the claimant considers to be illegal, they can challenge the decision and, if the court agrees, it will refuse to use the illegal regulation as is bound only by the Constitution and the law (exceptio illegalis). The decision about illegality is binding only in the actual case, but it sends a strong signal to the administration and more often than not the administrative decision is altered as a result of the decision. The Administrative Court makes use of this relatively often.

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 review of the Constitutional Court is focused on violation of the provisions of the Constitution. Also, the Administrative Court is focused on the legality of the challenged act. This can cover both procedural and substantive legality.

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

Yes, as explained above under the 1st question.

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

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

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?

A temporary injunction is only possible at the Constitutional Court. At the Administrative Court, a temporary injunction is usually proposed regarding execution regulations. Other injunctive relief is possible (general rules described under 1.7.2.)

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?

At the Constitutional Court, there are no costs (court fees). At the Administrative Court, there is the court fee (148 EUR), which is returned in the case of success.

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[9]?

There are no provisions in national legislation regarding such situations and article 267 TFEU. Courts are obliged to take CJEU decisions into consideration and plaintiffs often refer to certain cases. The Supreme Court and the Administrative Court practise preliminary ruling procedures. All courts follow the recommendations for national courts on the use of preliminary ruling procedures. Plaintiffs are free to propose that the court initiate a preliminary ruling procedure.

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

[2] Official Gazette of RS, 87/02, 91/13, http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3242, also in English.

[3] Official Gazette of RS, 83/01, 32/04 – OROZ195, 40/07, 20/18 – OROZ631, http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1263, also in English.

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

[5] 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.

[6] 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 in Commission Notice C/2017 /2616 on access to justice in environmental matters.

[7] Such acts fall 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

[8] This was the case of challenging the governmental ordinance that ordered the shooting of a certain number of bears and wolves. NGOs with the status of "public interest – nature conservation / environment protection" challenged the ordinance with regard to wolves at the Constitutional Court. The Constitutional Court rejected the review with the explanation that the disputable annex of the ordinance is so individualised that the court was not competent for such a decision. The ordinance was then annulled at the Administrative Court.

[9] For an example of such a preliminary reference, see Case C-281/16, *Vereniging Hoekschewaards Landschap*, ECLI:EU:C:2017:774

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

National rules on silence of the administration:

According to the Administrative Procedure Act (Article 222), in the event that the competent authority against whose decision an appeal is allowed fails to issue a decision and present it to the party in due time, the party shall have the right of appeal as if their claim had been refused. If the second-instance administrative authority fails to issue a decision, according to the Administrative Dispute Act (Article 28), the administrative dispute can be initiated within 30 days after the administrative authority has failed to issue a decision within 7 days after the future plaintiffs' special request.

There are no penalties for exceeding time limits of administrative decisions or to provide effective access to justice.

Complying with a judgement – there can be two situations:

If the court decision specifies that the defendant should make a payment or perform an action, the execution procedure according to the Claim Enforcement and Security Act applies;

If the court finds that there has been a violation of certain rights or annulls certain individual acts or general acts and orders the competent body to issue the a decision within a certain time, there are no penalties for the competent body in the event that it fails to comply with the court decision. A new suit should be filed with the court to challenge this omission/failure.