

2018-12-03	
<i>Case Summary posted by the Task Force on Access to Justice</i>	
Spain: OCEANA, Judgement of Supreme Court 1188/2017.	
1. Key issue	ENGO standing in administrative sanctioning procedure
2. Country/Region	Spain
3. Court/body	Supreme Court, 3th Chamber (Tribunal Supremo, Sala 3ª)
4. Date of judgment /decision	2017-07-07
5. Internal reference	STS 1188/2017
6. Articles of the Aarhus Convention	Art. 2 (5) and 9 (3)
7. Key words	Administrative Sanctioning Procedure – Maritime Pollution – Legal Action – ENGO Standing
8. Case summary	
<p>The Spanish Directorate-General for Merchant Shipping introduced sanctions against the owners of Burgas 3 and Schasckenborg ships for causing maritime pollution in breach with Articles 115 and 116 of the Royal Legislative Decree 1/2011. The ENGO <i>Oceana</i> wanted to take part in the sanctioning procedure; but the competent authorities refused them to do so, referring to that relevant Act (27/2006) does not recognize participatory rights to ENGOs in such proceedings. <i>Oceana</i> appealed to the Administrative Chamber of Madrid High Court of Justice (Judgment of 2015-03-18), but without success.</p> <p><i>Oceana</i> furthered on to the Spanish Supreme Court, claiming that the refusal to grant them participatory rights in the sanctioning procedure was in breach with Article 45 of Spanish Constitution, as well as Articles 2.2, 22 and 23 of Legislative Act 27/2006 defining the concept of “concerned persons” and the conditions for exercising environmental <i>actio popularis</i> in cases like this.</p> <p>Regarding the raised issues, the Supreme Court noted, firstly, that ENGOs not only defend the principle of rule of law, but also environmental concerns expressed in the Spanish Constitution. Secondly, the Supreme Court held that administrative law recognizes other interested persons apart from the offenders in administrative procedures concerning sanctions. In doing so, the Court emphasized that one of the most important interested parties are the ENGOs, provided that the organization fulfils the requirements for standing set up in Article 23 of Legislative Act 27/2006. Finally, the Supreme Court held that <i>Oceana</i> and other ENGOs can take part in administrative sanctioning proceedings in order to guarantee the correct enforcement of laws whose objective is to protect the environment.</p> <p>In sum, in this judgement the Supreme Court found that ENGOs can take part in these administrative proceedings to defend natural resources or to protect the nature.</p>	
9. Link address	http://www.poderjudicial.es/search/contenidos.action?action=contentpdf&database=match=TS&reference=8142418&links=&optimize=20170915&publicinterface=true http://www.unece.org/fileadmin/DAM/env/pp/a.to.j/Jurisprudence_prj/SPAIN/Spain_2017_OCEANA_judgment.pdf