Economic Commission for Europe

Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

Task Force on Access to Justice

Eleventh meeting
Geneva, 27-28 February 2018
Item 2 of the provisional agenda
Thematic focus: access to justice in cases on the right to environmental information

Information paper N2

Overview of the implementation of article 9, paragraph 1, of the Aarhus Convention

Prepared by the secretariat on the basis of the 2017 synthesis report and national implementation reports

This information paper directs participants to selected information from the 2017 Synthesis report on the status of the implementation of the Aarhus Convention and 2017 national implementation reports submitted by 40 Parties to the Convention with regard to access to justice in cases on the right to environmental information. Specifically, it provides an overview of the implementation of article 9, paragraph 1, of the Aarhus Convention and highlights key trends, good practices and challenges on the basis of the information provided by the Parties. Participants are invited to consult this document in advance of the meeting in order to gain an overview of the status of implementation. They will be further invited to share challenges, good practices, lessons learned and information on recent legislative and practical developments as well as identify needs in relation to this subject.

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1 This document was not formally edited.
I. Excerpts from the 2017 Synthesis Report on the status of implementation of the Convention

46. Similar to the fourth reporting cycle, reports of the Parties on the implementation of the access to justice pillar in the sub region described an advanced framework of non-judicial and judicial bodies and mechanisms available to citizens and NGOs. Administrative review is reported to be available and accessible to the public, while some Parties seem to be facing problems with the effectiveness of the operation of special bodies tasked with the review of access to information or decisions of public authorities. Judicial review and its accessibility and effectiveness remain a challenge, and slow progress is reported by the Parties...

178. In Norway and Belgium, enforcing decisions of authorities performing administrative reviews of decisions or actions relating to the environment, such as the ombudsman or appeal commissions, is reported as an issue.

181. Almost all Parties mentioned the legal norms specifying the procedures for redress for violations of the right to information, including environmental information. Parties reported that at least two options are available to the public seeking information: administrative appeal and administrative courts. While administrative appeal was considered free of charge and a quite prompt remedy, its effectiveness and independency was questioned by some Parties.

182. A few Parties also mentioned other bodies specially established to deal with violations of the legislation concerning access to information by public authorities. For instance, appeal of illegal decisions concerning non-provision of information by public authorities could be directed to an ombudsman in Albania, Denmark, Greece, Italy, Lithuania, Kazakhstan and Kyrgyzstan. Appeal to special agencies or bodies tasked with the review of cases involving the violation of the right to public or environmental information is available in Albania, Belgium, Croatia, Denmark, Estonia, France, Iceland, Ireland, Italy, Malta, Norway, Serbia, Slovenia and Switzerland. In general, appeals to such bodies are free of charge and they issue their decisions in a short period of time.

II. Overview of 2017 National Implementation Reports

Albania

Regarding the first paragraph, the Code of Administrative Procedure has provided that individuals may be subject to proceedings or reviews, by a commission provided by the Institution where the supply of information was refused, this impartial commission has no financial charges (article 19, Code of Civil Procedure). Also according to article 137/3 of Code of Administrative Procedure, it is provided in principle, interested parties may address to the court only after having exhausted the administrative recourse. There are no other additional criteria, except general regulations provided by Civil Procedure Code, in cases of suits/petitions.

On the right to address to court, according to Article 9.1 on the right to environmental information, every person shall have the right to a review procedure before a court or another independent and impartial body defined by law. Every such procedure shall be fast and free of charge, or “not expensive”, as stated also above. Currently, in Albania, the public enjoys the right to administrative and judicial procedure, in compliance with the provisions of Law On the right to Information on Official Documents. Complaints can also be submitted to the Commissioner on the Right to Information and to Ombudsman, which can take it consideration and may provide recommendations. This legal procedure is the only one free of charge and relatively fast, however Ombudsman recommendations are recommending. Whereas the findings of the Commissioner of the Right to Information are binding and furthermore he can also put administrative measures and financial penalties in cases of violation of public’s right to environmental information.

Austria

91. Austria has transposed the provisions concerning Article 9, paragraph 1, of the Convention by the legal protection provisions set forth in the Federal Environment Information Act (para. 8) and by way of respective provincial legislation.
Decrees - in cases where the environmental information is not at all or not to the requested extent provided - can be appealed at the Administrative Courts at federal and regional level. (See also Art. 4 para 7).

92. Bodies obliged to provide information, which are not authorised to enact formal notifications, shall forward applications for the enactment of formal notifications to the body responsible for expert supervision/to the district administration authority or to refer the applicant to such bodies. Moreover, the Administrative Courts can be called in by persons affected by the provision of environmental information (e.g. company owners) provided that such persons feel that their rights have been violated on grounds of the respective information. Basically, the Act Governing General Administrative Procedures shall apply for the decree enactment procedure.

101. In order to comply with Decision V/9b Austria has adopted an amendment of the Environmental Information Act (Umweltinformationsgesetz UIG) at federal level (Federal Law Gazette I No. 95/2015). The amended Act now explicitly states that if the environmental information requested is not at all or not to the requested extent provided, a decree shall be issued on this fact without undue delay, but two months after receipt of the request for information at the latest. With that amendment Austria sees the Committee’s recommendation in para. 3 (a) (i) of Decision V/9b as fulfilled when it comes to the federal level. For the provincial level, the provinces of Austria have already amended or started to amend their corresponding legislation accordingly.

Azerbaijan

A person submitting a request for environmental information has the right to appeal to court in the following circumstances:
- falsification and/or deliberate provision of false information;
- untimely provision of information, provision of out-of-date information or evasion by an official of provision of information;
- concealment of information or a refusal to provide information;
- an incomplete or inexact response;
- a refusal to grant permission to use unrestricted environmental information;
- an unfounded recategorization of unrestricted information as restricted information.

Azerbaijani legislation gives everyone the right to judicial protection of their rights. For example, article 1 of the Act on Court Appeals of Decisions and Actions (Omissions) that Infringe the Rights and Freedoms of Citizens specifies that citizens who believe their rights or freedoms to have been infringed by a decision or action (or omission) of state authorities, enterprises and officials may appeal to court. Legislation also requires losses to be fully compensated. Under the Civil Code, a person whose rights have been infringed may claim full compensation of the losses caused to him, unless a law or an agreement specify a lower level of compensation (article 21 of the Civil Code).

Belarus

136. Under Article 74-4 of the Environmental Protection Act, a refusal to supply environmental information may be appealed to a higher public authority or another State agency (or higher official) and (or) in court. No payment is required for appealing to higher authorities. Complaints must be reviewed within a month of receipt and those not requiring further research and verification must be reviewed within 15 days, unless another time frame is specified by law. If special verification or a request for additional documentation is required, the head of the authority, institution, organization or enterprise that has received the communication may extend the time frame, but to no more than two months, and must at the same time inform the applicant accordingly.

Members of the public note the following shortcomings in enforcement of the law:
- appealing to a higher authority is not effective where the latter belongs to the same branch of government and is not an independent body within the meaning of article 9, paragraph 1, of the Convention;
- there is no point in bringing an appeal as such, since there is very rarely a direct refusal to supply information. In most cases, impairment of the right of access to information takes the form of an incomplete answer or partial provision of information.

138. Under Article 357 of the Code of Civil Procedure, a court must hand down a judgment based on its review of a complaint. A court finding the contested acts (or omissions) to be wrongful and in breach of the rights of the citizen must rule that the complaint is justified and that the infringement of rights is to be rectified. A court finding that the contested acts were performed in compliance with the law and within the scope of the powers of the public authority, legal entity, organization, official or military authority concerned must hand down a judgment refusing to satisfy the complaint. An enforceable ruling that infringements must be rectified is sent to the head of the public authority, legal entity, organization, official or military authority whose actions were contested, or to a hierarchically superior public authority, legal entity, organization, official or military authority, within three days of the judgment being handed down. The court and the appellant must be informed within a month of receipt of the court’s judgment that the court’s judgment has been executed.

The Code of Civil Procedure lays out the judicial procedure for appeals concerning acts (or omissions) by public authorities, other legal entities, organizations that are not legal entities, or officials, which impair the rights of citizens; it also makes similar provision, in circumstances established by legislation, for the rights of legal entities (Chapter 29 of the Code).

Belgium (Synthesis report)

**Federal authority:**

(a)

(i) The law of 5/8/2006 created a Federal Appeal Committee for access to environmental information. It exercises its mission independently and neutrally. Since 2008, 82 appeals have been brought in before the Federal Appeal Court for various environmental issues like nuclear, biocides, timber, etc… In the period 2014 - 2016, 49 appeals have been considered. Four advices have been issued by the Commission on the implementation of the 2006 law on access to environmental information.

(ii) The reconsideration procedure is free of charge.

(iii) If an administrative decision to refuse access to information is quashed, it is binding on the administrative authority. Both the opinion of the Committee on Access to Administrative Documents and the decision of the Council of State must be substantiated.

(d)

If the appeal body complies with the appeal, publication is granted. If the public authority does not implement the decision, the appeal body will carry out the decision itself as soon as possible.

The appeal body informs the applicant of its decision in writing, by fax or by e-mail within a period of thirty days. Decisions of the appeal body are public.

(e)

In principle, each decision mentions the possibilities of appeal, otherwise the submission term of an appeal shall commence four months after notification of the decision, whereas the regular period for lodging an appeal is 30 calendar days (Art. 35 DOB).

The remarks should be made concerning the Federal Appeal Commission:

1) Some public authorities still refuse to transmit to the Federal Appeal Commission relevant challenged information when an appeal is made against one of their decision. Therefore the Commission cannot proceed its work and is obliged to take intermediary decisions which means that the Commission is not able to take decision within the timeframe as set out in the 2006 law. It should be underlined that compared to the previous report this situation is aggravated.

2) A better coherence between the different regional and federal legislation on access to environmental information is required since, with the complexity of the environmental competence division, it is not always clear for the public to which Commission it should appeal rightly. Therefore it might be the case that some delay
to introduce an appeal cannot be respected by some members of the public because they wrongfully introduced their first appeal.

3) Some public authorities refuse to execute decisions of the Appeal Committee while those decisions are to be considered to be directly executed as administrative decision.

4) Appeal before the Council of State is sometimes not very effective as the Council of State can only annul an administrative decision and is not allowed to rule on the substance. This means that in the case of an annulment, the administrative procedure should start again which can take time before the environmental information is made public.

**Walloon Region:**

As regards §1: see the answer under Art. 4 (Box VII) regarding the Appeal Commission for access to information

Besides this body, the petitioner can take his claim to exercise his rights to the various courts and jurisdictions of the judicial system.

See the federal government’s report [www.belgium.be](http://www.belgium.be) concerning appeals to the Court of Arbitration and Conseil d’Etat (Council of State – highest administrative authority, functions as the administrative tribunal of last resort).

**Brussels–Capital Region:**

(i) Ord. of 18 March 2004 on evaluating the impact of certain plans and programmes (published in the Moniteur Belge of 30 March 2004).

(ii) Ord. of 30 March 1995 on disclosure by the administration (published in the Moniteur Belge of 23 June 1995).

**Flemish Region:**

An appeal, free of charge, with an independent administrative appeal body is possible, against any decision, after the expiry of the decision period, or in the event of the decision being carried out reluctantly. Higher appeal with the Council of State.

The decisions are binding: the authority has to implement the decision as soon as possible and at the latest within forty calendar days (Art. 20, 22, 24, § 3 and 26 DOB).

**Bulgaria**

According to articles 40 and 41 of APIA, decisions to grant access to information or rejection shall be subject to judicial appeal, respectively, in front of the Supreme Administrative Court and Administrative Courts, depending on the authority which issued the act. For providing environmental information should apply procedure laid down in Chapter Three of the APIA. Bulgarian law complies with the Convention and allows any person who considers that his request for access to information is not examined in accordance with article 4 of the Convention, to have access to re-evaluation procedure. The Courts effectively apply those provisions of Bulgarian legislation and they have established case law.

According to Bulgarian legislation, appeal of decisions for granting / rejection of access to information are only in the Courts under the Administrative Code. (Article 40, paragraph 1 of APIA). The appeal should be submitted through the authority that had issued the contested act. Payment of fees for filing an administrative case is in accordance with the tariff set for all courts and is firmly fixed in it amount (Tariff № 1 to the State Fees Act for fees collected by the courts, prosecutors, investigative authorities and the Ministry of Justice). These fees are very low (for further details, please see sub point (d)).

Responsibility for costs is regulated in article 143 of the APC:

(1) Where the court revokes the appealed administrative act or refusal to issue an administrative act, the stamp duties, the court costs and the fee for one lawyer, if the appellant had retained a lawyer, shall be reimbursed from the budget of the authority which issued the revoked act or refusal.
(2) The appellant shall furthermore be entitled to be awarded costs under (1) upon dismissal of the case by reason of a withdrawal of the administrative act contested thereby.

(3) Where the court rejects the contestation or the appellant withdraws the appeal, the party thereto the administrative act is favourable shall be entitled to be awarded costs.

(4) Where the court rejects the contestation or the appellant withdraws the appeal, the appellant shall pay all costs incurred in litigation, including the minimum fee for one lawyer fixed according to the ordinance referred to in article 36, paragraph 2 of the Attorneys Act, if the other party has retained a lawyer.

In administrative court cases the minimal attorneys’ fee is 300 levs (about 150 euro).

Since the appeal of the decision is in court, the court’s decisions are binding for all state bodies, natural and legal persons. When there is a court decision in force repealing refusal to provide information, it is mandatory for the authority that has decreed the refusal and which hold the requested information.

According to article 28, paragraph 2 of the APIA bodies or explicitly defined by them representatives take decision to grant or refuse access to required public information and notify the applicant in writing of its decision.

Timeliness and effectiveness (entitled “swiftness and procedural economy”) are proclaimed as a principle in the APC (article 11). No additional requirement for timeliness and effectiveness is provided for environmental procedures. The APC and the different environmental procedures provide for numerous deadlines for carrying out the respective activities – these deadlines could be considered as safeguards.

The duration of an environmental court procedure can vary significant. Usually a first instance court procedure with two or three hearings can’t last more than 6-7 months. If there are more than three hearings the procedure can take 8-12 months. An appeal before the second instance might prolong the procedure by additional 6-8 months. In principle, according to article 157, paragraph 1, sentence 2 of the APC, the reporting judge set the case within a period not exceeding two months from the receipt of the complaint in court, but the workload of some courts may be an additional factor in the delay of the scheduling of the hearing. A medium duration of an environmental administrative court procedure with none of the abovementioned complications would be between 12-18 months.

Croatia

Pursuant to Art. 8 of the ARAI, the right of access to information and the re-use thereof is granted to every beneficiary in an equal manner and under the same terms. The beneficiaries are equals in exercising thereof. Public authorities may not place beneficiaries in an unequal position, especially in a manner that would enable certain beneficiaries to obtain information before others or in a manner that provides them with special benefits.

Article 4, item 53 of the EPA defines the meaning of the term “right of access to justice”. The right of access to justice means the right to file an appeal with the competent body and the right to lodge a complaint before the competent court which the EPA, subject to the prescribed conditions, confers upon persons - citizens, other natural and legal persons, their groups, associations and organisations, with the aim of realising the right to a healthy life and sustainable environment and for the purpose of protecting the environment and individual environmental components as well as protection against the harmful impacts of burdens.

Art. 12 of the AAD prescribes that administrative disputes are settled by administrative courts and the High Administrative Court of the Republic of Croatia. In accordance with Art. 22 of the AAD, by a complaint the following can be demanded: 1. nullification or declaring of an individual decision null and void, 2. taking of a decision which was not taken within the prescribed time limit, 3. performance of an action which the respondent was obliged to perform in accordance with rules and regulations or a decision, 4. declaring of an administrative contract null and void or performance of an obligation stipulated in an administrative contract. In cases referred to in items 1 and 2, the court may be requested in a complaint to adjudicate on the rights, obligations and legal interests of the party. Along with the main claim, a complaint may demand return of an item and compensation
of damage caused by the respondent. An administrative dispute may be initiated after all other legal protection laid down by law has been exhausted.

Any person (citizen and other natural and legal person, their groups, associations and organisations) who considers that his request for information pertaining to environmental protection matters has been neglected, unfoundedly refused, either in its entirety or in part, or that his request has not been answered in an appropriate manner, has the right to defend his rights before a court of law, in accordance with a special regulation on access to information (Art. 19, para. 1 of the EPA).

A public authority may reject the request to provide environmental information by means of decision in cases mentioned in Art. 158, para. 1 and 3 of the EPA. It is possible to file an appeal with the Information Commissioner against a decision issued by the competent administrative body or the competent ministry within 15 days from the date of delivery of the decision, pursuant to ARAI (Art. 158, para. 6 of the EPA).

Pursuant to Art. 25 of the ARAI, a complaint may also be filed if the public authority fails to issue a decision on the submitter’s request within the legal deadline. The Commissioner shall issue a decision on the complaint and deliver it to the requesting party through a first-instance body no later than 30 days from the date of filing of an orderly complaint, except in cases described in Art. 25, para 5 and 6 of the ARAI. When the Commissioner has determined that the complaint is valid, he shall issue a decision ordering the public authority to provide the beneficiary with access to the requested information, i.e. to decide on the beneficiary’s request and to set an adequate deadline in which it is obliged to act accordingly.

Pursuant to Art. 26, para. 1 of the ARAI, no complaint may be filed against the decision issued by the Commissioner, but an administrative dispute may be initiated before the High Administrative Court of the Republic of Croatia. The High Administrative Court of the Republic of Croatia must issue a decision on the complaint within 90 days. The complaint shall delay the execution of the decision granting access to information.

An administrative dispute against the Commissioner’s decision may also be initiated by the public authority that has issued the first-instance decision.

In certain cases, the EPA allows that second-instance proceedings be initiated with the competent authority.

Pursuant to Art. 10 of the AAD, the final judgment shall be binding upon parties to the procedure and their legal successors. The final judgement of the court concerning the lawfulness of a general act shall be binding upon all. According to Art. 81, para. 2, the respondent is bound by the legal standpoint and court remarks. Furthermore, Art. 23, 24, 25 and 26 of the ARAI are also applicable in this context.

With regard to the grounds which must be provided in writing, the following articles of the AAD are applied: Art. 60 – Contents of the Judgement and Art. 62 – Delivery of the Judgement, Art. 65, para. 5 which refers to the decision (content of the decision). In addition, Articles 97 and 98 of the AAD are applied as well.

Court proceedings shall be fair, equitable, timely and not prohibitively expensive, and as prescribed under Art. 172 of the EPA court proceedings on all legal actions instigated in the field of environmental protection shall be deemed urgent, Art. 26, para. 1 of the ARAI the High Administrative Court of the Republic of Croatia must issue a decision on the complaint against the decision issued by the Commissioner within 90 days, and Art. 8 of the AAD which prescribes that the court shall conduct the procedure speedily and without stalling, by avoiding unnecessary actions and costs, prevent the abuse of the rights of the parties and participants in the administrative dispute and render a decision within a reasonable time.

With regard to fairness and equitability, Articles 5, 6, 7 and 9 of AAD and Articles 5, 6, 7 and 8 of the GAPA provide for the mentioned measures.

The costs of the proceedings, which may not be prohibitively expensive, are prescribed under Article 19, para. 1 and 2 of the ARAI. It is also stated that access to information in procedures before the public authorities does not require the payment of administrative and court fees. The public authority is entitled to request the beneficiaries to cover the actual material expenses incurred by providing information and to cover the expenses of delivery of the requested information.
CSOs deem that the EPA, which sets the principle of access to justice, is not aligned with the provisions under the Convention, EU legislation (Directive 2003/35/EC) and the Croatian Constitution. Namely, Article 19, paragraph 2 of the EPA contains the condition that the right to contest the procedural and substantive legality of decisions, acts or oversights of public authorities before the competent body and/or competent court exists only if it can be proven that rights have been permanently violated. There are no similar examples in Croatian legislation, it suffices that the claimant deems his/her right to be violated, and the violation does not have to be permanent. Thus, the right of access to courts is disproportionately restricted, and therefore it is necessary to align the principle of access to justice with the AAD in order to ensure the consistency of the Croatian legal system.

In Croatia the right to free legal aid can be exercised only by natural persons and thus CSOs are denied it, which is in contravention to the Aarhus Convention (Art. 9, para. 4 and 5, which require fair and equitable legal remedies and the duty to consider establishment of appropriate assistance mechanisms to remove or reduce financial and other barriers to access to justice). According to the Act on Free Legal Aid, legal persons cannot be users of free legal aid, and therefore also CSOs. Organisations engaged in environmental protection should be able to participate equally in court and other proceedings and the legislator should recognise that.

Article 172 of the EPA prescribes that court proceedings on all legal actions instigated in the field of environmental protection are deemed urgent, however the practice has shown that court proceedings initiated by CSOs can last for 2 or more years. Also, the delaying effects of complaints are very rarely applied.

Cyprus

Access to justice against decisions, acts or omissions of public authorities is provided for under Article 146 of the Constitution. Article 146 provides that:

1. The Supreme Constitutional Court has exclusive jurisdiction to adjudicate finally on a recourse made to it on a complaint that a decision, an act or omission of any organ, authority or person, exercising any executive or administrative authority is contrary to any of the provisions of the Constitution or of any law or is made in excess or in abuse of powers vested in such organ or authority or person.

2. Such a recourse may be made by a person whose any existing legitimate interest is adversely and directly affected by such decision or act or omission.

3. A recourse may be made within seventy-five days of the date when the decision or act was published or, if not published and in the case of an omission, when it came to the knowledge of the person making the recourse.

4. Upon such a recourse the Court may, by its decision –
   (a) confirm, either in whole or in part, such decision or act or omission; or
   (b) declare, either in whole or in part, such decision or act to be null and void and of no effect whatsoever, or
   (c) declare that such omission, either in whole or in part, ought not to have been made and that whatever has been omitted should have been performed.

5. Any decision given under paragraph 4 of this Article shall be binding on all courts and all organs or authorities in the Republic and shall be given effect to and acted upon by the organ or authority or person concerned.

6. Any person aggrieved by any decision or act declared to be void under paragraph 4 of this Article or by any omission declared thereunder that it ought not to have been made shall be entitled, if his claim is not met to his satisfaction by the organ, authority or person concerned, to institute legal proceedings in a court for the recovery of damages or for being granted other remedy and to recover just and equitable damages to be assessed by the court or to be granted such other just and equitable remedy as such court is empowered to grant.

Access to justice with respect to the provision of Article 4
The Law on Public Access to Environmental Information (119(I)/2004) includes provisions on access to justice. According to Article 10 of the Law, any person who thinks that his request for environmental information was:

- unjustifiably ignored or wrongfully refused, whether in full or in part,
- was answered inadequately, or
- was not dealt with in accordance with the provisions of the Law,

has the right within 30 days from the notification of the decision or the end of the one-month (or two-month when warranted) period to appeal to the Minister to review the actions or omissions of the public authority in question. The Minister examines the matter and makes a decision, which is then notified to the interested person and the public authority.

Independently of the provisions of Article 10, Article 11 gives the applicant the right to a review procedure before the Supreme Court, in accordance with Article 146 of the Constitution.

**Information to the public on access to administrative and judicial review procedures**

Law 119(I)/2004 on access to information: When a refusal for the provision of information is communicated to the applicant the competent authority must state the reasons for the refusal and provide information on the appeals procedure.

Law 140(I)/2005 on the assessment of the impacts on the environment from certain projects: According to Article 25(2) the environmental authority must ensure that practical information on the procedures for administrative and judicial review communicated to the public through notices in the daily press and the internet.

**Czechia**

**a) Regarding article 9, paragraph 1**

(i) A judicial protection under this provision may be sought by entities, which have been participant to the procedures, in which the challenged decision was taken, as well as by people who were not participants to the procedures, but their rights were truncated by the decision taken – it is apparent also from the case-law of the Supreme Administrative Court (4 As 157/2013).

The above-mentioned implies that the access to judicial review of administrative decisions is in principle accessible to anyone who argues that such a decision truncated their rights. Usually it will be persons (natural and legal), which were participants to the administrative procedures, in which the decision was taken, but this is not a requirement.

(ii) Pursuant to Act No. 106/1999 Coll., the applicant may file a complaint (section 16a), if the information was not provided or was provided only partially, or if the applicant does not agree with the method of settlement of requests for information. It is possible to appeal against non-provision of information according to both of the information Acts (No. 123/1998 Coll., No. 106/1999 Coll.), and possibly subsequently bring an action to the Court. A certain problem is the length of the judicial review.

(iii) One of the reasons for the duration of procedures is the fact that, before the applicant turns to court, they have to file an appeal against a refusal to provide information with the authority that is immediately superior to

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4 Specialised literature, the comment to the administrative court rules, says on this issue that: "the plaintiffs will be natural or legal persons, usually the participants in the administrative procedure. However, the construction of paragraph 1 of the administrative code rules (unlike paragraph 2) does not necessarily require previous participation of the plaintiff in administrative procedures. From the perspective of locus standi to bring an action it is therefore not indicating whether the entity concerned has been treated as a participant in the administrative procedure or not," Blažek, T., Jirásek, J., Molek, P., Pospíšil, P., Sochorová, V., Šebek, P.: The administrative court rules - online comment.
the authority that issued the decision. In the Czech Republic there is no institution like “information commissioner” attending, in an out-of-court manner, to the cases involving refusals to provide information.

(iv) The decision of the court and the superior authority are binding on the obliged entity and in practice they are respected.

According to section 16 of the Act No. 106/1999 Coll., on free access to information, if the court does not find reasons for a refusal to provide information, it shall order the obliged entity to provide the requested information. The Act No. 123/1998 Coll., on the Right to Environmental Information does not contain any analogous provision, which means that, under this Act, the court finding that there are no reasons for a refusal to provide information shall reverse the decision of the administrative authority and return the matter for a further procedure together with its binding legal opinion.

With regard to this paragraph it is problematic that administrative decisions do not contain information that they may be challenged at a court, and are presented to the public as final. The system of legal aid for persons who cannot afford services of lawyers for financial reasons has not been developed much in the Czech Republic. As far as NGOs are concerned, the decision-making practice until 2010 was such that NGOs were regularly exempted from court fees. The state had no right to claim compensation for costs from them. Since 2010 the situation (decision-making practice of courts) has changed and non-governmental organizations have not been exempted on a regular basis any longer.

However, the amount of court fees in the Czech Republic does not prevent access to justice.

**Denmark**

The ordinary rules of legal procedure state that anyone with an individual legal interest can bring an action before the courts.

According to the Environmental Information Act, a decision regarding access to information can be appealed to the administrative body, which is the appeal body in relation to the case, to which the request for access to information relates to. Refusal of a request for access to information that is notified by a body which is covered by the Environmental Information Act but not part of the ordinary public administration can be appealed to the Environmental and Food Board of Appeal.

The right of appeal is supplemented by the non-statutory administrative law principle of resumption. It is also possible to bring a case before the Ombudsman of the Danish Parliament and the authorities responsible for the supervision of municipalities.

Regulations in the Administration of Justice Act apply to parts of the Environmental Information Act. This means that the decisions mentioned above can be appealed in accordance with the regulations in the Administration of Justice Act.

Regarding the right to demand reasons in writing and binding decisions, see under article 9 paragraph 4.

Court decisions regarding:
- access to documents with environmental information,
- public participation in decisions on specific activities with impacts on the environment,
- consistency with environmental legislation of actions and omissions by private or public authorities, are available to the public, cf. the Environmental Information Act.

Furthermore, the Administration of Justice Act provides for general access to documents regarding judgements, Court orders, etc.

It is general practice that administrative decisions are notified in writing. This practice is supplemented by the principle of good administrative practice, under which written queries from the public must be answered in writing, just as particularly significant decisions must be notified in writing. Moreover, according to the Public Administration Act, the public can demand written grounds for a decision that was reported verbally, except where the decision is in every particular favour of the person concerned. The decisions of the administration are binding.

With regard to cases on access to documents with environmental information, the Environmental Information Act states that refusals must have a reason and be accompanied by advice on appeals. Refusal must be in writing, if the request was in writing or if the applicant so requested. The requirement on written documents applies to both authorities and bodies covered by the Act, as well as each refusal, including refusals to receive information in a specific form.

The decisions of the Ombudsman are in writing but not binding; in practice the administration generally follows the recommendations of the Ombudsman. The Ombudsman's position in a case does not limit the access of the courts to review the case subsequently.
Decisions by the courts are in writing, binding, and can be enforced. In matters of making appeals to the Environmental and Food Board of Appeal a fee of DKK 900 (approximately €120) is charged for private persons and a fee of DKK 1,800 (approximately €240) is charged for others, such as enterprises, NGOs and public authorities. For judicial reviews, a court fee is due for instituting legal proceedings. In addition, there are usually costs for legal assistance and expert assistance etc.

Estonia

With regard to an administrative body, the following proceedings are possible:

**Challenge proceedings**

Challenge proceedings are regulated under the Administrative Procedure Act. Their aim is on the one hand to allow for an inexpensive and prompt review of decisions, and on the other to give the administrative system a chance to correct its mistakes. Challenge proceedings are free of charge for persons. Currently, as a rule they are not mandatory (except the mandatory challenge procedure foreseen in the Environmental Charges Act and the Environmental Liability Act) and the relevant person may turn directly to the court. A challenge may be filed by a person who finds that his or her rights have been violated or freedoms restricted by an administrative act or in the course of administrative proceedings (section 71). However, a challenge cannot be filed against an act or measure of an administrative authority over which the Government exercises supervisory control.

A challenge concerning an administrative act or measure shall generally be filed within 30 days. Execution of the administrative act may be suspended for the duration of adjudication. A challenge is generally adjudicated within 10 days, but the term of review may be extended for additional investigation by up to 30 days.

A decision on a challenge must be in writing and, upon dismissal of a challenge, must be reasoned and contain an explanation concerning the filing of an action before an administrative court. A person whose challenge is dismissed or whose rights are violated in challenge proceedings has the right to file an action before an administrative court.

In general, challenge proceedings are considered as a positive and good opportunity for an administrative body to correct its mistakes quickly and efficiently. However, the negative side of the proceeding is that the authority may not see its own mistakes and also the impartiality and independence of the decision on challenge are not guaranteed. As there is also a not very expensive alternative to challenge a decision in an administrative court (if the fee of legal aid is not taken into account), the challenge proceedings are not used very often.

According to the Environmental Board, challenge proceedings set forth in the Administrative Procedure Act are practical and efficient. Challenge proceedings provide an opportunity to once again explain to the person who filed the challenge the positions of the Environmental Board in making the decision and thereby prevent unnecessary court action. Challenge proceedings sometimes also enable identifying the infringement of procedural or substantive rules in an early stage and give the Environmental Board an opportunity to review the decision, or make a new decision. In addition, challenge proceedings are fast (duration 10 to 40 days) and cheap (possible without using legal assistance) compared to judicial proceedings in terms of processing economics.

**Supervisory control proceedings**

Supervisory control is organised to ensure the legality and purposefulness of administrative activities. Supervisory control is the internal control of administrative activities. A person cannot demand that supervisory control be exercised, but he or she can draw the attention of the administrative body exercising supervisory control to circumstances that demand its exercise. Supervisory control is not exercised in matters related to (State) supervision measures and acts, e.g. it is not exercised over the precepts of the Minister of the Environment.

A person exercising supervisory control has the right to:
1) Issue an order for the elimination of the deficiencies in a legal instrument or act;  
2) Suspend the performance of an act or validity of a legal instrument;  
3) Invalidate a legal instrument.

Pursuant to the information collected in 2016, supervisory control proceedings have been initiated based on a public complaint or application in two local government units.

**Administrative court**

As a rule, there are three conditions applicable in determining the existence of a right to file an action:  
1. The relevant environmental legal standard has to give rise to a legal public right;  
2. This right must be held by the person filing an action, i.e. there must be a personal connection;  
3. A causal connection must exist between the administrative activities and the violation of the rights.

In case of legitimate interest, there are two main conditions applicable to the right to file an action:  
1. The person filing an action must have a certain personal connection to the case;  
2. The person filing an action must demonstrate the need to determine the unlawfulness.

An administrative court has the right:  
1) To annul an unlawful administrative act in its entirety or partially;  
2) To issue an order to execute an unlawfully suspended administrative act, to issue an administrative act that has not been issued or to adopt a measure that has not been adopted;  
3) To declare an administrative act or measure unlawful. An administrative court shall verify both the procedural and the substantive lawfulness of administrative activities.

**Data Protection Inspectorate**

The Public Information Act is the main national legal act implementing the requirements of article 4 of the Aarhus Convention (access to environmental information). According to section 46, a challenge may be filed with the Data Protection Inspectorate in case of a violation of the Public Information Act. The Data Protection Inspectorate (hereinafter the Inspectorate) is a government institution whose main function is State supervision over the processing of personal data, maintaining of databases and access to public information. The proceedings conducted by the Inspectorate are challenge proceedings of a certain specific nature. The Inspectorate has the right to issue orders upon the holders of information to comply with the law and take the necessary measures within five working days. In the case that the holder of information neglects to fulfil the order issued by the Inspectorate, and does not challenge it in the administrative court, the Inspectorate will initiate misdemeanour proceedings or turn to the superior institution or body of the holder of information in order to perform supervisory control. However, problems might arise in ensuring the implementation of the orders issued by the Inspectorate.

**Supervisory proceedings carrier out by the Chancellor of Justice**

The main duties of the Chancellor of Justice include reviewing the legislation of general application of the legislative and executive powers and of local governments for conformity with the Constitution and legal acts. In addition, section 19 of the Chancellor of Justice Act establishes that everyone has the right of recourse to the Chancellor of Justice in order to control the activities of governmental authorities, including the guarantee of constitutional rights and freedoms. As the independence of the Chancellor of Justice is stressed in Chapter XII of the Constitution, the Chancellor can doubtlessly be considered an independent body in the meaning of article 9, paragraph 1, of the Convention. The proceedings carried out by the Chancellor are free of charge for the person who made the recourse; neither have definite proceeding deadlines been established. Therefore, the review and supervision carried out by the Chancellor of Justice is not appropriate for implementing the requirements of the Convention, but the proceedings may have a supportive role.

**Compensation for unlawfully caused damages**

Pursuant to subsection 2 (2) and section 126 of the Code of Administrative Court Procedure, administrative cases have to be settled within reasonable time. Pursuant to the subsection 100 (1) of the same act, a party to a proceeding can apply for the implementation of a measure appropriate for concluding the judicial proceeding faster, if the administrative matter has pended before the court at least for nine months and the court has not
performed a necessary procedural act without any good reason, in order to guarantee that the judicial proceeding is completed within reasonable time.

Legal costs

Extra-judicial proceedings are in principle free of charge, and charges in administrative court proceedings are low except in cases related to compensation for damages in which the fee consists in 3% of the claim for damages, but no more than 750 euros. At the same time, procedural expenses are not limited only to fees charged by the reviewing body, but include also other charges such as legal aid and expert expenses, as well as compensation of the defendant for expenses upon losing the case. Expenses are obviously highest in court cases. The court can reduce the legal aid expenses the defendant has to be compensated for, and in certain cases decide not to charge these altogether. This way, e.g., the respondent shall pay for the procedure expenses, if the procedure was terminated for the reason that the administrative act contested in the complaint has been repealed or the administrative act has been issued or the action has been performed.

It may also decide that the legal aid expenses of an insolvent natural person will be covered by the State. An attempt to provide a more comprehensive solution to providing free legal aid to insolvent natural persons as well as to environmental NGOs acting in the public interest has been made in the State Legal Aid Act. The Response to Memoranda and Requests for Explanations and Submission of Collective Addresses Act obliges administrative bodies to provide free legal aid to a limited extent. However, most of the NGOs are of the opinion that in financial terms the court proceeding may prove to be too expensive and hence this can be an obstacle for challenging administrative decisions. However, the general opinion was that most of the problems find solutions without the court and the court is seen as an ultimate measure.

The fact that, within an administrative court procedure, the dispute is between the appellant and an administrative authority. When ordering compensation of the procedure expenses of the administrative authority from the appellant, the judicial practice is rather strict. Therefore, administrative authorities generally have to be able to defend their administrative acts independently in administrative proceedings. Although it is not prohibited for an administrative authority to use external legal assistance in an administrative proceeding, to justify the compensation of the expenses on the legal assistance service not concerning administration, the case has to generally remain outside the framework of the main daily activities of the administrative authority. There are no grounds to consider disputes arising from fulfilling the tasks established to an administrative authority by legal acts as outside the framework of the main daily activities of the administrative authority. Asking for a preliminary ruling from the European Courts also does not make the dispute as outside the framework of the main daily activities of the administrative authority. The Supreme Court has restricted the order for compensation of the procedure expenses from the appellant in favour of the administrative authority with several conditions, incl. the necessity of using external legal assistance for an administrative authority, compliance with the principle of proportionality, qualification of the officials or employees of the administrative authority, the economic situation of the appellant, etc. In addition, other substantial and exceptional circumstances can also be taken into account when dividing procedure expenses, for example the special meaning of the issue under dispute under legal order. Therefore, based on the court practice, it is possible that the appellant is not ordered to pay procedure expenses, even if the complaint is decided in favour of the administrative authority.

Accessibility of decisions

The written form of decisions is a requirement clearly established in basic proceedings and can be presumed in other proceedings, such as the review proceedings carried out by the Chancellor of Justice. The public accessibility of decisions is a more sensitive question. All court rulings are in principle accessible on the Internet since 2001. Decisions taken in other proceedings are also accessible to the public. Administrative bodies are obligated to maintain a document register which is in principle publicly available and accessible on the Internet. In some cases, such as the supervision proceedings carried out by the Data Protection Inspectorate, the administrative bodies must disclose the results of proceedings on their websites.

European Union

As far as access to justice with respect to an action or omission of EU institutions and bodies is concerned:
The Treaty of Lisbon replaced Article 230 of the Treaty establishing the European Community with Article 263 TFEU. The rules of admissibility for natural or legal persons are now broader. Direct actions were widened so that natural or legal persons cannot only challenge acts addressed to them or which are of direct and individual concern to them, but also a regulatory act which is of direct concern to them and does not entail implementing measures. Article 47 of the Charter provides for a right to an effective remedy and to a fair trial for everyone whose rights and freedoms guaranteed by EU law are violated. Furthermore, Article 267 TFEU provides a means whereby national courts can put questions to the CJEU on the validity of EU legislation and acts. Accordingly, for measures that cannot be challenged before the EU Courts, it is possible to challenge the implementing measure, adopted at national level, and then raise an issue of legality of the underlying EU measure, which has to be referred to by the national court to the European Court of Justice.

Definitions
Article 2 (1) of the Aarhus Regulation contains relevant definitions.

Article 9, paragraph 1
Article 3 of the Aarhus Regulation refers to the Access-to-documents Regulation under which the following review procedure is available: According to Article 8, in case of a total or partial refusal of the requested documents, the applicant may make a confirmatory application asking the EU institution to reconsider its position. Failure by the institution to reply within the prescribed time-limit is considered a negative reply and entitles the applicant to institute court proceedings and/or to make a complaint to the European Ombudsman, under the terms of the Treaty.

Article 9, paragraph 4 (from 2008 NIR)
120. The mechanism of Regulation No 1367/2006 can lead to the review and/or repeal of prior decisions made by EU institutions and bodies; the finding as to whether there is a breach of EU environmental law or not is to be made and communicated in writing to the applicant within 18 weeks maximum, which is a short time frame when compared with most judicial procedures. There is no administrative fee to be paid by the applicant, and there is no requirement that the applicant be represented by a lawyer (even though he may obviously choose to do so, if he so wishes).

As far as access to justice with respect to an action or omission of Member States' authorities is concerned:

Article 9, paragraph 1
Article 6 of the Environmental Information Directive provides for access to justice concerning requests for information. There is equally a right to administrative and judicial review of acts or omissions in relation to requests for information under the SEVESO III Directive.

Article 9, paragraph 4
Article 6(1), last sentence, of the Environmental Information Directive concerns administrative review procedures on access to information.

Article 11 of the EIA Directive, Article 25 of the Industrial Emissions Directive and Article 23 of the SEVESO III Directive equally include procedural guarantees such as standing rights or requirements for timely and not prohibitively expensive procedures.

Article 19(1) TEU incorporates the principle of effective judicial protection into the Treaty: "Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by EU law."

Finland

Article 9, paragraph 1 - measures taken to ensure that:

(a) Any person who considers that his or her request for information under article 4 has not been dealt with in accordance with the provisions of that article has access to a review procedure before a court of law or another independent and impartial body established by law;
Pursuant to Section 33 of the Act on Openness as partly amended partly by Act 907/2015, a decision by an authority, as referred to in the Act, may be appealed against as prescribed in the Administrative Judicial Procedure Act. The possibility of appeal pertains to decisions made by authorities as well as to decisions made by a private-law corporation or other actor entrusted, by virtue of legislation, with a public task involving the use of public power. Administrative decisions by which a claim submitted by a party has been rejected do not have a res judicata effect. For this reason, a new request cannot be dismissed without consideration or decision. A request made by a party may have considerably better chances of success in a review, for example for the reason that the party can provide better substantiation for his or her request.

If a decision is clearly based on erroneous or insufficient information or on obviously incorrect application of the law, or if a procedural error has occurred in the decision-making, the authority may annul its erroneous decision and decide the matter anew in accordance with Section 50 of the Administrative Procedures Act.

(b) Where there is provision for such a review by a court of law, such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law;

Pursuant to Section 74, paragraph 1 of the Administrative Judicial Procedure Act, a party shall be liable to compensate the other party for legal costs in full or in part, if especially in view of the resolution of the matter it is unreasonable to make the latter bear his or her own costs. In accordance with paragraph 2, when assessing the liability of a public authority, special account shall be taken of whether the proceedings have arisen as a result of the error of the authority. Pursuant to paragraph 3, a private individual shall not be held liable for the costs of a public authority, unless the private individual has made a manifestly unfounded claim.

The fees related to appealing were raised with the Judicial Court Fees Act 1455/2015. According to the explanatory memorandum HE 29/2015, a proposal for raising the court fee level closer to the cost price of the proceedings has been made. The objective of this change would be to increase the courts’ revenue, as well as make the fees’ regulatory impact more effective. The court fees remain significantly lower than the cost price of the court proceedings. Collecting fees is the norm. A fee is now charged for several matters that were previously free, and administrative matters, in particular, include many of such matters. Appeals may still be made against fees.

(c) Final decisions under this paragraph are binding on the public authority holding the information, and that reasons are stated in writing, at least where access to information is refused;

An official refusing a request for a document or information shall state the reason for the refusal to the person making the request and give an opportunity to demand an official decision as prescribed in Section 14, paragraph 3 of the Act on Openness. Thereafter the matter can be brought for reconsideration by an authority. If the authority again rejects the request, this decision shall be substantiated as prescribed in Section 45 of the Administrative Procedures Act, in other words, it shall be stated which facts and findings have influenced the decision of the authority, and the legal statutes applied shall be cited.

France

135. - In French law, any natural person or legal entity demonstrating a legal interest may obtain access to justice. This also applies to participation and access to information.

136. - French law distinguishes between judicial procedure, which guarantees access to the courts in the event of difficulties encountered in the supply of environmental information, and administrative procedure, which guarantees access to environmental information.

137. - Article L. 340-1 of the CRPA established the CADA as an independent administrative authority responsible for ensuring freedom of access to administrative documents.

138. - Applicants who have been refused information have two options for bringing interim proceedings against the refusal:

France
139. If the competent authority reiterates its initial refusal, the applicant may institute administrative proceedings to have the decision annulled on grounds of misuse of powers.

140. It is not necessary to be represented by a lawyer in proceedings before a court of first instance for annulment of an administrative act on grounds of misuse of powers. Applicants whose financial resources fall below certain thresholds may benefit from legal aid (Act No. 91-647 of 10 July 1991, as amended).

141. While it is mandatory to consult the CADA, its written reasoned opinions are not binding on administrative authorities – although, in practice, the latter follow them in 77.8% of cases.

142. As to court decisions, judgments shall be written and reasoned (Article L. 9 of the CJA) and are enforceable (Article L. 11 of the CJA).

143. The constitutional principle of the separation of powers prohibits the courts from taking administrative action. However, in two situations, the administrative courts may, at the request of the applicant, order an administrative authority to comply with a final court ruling:

- when the final court ruling “necessarily entails” adoption of a given implementing measure (Article L. 911-1 of the CJA);

- when it “necessarily entails” taking a decision following a fresh investigation of the case (Article L. 911-2 of the CJA).

144. The court may make the deadline for the administrative authority to comply with the ruling subject to a fine (Article L. 911-3 of the CJA).

158. Public access to the opinions of the CADA and to court decisions is guaranteed by French law. The most significant opinions are accessible on the Internet, with the environment being one of designated subject areas. Some of the CADA’s opinions are published in its public report (Article R. 341-17 of the CRPA).

159. Hearings in open court, the public nature of judicial decisions and the free communication of court decisions and orders to anyone on request are guaranteed under Article 6, paragraph 1, of the European Convention on Human Rights and constitute basic safeguards. Justice is done in the name of the French people (Article L. 2 of the CJA), proceedings take place in open court (Article L. 6 of the CJA), and courts hand down their rulings in public (Article R. 741-1 of the CJA).

160. Under Article 1 of Decree No. 2002-1064 of 7 August 2002 on public dissemination of the law over the Internet, rulings that constitute national case-law, notably those of the Council of State and the Court of Cassation, are to be made available free of charge. When they are of particular interest, the judgments of courts of first instance and lower appeal courts are sometimes posted online. However, some organizations have expressed dissatisfaction that not all legal rulings are included but are accessible only to members of the courts in question.

161. The conditions governing the public provision of information on available remedies are set out in Article R. 421-5 of the CJA. These provisions are supplemented by Article R. 112-5 of the CRPA, under which the administrative authorities must, when so requested, provide an acknowledgement mentioning the available remedies against an implicit refusal, with their deadlines. Furthermore, the Council of State has ruled that the notice of a decision must mention any applicable mandatory prior administrative appeal and the authority with which it should be lodged (Council of State, 15 November 2006, M. Toquet). This includes the CADA, to which a referral must be made in advance of any legal action relating to a request for environmental information (Article L. 342-1 of the CRPA).

162. France has established a system of assistance designed to eliminate or reduce financial obstacles to access to justice: Act No. 91-647 of 10 July 1991 and Implementing Decree No. 91-1266 of 19 December 1991 together establish legal aid, which comprises two separate legal arrangements: one specifically to help with court proceedings (aide juridictionnelle) and the other to facilitate access to legal advice and to assistance in non-judicial procedures (aide à l’accès au droit).
Georgia

(a) Any person may submit complaint to the higher public administrative body against a public authority in regard to violation of his/her right to access to information, as well as apply to the court. The final decision is a mandatory for execution by a public institution. In the event of refusal to issue information, a public institution is obligated, within 3 days from the date of adoption of a decision, to provide a written explanation of his/her rights to the applicant along with the ways of appealing of a decision, as well as indicate the structural subdivision or a public institution, with which it conducted consultations in regard to refusal of provision of information.

(b) The right to appeal decision of an administrative body is regulated by the Chapter XIII of the General Administrative Code of Georgia, according to which an interested party can apply with complaint to an administrative body in regard to decision or action of an administrative body. The administrative appeal is considered and decision is reached by the administrative body, which has issued legal-administrative act, if there is an official, superior to the structural unit or public officer, who issued such act. The administrative appeal submitted in regard to legal-administrative act adopted by the head of an administrative body shall be considered by a superior administrative body. The same chapter of the Code establishes the rules of consideration of administrative appeals and relevant administrative proceedings. An administrative body is obliged to invite the interested parties in the process of consideration of an appeal. The interested party has the right to express its opinion, defend its interests and conduct the oral hearing. The oral hearing is open.

(e) Chapter IX of the General Administrative Code of Georgia regulates issues of public administrative proceeding, in particular: issue of an individual legal-administrative act through a public administrative proceeding, publish the notice regarding submission of documents for public access, the list of documents to be presented for public access, procedures for presenting of opinions, drafting and submission of an individual legal-administrative act for public access, etc. The General Administrative Code of Georgia describes in detail the following procedures: submission of an administrative complaint to an administrative body, review and decision-making on the complaint, and procedures of filing a complaint to a court by a citizen, if his/her rights related to the access to information and participation in decision-making were violated by an administrative agency (General administrative Code of Georgia).

Germany

In Germany, pursuant to Article 19 (4) of the Basic Law (GG), should any person’s rights be violated by a public authority, that person may have recourse to the independent courts. The relevant procedure is determined primarily by the Code of Administrative Court Procedure (Verwaltungsgerichtsordnung – VwGO).

(a) (i) At federal level, Section 6 UIG\(^7\) transposed Directive 2003/4/EC on public access to environmental information, which in turn integrated Article 9 (1) of the Convention into European law. Section 6 (1) of the Environmental Information Act (UIG) adopted at federal level provides for access to the administrative courts in the event of disputes under the UIG. Similar legal provisions have been adopted by the Länder.

(ii) With regard to the additional opportunity, provided for in Article 9 (1) (2) of the Convention, of access to an expeditious review procedure established by law that is free of charge or inexpensive, Section 6 UIG differentiates as to whether the body required to furnish the information is a public authority or a person in private law. In the event of the refusal of a request for information by a public authority, it is possible to initiate internal administrative objection proceedings (verwaltungsinternes Widerspruchsverfahren) under Section 68 ff. VwGO. This ensures that the matter is reviewed by a separate body, namely the “objection authority” which is responsible for dealing with the objection, or in cases in which the refusal comes from a supreme federal or Land authority, by this authority itself. In the event of a refusal by a person under private law who is required to furnish information, the applicant may, pursuant to Section 6 (3) and (4) UIG, request a review of the refusal by the authority required to furnish the information.

(iii) Point 1 of Section 121 VwGO expressly enshrines in statute the binding effect of final judgements on the parties, which therefore also includes the authority which is the subject of the complaint. In any case, in accordance with the rule-of-law principle enshrined in Article 20 (3) of the Basic Law (GG), the executive is bound by both statutory legislation and other law.
Under the second sentence of Section 117 (1) VwGO, judgments by the administrative courts must be made in writing. If a request for environmental information is refused by the authority required to furnish such information, the refusal must then be made in writing if the request was made in writing or if the applicant so requests (Section 5 (2) UIG).

(d) (i) The provisions of the VwGO and the Code of Civil Procedure (Zivilprozessordnung – ZPO) guarantee effective access to justice. In administrative proceedings, if the legal action is found to be justified, the authority’s contested decision is revoked, or the authority concerned is required to review the matter taking account of the court’s legal opinion, or to undertake the measure petitioned for by the complainant. There are means available for the compulsory enforcement of legal rulings.

(ii) The costs of administrative court proceedings in environmental matters are as a rule not determined according to the full economic interest in the authorities’ contested decision. As a financial support mechanism, German law provides for the instrument of legal aid (Prozesskostenhilfe, Sections 114 ff. ZPO), which also enables individuals on low incomes to conduct court proceedings.

As a matter of principle, the submission of an application for legal remedy or appeal against an official decision has a suspensory effect, provided that the Act does not include any conflicting provisions in the individual case. If a submission has no suspensory effect, temporary relief is always guaranteed under the conditions stated in Section 80 (5) and Sections 80a and 123 VwGO.

(e) Under German law, administrative rulings which can be challenged with applications for legal remedy are always issued together with an explanation of the legal remedy that may be sought, which contains information about the kinds of remedy that are available, and the deadlines and formal requirements that apply. If the explanation of legal remedy is absent or erroneous, this leads as a matter of principle (Section 58 (2) VwGO) to a one-year period for filing an action, that period beginning with the service, opening or pronouncement of the ruling. For federal authorities, explanations of legal remedy are explicitly prescribed under Section 37 (6) VwVfG (see also answer (a) to Article 3 above).

Greece

118. The Greek Constitution establishes three jurisdictions, the administrative, the civil and criminal, which are organized in three instances: the courts of first instance (lower courts), the courts of appeals (higher, appellate courts) and the Supreme Courts. The Council of State is at the top of the hierarchy of ordinary administrative courts (administrative courts of first instance and administrative courts of appeal). The Council of State and the ordinary administrative courts decide on all matters of administrative - law disputes: issues regarding the function of the civil service, social security claims, public works’ and supplies’ competitions, compensation claims against the State, challenges to the legality of administrative acts in general. The judgments of the Council of State provide the highest authority on legal precedent for the lower administrative courts and set the standards for the interpretation of the Constitution and the laws and for the advancement of legal theory and practice. Like all judicial decisions, the judgments of the Council of State provide the authority of res judicata principle and are subject to compulsory enforcement against the Public Sector, local government agencies and public law legal persons.

119. The Council of State rules in Plenum and six chambers. The fifth chamber of the Council has jurisdiction on environmental cases and its decisions usually define the legal interest in a broad way in favour of environmental protection.

120. Types of administrative actions for appeal against administrative decisions:

- Remedy’s request: submitted to the same administrative body which issued it
- Hierarchical appeal: submitted to the superior authority of the one which issued the administrative decision.
- Special appeal: provided by a special legal provision setting a deadline within which should be exercised. It examines the legitimacy.
- Quasi-judicial action: This action examines not only the legitimacy, but also the substance of the case.
121. The right to judicial protection is stipulated on article 20 par. 1 of the Greek Constitution, “Every person shall be entitled to receive legal protection by the courts and may plead before them his views concerning his rights or interests, as specified by law”. Additionally, according to par.2 of the aforementioned article “The right of a person to a prior hearing also applies in any administrative action or measure adopted at the expense of his rights or interests”.

122. The Greek Ombudsman, the Inspectors-Controllers Body for Public Administration, the Environmental Inspectors Body and the Administration Inspector General are other means to remedy environmental matters.

123. The Greek Ombudsman is a specialized constitutionally independent administrative authority (founded in October 1998 and operating under the provisions of Law 3094/2003) with, inter alia, environmental responsibilities. The Ombudsman investigates individual administrative actions or omissions of material actions taken by government departments or public services that infringe upon the personal rights or violate the legal interests of individuals or legal entities. The Ombudsman provides its services to the public free of charge and is an option available to citizens prior to their decision to resort to court for resolving their disputes. Public can submit a complaint to the Greek Ombudsman Institutions (Quality of Life Department). A complaint may be submitted by any individual, legal entity, or association. It should be pointed out that the Greek Ombudsman has the role of mediator.

124. Additionally, there is the Inspectors-Controllers Body for Public Administration –I.C.B.P.A. (Corps des Inspecteurs-Controleurs de l’Administration Publique-C.I.C.A.P.), known by its Greek acronym SEEDD which was established by Law 2477/1997. Among the main responsibilities and tasks of the SEEDD are the following:

- it conducts inspections, controls and investigations,
- it collects evidence for the prosecution of potential criminal offences committed by civil servants,
- it conducts inquiries/preliminary examinations after a mandate by the competent Public Prosecutor.
- it examines the implementation of article 10 of the law No.4305/2014 regarding the open data.

After the completion of an inspection, control or survey, the competent Inspectors-Controllers and Assistant Inspectors-Controllers shall draw up a documented report


125. In the Greek law [Administrative Procedure Code Law No.2717/1999 (Official Journal of the Government First Issue No. 97) & Council of State Code (Presidential Degree No. 18/1989 (OJG First Issue No. 8))] there are concrete provisions that limit the losing party’s liability for costs, such as Co-responsibility and Reasonable Doubt.

126. Currently there is no specific committee for review of refusals of access to environmental information. Initially, Greek law provided for review of these decisions by a specific committee- the Special Committee of article 5(13) of law 1943/1991. Later this committee was abolished (article8 (2) of law 2266/1994) reestablished again (article 2(2) of law 2690/1999) and abolished yet again in 2013 (article 25(5) of the law 210/2013). Its responsibilities were not transferred to an existing body. However, it is still possible, under the general provision of the Greek Code of Administrative Procedure, to request reconsideration either by the body that refuses access (remedy’s request) or by its superior body but these forms of review undertaken by administrative hierarchy and not an independent body.

Hungary

129. The Information Act provides that where a request for information has not been fulfilled, the applicant may have direct recourse to judicial review. The grounds for and the legality of the refusal have to be demonstrated by the holder of the information. The court procedure can be initiated within 30 days after the receipt of the refusal or the lapse of deadline for data submission response. The court handles these cases in a fast-track procedure. The applicant may initiate Authority investigation by announcement –if he chooses to do so, if no court procedure is on-going- or after one year of the lapse of the information access deadline. In such cases, and if the Authority investigation has not provided an adequate result for the applicant, the applicant may still turn to court to fulfil the access to information after 30 days of the lapse of the authority investigation.
Problems reported by environmental- and nature protection civilian organizations:
During the requisition process of data with public interest court fast track procedures are not realized in all cases. In truth, the first and second instances of these lawsuits may last for years.

Standpoint of the Deputy Commissioner for the Protection of Interests of Future Generations:
Court rulings are not always fulfilled properly by the parties subject to obligation. This completion is necessary, because, among other things, this is why the green side has left the Round Table regarding the Paks Nuclear Power Plant during the reporting period.

139. The authority of second instance or the court may, depending on the type of appeal, procedure, modify or annul the resolution of first instance passed by the administrative authority and may simultaneously order a new procedure. In the case of a repeated procedure, the authority of first instance is bound by the findings of the appeal body or the court.

140. The costs associated with administrative procedures, including administrative appeal fees, in environmental cases are specified by Decree 33/2005. (XII. 27.) KvVM of the Minister of Environment and Water and are specified by Decree 14/2015. (III. 31.) FM of the Ministry of Agriculture on administrative service fees of environmental- and nature protection authority procedures since April 1, 2015. The filing fee of appeal is fixed, as a general rule, 50 per cent of the administrative service fee of different procedures.

Exceptions from the 50 per cent rule are also determined by the Decree. Thus, the filing fee for a private person contesting an administrative decision concerning an activity subject to EIA and preliminary EIA significantly less equals 1 per cent of the otherwise applicable fee. Similarly, civil organizations may make an appeal in permitting procedures for 1 per cent of the otherwise applicable fee (unless the procedure itself has been initiated by the same civil organization). These fees can be considered equitable and not prohibitively expensive.

Act XCIII. of 1990. on Duties specifies preferential duty tariffs for the judicial review of administrative decisions at a rate of HUF 30,000 (approx. € 100) and HUF 10,000 (approx. € 35) in non-litigated procedures, which is very equitable in comparison to duties imposed on general civil court proceedings.

Beyond the payment of the procedural duty, additional costs may arise for the client who is determined according to the specific case (e.g. lawyer’s fee or expert fees).

Iceland

Article 9(1) is implemented by Act No. 23/2006 on Access to Information on Environmental Matters. Articles 9(2), 9(3) and 9(4) are implemented by Act No. 130/2011 on Environmental and Natural Resources Board of Appeal. Article 9(5) is implemented with the Administrative Procedure Act No. 37/1993.

(a) (i), (ii), (iii) According to Act No. 23/2006 on Access to Environmental Information, public authority’s decision to refuse access to environmental information can be appealed to the Ruling Committee on Access to Information. The same goes for public authority’s refusal to provide photocopies or copies of data on other format.

Ireland

(a) (i) to (iii) As with Articles 4 and 5 of the Convention, the provisions of Article 9(1) of the Convention fall within the competence of the European Union, specifically Directive 2003/4/EC on public access to environmental information.
The European Union has therefore fulfilled the obligations of Article 9(1) of the Convention through this legislation. Ireland has accordingly transposed the provisions of Article 9(1) of the Convention in accordance with the requirements of Directive 2003/4/EC through the AIE Regulations.

In particular, articles 11, 12 and 13 of the AIE Regulations establish the statutory obligations on public authorities with respect to access to justice relating to a request for access to environmental information under Article 9(1) of the Convention.

Ireland has provided a two tier system of review under the AIE Regulations.

Article 11 of the AIE Regulations establishes the right to an internal review, free of charge, and sets out the procedures under which this right may be exercised.

Article 11(1) establishes a right to a free internal review by the public authority, in the first instance.

Under article 11(3), a reviewer is required to make a decision within one month of the date of receipt of the request.

Under article 11(2) a reviewer can affirm, vary or annul the decision.

Article 12 sets out the appeals mechanism, which is an appeal to the Commissioner for Environmental Information (CEI), an independent office.

Article 12(5) sets out that following receipt of an appeal, the CEI shall —

(a) review the decision of the public authority,

(b) affirm, vary or annul the decision concerned, specifying the reasons for the decision, and

(c) where appropriate, require the public authority to make available environmental information to the applicant.

Article 13 provides that a party to an appeal to the CEI or any other person affected by a decision of the CEI may appeal the decision to the High Court on a point of law.

Section 5 of the Environment (Miscellaneous Provisions) Act 2011 provides for special cost rules under which each party to judicial proceedings bears their own costs in proceedings relating to a request for information under the AIE Regulations, with discretion for the court to award costs against a party in certain cases (e.g. frivolous, vexatious or in contempt of court etc.).

Article 15(3) provides for a fee of €150 to appeal to the CEI. In certain circumstances (e.g. medical card holders), a reduced fee of €50 applies. The fee may also be waived in certain circumstances, at the discretion of the Commissioner.

In accordance with article 12(7), public authorities must comply with decisions of the CEI within 3 weeks of receipt of the decision. Under article 12(8), the CEI may apply to the High Court for an order directing a public authority to comply with a decision should it fail to do so.

In addition, there is a right to a review in respect of access to environmental information matters before a court in the form of Judicial Review before the High Court. Please see the following paragraph where Judicial Review is explained in more detail.

Ireland ensures that the procedures of administrative and judicial review referred to above provide adequate and effective remedies.

Decisions of the procedures listed in Article 9(1), (2), (3) are binding and can be appealed to superior courts. The requirement for a review procedure, where an applicant can challenge the substantive or procedural legality of a decision, act or omission, is met by way of judicial review.

Section 8 of the Environment (Miscellaneous Provisions) Act 2011 provides that judicial notice shall be taken of the Aarhus Convention.

S.I. No. 352/2014 - European Union (Access to Review of Decisions for Certain Bodies or Organisations promoting Environmental Protection) Regulations 2014 introduced a clause in relation to certain proceedings that: “The Court shall, in determining either an application for leave for judicial review, or an application for judicial review on foot of such leave, act as expeditiously as possible consistent with the administration of justice.”.

Under Section 43(4) of the Waste Management Acts it is the duty of the EPA to ensure that decisions under this act are given as expeditiously as possible.
Article 12(7) of the AIE Regulations requires public authorities to comply with decisions of the CEI within 3 weeks.

Internal reviews of AIE applications must be carried out within 4 weeks. There is no statutory timeline for appeals to be decided by the CEI.

Concerns have been raised at the length of time taken for appeals to be decided upon by the CEI. The OCEI reports progress in this area in its recently published annual report:

“2015 saw positive developments in the work of the Office of the Commissioner for Environmental Information (OCEI), with the allocation of additional resources and improved turnaround times for appeals.”

Article 15(3) of the AIE Regulations provides that a fee of €150 applies to appeals to the CEI. In certain circumstances (e.g. medical card holders), a reduced fee of €50 applies. The CEI also has discretion to waive the appeal fee (Article 15(6)).

Special costs rules were introduced in section 3 of the Environment (Miscellaneous Provisions) Act 2011 for environmental civil proceedings. Section 6 of this Act applies these cost rules for judicial review for proceedings relating to environmental licences (section 4) and AIE Regulations (section 5) and for interim or interlocutory relief in said proceedings. Section 7 of the Environment (Miscellaneous Provisions) Act 2011 provides that a party to such environmental proceedings can apply to the Court at any time before or during the proceedings for a determination that the cost rules apply to those proceedings.

The cost rules introduced in the Environment (Miscellaneous Provisions) Act 2011 and Planning and Development (Amendment) Act 2010 mean that an applicant will very rarely be obliged to pay the costs of a respondent, even if they are unsuccessful (except in cases where the litigation is, for example, vexatious) and that they may still be awarded costs if their case is a matter of exceptional public importance (section 3(4)).

Italy

The National legislator intervened to regulate the matter with the following legislative measures:

**Law 241/1990** (articles 22-28): dictates the general regulations for access to administrative documents, and particularly through article 25 explicates modalities for exercising the right to access to information and to appeal. The above-mentioned article establishes that, in case of denied access, either expressed or tacit, the claimant can appeal before the competent Regional Administrative Tribunal (Tribunale Amministrativo Regionale - TAR). It is also possible to demand administrative review of the decision (review procedure) to: a) the Commission for the access to administrative documents established at the Presidency of the Council of Ministers (in case of documents held by central Administrations); b) the Ombudsman with territorial competence (in case of documents held by local administrations as Municipalities, Provinces and Regions).

**Legislative Decree 195/2005**: regulates the right to access to environmental information held by Public Authorities, to ensure that such information is made available to any applicant and disseminated easily. Art 7 of the Decree regulates the protection of the right to access to information, by providing for the possibility for the applicant to take actions against the decisions of the Public Authority according to the above-mentioned modalities (appeal in court and review of the decisions from the Ombudsman and the Commission for Access).

**Legislative Decree 104/2010 (art. 116)**: regulates appeal to the Court against decisions and against silence (lack of reply) on applications for access to administrative documents. It is a special procedure including halved terms for appeal (30 days), the right of the claimant to take legal actions without a lawyer; the trial takes place in a jury room. TAR decisions may be appealed to the Council of State (second degree of justice) within the following 30 days. In case of a favourable rule, TAR or the Council of State provides for access to information, through binding decision.

**Legislative Decree 152/2006**: The Environmental Code (Testo Unico Ambientale) regulates the “right to access to environmental information and the right to participate in decision-making process”, by establishing, in art. 3 sexies, that anyone, without having to prove the existence of a legally-binding interest, may access to information on the state of the environment and the landscape on national territory.

The costs categories faced by an applicant when seeking access to justice in environmental matters, besides the lawyer fees and the expert fees (when needed), are listed below.
Among the ordinary judicial costs there is a tax on the initiation of the judicial proceedings, the so-called “Contributo Unificato di iscrizione a ruolo” or Court fee, which varies according to the matter at stake (Presidential Decree concerning judicial fees n.115/2002, art. 13). This fee shall be paid again if additional reasons are added and in case of appeal. Environmental protection associations are also required to pay this fee, since they can ask for legal aid, if the necessary requirements are met. The tax has to be paid to file a claim in front of administrative judges, TAR and the Council of State, pursuant art.13, paragraph 6-bis, of the Presidential Decree 115/2002. Art. 8 establishes that expenses for justice shall be paid in advance by the party applying for access to justice; if the party is entitled to legal aid, the advance payment is funded by the State. In case of victory, the sum is refundable by the losing party.

As established by the Legislative Decree 104/2010 - which extends to the administrative procedure the rules of civil trial concerning the losing party - the losing party has to settle trial expenses for the other party, according to the amount determined by the judge. In case of manifestly unfounded arguments, the judge may also order, ex officio, the losing party to pay in favour of the opposing party, a sum not exceeding twice the amount of judicial costs.

The Italian legislation provides for some proceedings in environmental matters to be exempted from paying the Court fee: for example, recourse to justice for infringement of the right of access to information (Presidential Decree 115/2002, art. 13, para 6-bis, letter a); the civil action, exercised in the context of criminal proceedings, for the recovery of environmental damages (under specific conditions provided for in the Presidential Decree 115/2002, art.12).

Kazakhstan

Refusing to provide ecological information, provision incomplete and unreliable information or with violation of established periods can result in appealing to higher public authority or to court. At the same time submission of the complaint to higher body isn't an obstacle for the simultaneous appeal of the applicant to court. Public authorities and officials are obliged not to allow the circulation of the complaint to the detriment of the person who has made the complaint or for the benefit of which it has been submitted, and also, not to send complaints to officials whose actions are appealed. The order of the judicial appeal is established in chapter 27 GPC.

The citizen and the legal entity have the right to take a legal action with the statement within three months from the date of when they have known of violation of their rights, freedoms and interests which protected by the law. The admittance card of three-month term for the address with the statement isn't the basis for court to refusal in adoption of the statement. The reasons of the admittance card of term become clear in judicial session in case of consideration of the application in essence and can be one of the bases to refusal in allowance of the application.

The procedural law provided a possibility of the public to appeal against judicial acts in an appeal, cassation order. Judgment decisions are passed in writing with provision of access for the public. Legal costs are compensated by the party which lost lawsuit. At the same time, the state fee in claims of non-property nature remains rather low and available to everyone. The state fee in case of review of judicial acts the existing tax legislation isn't provided. The possibility of ensuring execution of the executive document by determination of court is also provided in a stage of execution of judgments by bodies of executive production.

Besides, ways of legal protection are provided with activities of nature protection prosecutor's office, and also the Commissioner for Human Rights in the RK, which considering addresses of citizens on actions and decisions of the officials and the organizations violating their rights and freedoms guaranteed by the Constitution, legal acts and international treaties of RK.

Kyrgyzstan

276. The law “On guarantees and freedom to information” regulates relations arising in the process of the realization of the right of everyone freely and without hindrance to seek, obtain, research, produce, transmit and disseminate information. A request for information may (but is not obligated to) be expressed in writing and
must be registered. Information upon request concerning the rights and legitimate interests of the applicant should be provided free of charge.

277. The law provides for the possibility of appealing against acts or omissions, which infringes on the right of citizens to receive information before the Court (article 138, 257 of the Criminal Code, the Code on Administrative Misdemeanour in the manner set out by legislation of the Kyrgyz Republic). Rules set out the procedure to provide information, for example, time limits, volume of information to be provided, accordingly, the fact of a wrongful act are established by procedural law.

278. The law “On informatization” establishes the conditions for the protection of the legitimate interests and rights of the State, businesses and individuals in the implementation of activities for the creation, accumulation, storage, transmission and dissemination of information tools information technologies.

279. According to the above-mentioned law: denial of access to open information and providing users with inaccurate information may be appealed in the courts. In all cases, persons who have been denied access to information, and the person who received inaccurate information have the right to compensation for the damage caused to them;

the Court examines disputes concerning the unjustified classification of information as classified information, claims for damages, cases of unjustified refusal to provide information to users or other violations of the rights of users and obligations under the treaties; managers, employees of State authorities, organizations, perpetrators of illegal restrictions on the access to information and information security breaches are liable under the criminal law, civil law and legislation on administrative offences.

287. The legislation provides for criminal, administrative, civil and disciplinary liability in cases where an official does not comply with its obligations relating to the provision of access to information and public participation. The use of any form of liability depends primarily on the nature of official acts, as well as from the consequences of the failure to provide access to information and failure to ensure public participation.

288. According to the CPC, appellants as set out by law appealing the violations of rights, freedoms and legitimate interests of other persons, the State or the public interest, should be exempt from state tax.

289. With the adoption of the law on State-guaranteed legal aid "Kyrgyzstan guarantees to every citizen, without the means to protect the rights and legitimate interests, professional legal assistance at the expense of the State budget.

290. The abolition of payment of court fee when filing is of particular importance; such fees should be paid as the outcome of the court decision.

Latvia

In Latvia, the meaning of “public authority” as defined in article 2 of the Convention covers the public authorities (institutions, structural units, officials) carrying out governmental functions, as well as other institutions (including private) to whom public government authority has been transferred according to the APL .Article 1, and section V of the SASL.

The public’s right to protect environmental rights as well as to oppose public authority actions or omission to act in contradiction with regulation is stated in EPL, Article 9, with information pertaining to procedure stipulated in the APL. Art. 105, Para. 1, and Art. 302, Paragraph 1 of the APL stipulates that the case in a court of first instance and the appeal in a court of second instance is heard on its merits, except for cases prescribed by law. Administrative process participants can appeal the second instance court decision in cassation procedure, except for cases prescribed by law. The exceptional cases prescribed by law relate to, for example, refusal to provide information (Article 15 of the ITL). In such case the judgment of a court of first instance may be immediately appealed in accordance with cassation procedure.

APL, Article 77, provides that the appeal submission for an administrative act has to be written or oral to the authority issuing administrative act. If the submission is oral, the authority transcripts it and applicant signs it. This submission is sent to a higher authority within seven days’ time.
Article 83 of the Constitution defines the principle of court independence, according to which judges are independent and bound only by the law. According to the law “On Judicial Power”, Article 1, paragraphs 1 and 2, along with law making and executive powers, Latvia has an independent judiciary, operating in accordance with the “rule of law” principle. Article 10 of this Law stresses that, in decision-making, judges are independent and bound only by the law, and that the State guarantees the independence of the court.

As regards to environmental information, Article 9 of the EPL states that any person believing that an information request has been ignored, unlawfully rejected or not duly answered, or otherwise has been restricted in his/her rights to environmental information, is entitled to appeal and question the respective action or omission as prescribed by the APL, which covers the administrative and court procedure. Moreover, any person who considers that its fundamental rights as defined in the Constitution are infringed upon by legal norms that do not comply with the norms of a higher legal force, may submit a constitutional complaint to the Constitutional Court which adjudicates matters regarding the compliance of laws and other regulatory enactments with the Constitution.

Denial of an information request by an authority must be in writing (ITL, Art. 12). Administrative acts are written, except in cases listed in law, when a written format is not adequate (APL, Arts. 67 and 69). However, a person can demand that this be done in writing.

Independence of the administrative review is indirectly ensured by providing that the contested administrative act is reviewed by a higher authority.

Provisions of APL state that if there is not a higher institution or another institution determined by law where the relevant administrative act may be reviewed or it is the CM, the administrative act may be reviewed to the institution which has issued the act or immediately appealed to a court.

Independence of judicial review is ensured by application of principles and guarantees for the independence of the judiciary. For example, prohibition on interference with the work of a court, immunity of judges etc. (Chapter 2 of the law “On Judicial Power”).

To ensure a faster and cheaper pre-court appeal procedure, the applicant for information is entitled to appeal respective decisions or omissions to a higher authority (unless special legislation indicates another authority) according to the APL.

Citizens’ right to rely on the binding nature of final decision is protected by the legal confidence principle in the Constitution and in APL, Article 10. According to the APL and SASL, a decision of higher authority is binding for lower authority.

According to the APL, Article 81, paragraph 5, an appealed administrative act becomes final in the form that is included in the decision on an appealed administrative act. It is to be executed and appealed in the form confirmed. A court decision has legal force. The legal force of the court decision ensures its binding effect for the authority.

Appeal options and rights of public authority’s decision or activity defined by the APL are considered to be adequate and efficient means, providing:

(a) Pre-court review before higher public authority;
(b) Assessment of the authority’s decision or activity in an independent court, established by law, i.e. Administrative Court.

If the authority is not issuing required information, such action can be appealed and questioned as the authority’s activity. Individuals might appeal and question an authority’s activities just like they might any administrative act.

The APL provides for a person’s right to compensation, if the authority’s administrative act or activity has resulted in damages. APL, Article 93, provides that indemnification of losses can be claimed simultaneously with an appeal of administrative act to a higher authority or, if this is not possible, simultaneously with an appeal of an administrative act in court. Indemnification can also be claimed simultaneously with an appeal of
an authority’s action. The APL provides private persons with a simplified and efficient compensation claims procedure.

According to Latvian Administrative Violations Code (thereafter - LAVC) Article 201\textsuperscript{3}, the State or NGO officials refusing to publish information in the mass media are punished by a fine up to €142; for provision of incorrect information, up to €350.

LAVC, Article 84, defines the fine for concealing or misrepresenting environmental information (e.g., in the EIA process), which is from €220–1400.

The administrative process in authorities is free of charge, but the administrative process in court is available upon payment of a State fee €28, 46).

APL, Article 67, paragraph 2, section 9, and paragraph 7, provide that decisions must contain an indication of the right to appeal this decision. If an administrative act contains no indication of deadlines and a place for appeal, the appeal period is one year instead of one month.

One of the obstacles to the timely hearing of cases is that of overloaded courts. If the process is relatively fast before the public authority (depending on the nature of case, two weeks to one month), the court process can be considerably longer. Various projects are being developed and implemented to increase capacity of the courts. For example, on 4 July 2013 the law “Amendments to the Law “On Judicial Power”” was promulgated, providing for management of deadlines for case adjudications. This responsibility rests on the Chief Judge of the court. Amendments to the Law also provide for broader responsibility of the Chief Judges of district (city) courts and regional courts by requiring, \textit{inter alia}, to ensure transparency of the court work, to check the observance of procedural terms in cases handled by judges, to issue orders to judges relating to organization of their work. The Chief Judge may instruct a judge to set an appropriate term for making a procedural activity, considering circumstances of the case, as well as may redistribute cases among judges in accordance with the division of cases plan.

Lithuania

178. In Lithuania, the basis for access to justice is provided for in general and special legislation. The procedural aspects of the exercise of this right are regulated by general legislation of the administrative, civil and criminal procedure. Disputes relating to the environment are examined under the general procedure (no special regulation or bodies dealing exclusively with disputes related to the environment exist).

179. The main general legislation ensuring a person’s access to an administrative or judicial review procedure includes:

(a) the Law on Public Administration;
(b) the Law on Access to Information of State and Municipal Institutions and Bodies;
(c) the Law on Environmental Protection;
(d) the Law on the Seimas Ombudsmen;
(e) the Law on Administrative Disputes Commissions;
(f) the Civil Code;
(g) the Law on the Prosecutor;
h) the Law on the Compensation of Damages Caused by Unlawful Actions of Public Authorities and the Representation of the State and the Government of the Republic of Lithuania.

The procedural aspects of judicial proceedings are regulated by:

(i) the Law on Administrative Proceedings (LAP);
j) the Code of Civil Proceedings (CCP);
k) the Code of Criminal Proceedings (CoCP).
180. Disputes examined at national courts can be classified according to the nature of defended interests. Courts deal with disputes which defend the private interest (a person needs to justify the infringement of his/her private right) and the public interest. In the environmental sphere, persons are entitled in accordance with law to defend their infringed private rights (e.g. the right to information on the environment), as well as the public interest where that is laid down in the regulating laws.

186. The right of persons to receive information held by or intended for public or local self-government authorities is regulated by general as well as special legislation (regulating the environmental sphere in particular) (see the information on the implementation of Article 4).

187. In all cases where a person considers that his or her request for environmental information has been ignored, inadequately answered or the provision of the requested information has been refused, he or she can defend his/her infringed rights and have access to an administrative disputes commission, a court and also the office of the Seimas ombudsmen, if there is any suspicion that government representatives perform their duties inappropriately.

188. A person can choose a body for the examination of his/her complaint and have access to an administrative disputes commission or a court. Administrative disputes commissions examine complaints from persons under the pre-trial procedure concerning individual administrative acts or actions (omissions) taken by public administration entities. Such dealing with a dispute is faster, cheaper and less formal, compared to judicial proceedings.

189. In accordance with LAP Article 5, each entity concerned has access to justice in accordance with law for the defence of its infringed or contested right or interest protected by law.

190. The Law on the Seimas Ombudsmen lays down the right of persons to access to the Seimas ombudsman with a complaint concerning the abuse of duties by officials, their red tape or otherwise infringed human rights and freedoms in the sphere of public administration.

191. A person who considers that his or her request for environmental information was ignored or was inadequately answered due to the actions or omissions of a particular official, which is not based on existing legislation, can also appeal to the manager of this official requesting an evaluation of the officials’ conduct and, where necessary, the application of official responsibility.

199. Where a person’s complaint or notification is examined under the administrative procedure (the administrative procedure is applied), the person is assured an effective examination of his/her complaint or notification free of charge:

(a) The Law on Public Administration stipulates that the administrative procedure may not last more than 20 working days, and in established cases the time limit may be extended by another 10 working days. This timeframe guarantees a fast examination of a complaint or notification submitted;

(b) On completing the administrative procedure, a decision is taken that may be appealed against before an administrative disputes commission or a court.

200. Examination of disputes in administrative disputes commissions:

(a) is free of charge;

(b) in accordance with the Law on Administrative Disputes Commissions, a complaint filed must be examined no later than within 20 working days from the acceptance of the complaint; this timeframe may be extended by another 10 working days by a motivated decision;

(c) a decision adopted by an administrative disputes commission is binding for the parties to the dispute. A decision may, where appropriate, be enforced in accordance with the CCP. A decision of an administrative disputes commission may also be appealed against before a court.

201. The examination of a dispute at a court under the administrative procedure is conducted for a charge. An applicant must pay a stamp duty of EUR 30, excluding the exemptions provided for (LAP Articles 36 and 37). For example, no stamp duty is charged for a complaint due to the delay of public administration entities in carrying out actions, and requests of prosecutors, public administration entities, organisations or natural persons in cases prescribed by law concerning the defence of the public interest or the rights of the state, municipalities or persons and interests protected by law. Taking account of the financial situation of a natural person or a group of natural persons, an administrative court may exempt them from payment of the stamp duty in full or in part. When lodging a appeal, a stamp duty of EUR 15 is charged. In the event that complaints are sent to a court by electronic means of communication, 75 percent of the stamp duty amount payable for a particular complaint is
charged. The additional costs that an applicant may have are the remuneration for legal services, litigation costs incurred by the other party awarded by the court and judicial expenses. The length of a process depends on the complexity of a dispute. A court judgment passed is binding for the parties and may be appealed against before a higher court.

203. Where a person considers that he/she has suffered damages due to the unlawful actions of certain authorities, the person may, based on the Law on the Compensation of Damages Caused by Unlawful Actions of Public Authorities and the Representation of the State and the Government of the Republic of Lithuania, apply to a court and claim the compensation of damages incurred.

206. Amendments made in 2015 to the Rules for considering applications of individuals and providing services to them at public administration institutions, bodies and other public administration entities state in particular that an answer to an applicant refusing to provide an administrative service or information or take a decision must specify the precise appeal procedure and the name(s) and address(es) of the authority/authorities to which a complaint may be filed, as well as the timeframe(s) during which a complaint may be filed.

Luxembourg

Article 6 of the Environmental Information Act establishes an expedited procedure to allow applicants for environmental information to bring proceedings before the Administrative Court if they are not satisfied with the response of the public authority which they have approached. Luxembourg’s courts are independent and impartial; they hand down reasoned decisions in writing. Generally speaking, any explicit or implicit administrative decision taken by a public authority may be challenged before the administrative courts. Public authorities are required to comply with decisions handed down by the courts; if a public authority fails to do so, a special commissioner may be appointed by the court to take a decision in compliance with the judgment, thus depriving the public authority of its powers in the matter: in practice, the use of such a special commissioner is extremely rare. With regard to the costs of proceedings, the Law of 18 August 1995 on Legal Aid and the attendant Grand-Ducal Regulation of 18 September 1995 allow the costs of court proceedings to be borne by the State if the applicants’ resources are insufficient to defend their interests.

Judgments are enforceable once they have become res judicata.

In urgent cases and where a serious doubt has been established as to the lawfulness of a disputed decision and if the case has not reached a stage where judgment will be delivered within a short period of time, the court can suspend enforcement of the decision or of some of its effects. A negative decision may also be suspended.

The beneficiary of a court decision that has become final has the right to secure the enforcement of a judgment that an administrative authority has failed to execute within a reasonable time. The beneficiary may, under an extraordinary procedure, call for a ‘special commissioner’ to secure the enforcement of the judgment.

Public access to the decisions of the administrative courts is ensured inter alia at the website www.jurad.lu.

An Ombudsman was introduced by the Law of 22 August 2003 Creating the Institution of Mediator. His or her role is to receive complaints, in circumstances laid down by the Law, made by persons in cases concerning them, about the administrative operation of central and municipal government and of public institutions responsible to central and municipal government, excluding their industrial, financial and commercial activities. Any natural or legal person governed by private law who considers, in cases concerning them, that an authority covered by Article 1 of the Law has not correctly performed the duties with which it has been entrusted or is in breach of conventions, laws and regulations in force may, via an individual written complaint or by making an oral statement at the Secretariat of the Ombudsman, request that the case be brought to the Ombudsman’s attention. Where the Ombudsman considers a complaint to be substantiated, she or he advises the claimant and the administrative authority, making any recommendations to both sides that seem likely to allow an amicable settlement of the complaint concerned. These recommendations may include inter alia proposals for improvements to the operation of the service concerned. When it appears to the Ombudsman, with regard to a complaint received, that the application of the decision at issue is leading to an injustice, she or he may, in compliance with legislative and regulatory provisions, recommend to the authority in question any solution
allowing the claimant’s situation to be settled equitably and suggest any amendment which she or he believes it would be desirable to introduce into the legislative or regulatory provisions on which the decision was based.

Malta

The relevant definitions from article 2 of the Convention have been transposed into national law through the Environment and Planning Review Tribunal Act (Cap. 551) and the Freedom of Access to Information of the Environment Regulations (S.L. 549.39). The principle of non-discrimination as per article 3(9) is enshrined in the Constitution of Malta through Article 45, thereby ensuring that the national provisions on access to justice adhere to such a principle.

(a) With respect to paragraph 1, measures taken to ensure that:

(i) Any person who considers that his or her request for information under article 4 has not been dealt with in accordance with the provisions of that article has access to a review procedure before a court of law or another independent and impartial body established by law;

The applicant has two options (contained in the Freedom of Access to Information on the Environment Regulations [S.L. 549.39]): recourse to the Environment and Planning Review Tribunal or to the Information and Data Protection Commissioner. The applicant may appeal from the Commissioner's decision to the Information and Data Protection Appeals Tribunal, and if still dissatisfied may further appeal to the Court of Appeal. Appeals from the Environment and Planning Review Tribunal are only possible on points of law and are also heard by the Court of Appeal.

(ii) Where there is provision for such a review by a court of law, such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law;

The Tribunal, as per Regulation 11A of the Freedom of Access to Information on the Environment Regulations (S.L. 549.39) gives due regard to the need for expeditiousness and ‘shall hold its first hearing within six working days from receipt of the appeal’, and requires the payment of a small fee (see table below). Recourse to the Data Protection Commissioner is free of charge and the Commissioner acts as expeditiously as possible.

(iii) Final decisions under this paragraph are binding on the public authority holding the information, and that reasons are stated in writing, at least where access to information is refused;

As per Article 23 of the Freedom of Information Act (Cap. 496), the decision of the Information and Data Protection Commissioner must be adhered to by the competent authority, and in cases of refusal, the grounds for such refusal must be stated in the decision. Decisions of tribunals and courts are binding on public authorities and the decisions must contain reasons (see: the Data Protection Act [Cap. 440] and the Environment and Planning Review Tribunal Act [Cap. 551]).

• How is the independence of the administrative review ensured?

The independence of the administrative review is ensured since Maltese courts are independent entities under the Constitution of Malta.

The Information and Data Protection Commissioner is established under the Data Protection Act (Cap. 440) – the Commissioner is appointed by the Prime Minister after consultation with the Leader of the Opposition, and there are numerous qualifications which apply to ensure the Commissioner’s independence and impartiality. The applicant may appeal from the Commissioner’s decision to the Information and Data Protection Appeals Tribunal, and if still dissatisfied may further appeal to the Court of Appeal which is constituted under the Constitution of Malta and therefore independence and impartiality is guaranteed by law.

The Environment and Planning Review Tribunal is defined under the Environment and Planning Review Tribunal Act (Cap. 551) as: ‘an independent and impartial tribunal ... for the purpose of reviewing the decisions of the PA and the decisions of the Environment and Resources Authority, referred to it in accordance with this Act or any other law ...’.

With reference to the judicial review procedure under Article 469A of the Code of Organizations and Civil Procedure (Cap. 12), the courts are independent entities under the Constitution of Malta.
• What kinds of sanctions are available in cases where an official fails to fulfil his or her responsibilities concerning access to information or public participation fall under the remit of the organisation and not of the official concerned.

• What overall costs do members of the public incur in bringing cases to court?

Overall costs are not prohibitive in Malta for members of the public to bring cases to court. There is no cost to appeal to the Information and Data Commissioner under the Freedom of Access to Information on the Environment Regulations (S.L. 549.39) as per Regulation 12.

Montenegro

Pursuant to the Law on Free Access to Information, Article 34 prescribes that against a decision of the authorities taken after the application for access to information, the applicant and other interested person may appeal to an independent supervisory body responsible for the protection of personal data and access to information - the Agency for Protection of Personal Data and Access to Information. The Agency shall adopt a decision on the appeal against a decision on the application for access to information and submit it to the complainant within 15 days of the filing of the appeal.

Article 44 of this Law stipulates that an applicant for access to information and other interested person has the right to court protection in administrative proceedings, and that the proceedings on the complaint regarding access to information shall be urgent. Accordingly, against the final decision on an application for access to information, administrative court proceedings can be initiated and acting on the complaint shall be urgent. This Article provides for further protection of fundamental rights and freedoms and such protection is at the same time the protection of the public interest, rights of citizens and truth.

As for the opportunity to use complaints in a legal procedure, Article 219 of the Law on General Administrative Procedure stipulates that any individual or an organisation, whose right has been violated by the decision made by the first instance authority, may submit a complaint to the second instance authority. The complaint is a regular legal instrument which initiates a second instance administrative procedure as a procedure that controls the work of the first instance authority. This form of control does not exist without a complaint, since the second instance procedure cannot be instituted or implemented ex officio.

This is the Law that regulates general administrative procedure and unless all matters are regulated by separate environmental regulations, provisions of this Law shall apply to the decision-making procedure.

The Law on Administrative Dispute proscribes that any private or legal person has the right to start an administrative dispute, if they believe that some of his/her rights or legally based interests (Article 3, paragraph 1) were violated by an administrative or any other act. It also establishes that an administrative dispute can be initiated against an administrative or other act that has been passed in second instance, as well against an act passed in first instance, against which appeal is not allowed in administrative or other procedure (Article 7, paragraphs 1 and 2), and that the administrative dispute is started by a complaint (Article 15, paragraph 1).

(ii) Where there is provision for such a review by a court of law, such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law;

The Law on Free Access to Information, Article 31, provides that the authority shall, upon the application for access to information, adopt a decision and deliver it to the applicant immediately and no later than eight days from the date of application. Exceptionally, in the case where it is necessary to protect the life or liberty of persons, an authority shall adopt a decision and deliver it to the applicant immediately and at the latest within 48 hours of the application.

If the scope of the requested information is great and if access to information that contains data marked as confidential is requested, or if finding the requested information requires searching through extensive documentation, so that access to information within the prescribed period would unreasonably interfere with the
regular operations of the authority, the deadline for adoption and delivering a decision may be extended for 8 days.

Also, Article 32 stipulates that the authority shall implement the decision allowing access to information within three working days of receipt of the decision by the applicant, or within five days after the applicant has submitted proof of payment of the costs of the proceedings, if so requested by the decision.

Pursuant to the Law on Free Access to information, no fee will be charged for an application for access to information, and the applicant shall bear only the actual costs of the authorities relating to copying, scanning and submitting the requested information, which is regulated by the Decree on compensation expenses in the process of access to information ("Official Gazette of Montenegro", 2/07).

If the applicant is a person with disabilities or in social need, the cost of the procedure for access to information shall be borne by the authority.

Article 13 of the Law on General Administrative Procedure stipulates that the procedure shall be conducted without delay and at the lowest possible costs for the party and other participants in the procedure, yet in the way that all evidence essential for an accurate and complete establishment of the facts and for making a lawful and correct decision be ensured. Article 103 paragraph 3 stipulates that when an administrative procedure initiated ex officio is completed in favour of a party, the procedural costs shall be borne by the authority that has instituted the procedure. Provisions of Article 110 stipulate that the authority managing the process may relieve a party from paying costs, completely or partly, if established that such costs cannot be covered without damaging survival, or necessary support to its family. Foreign citizens shall be relieved from paying costs when stipulated so by international agreement, and if such agreement is not in place, based on the condition of reciprocity.

Article 212 of the Law on General Administrative Procedure stipulates that in cases where the procedure is instituted on party’s request, i.e. ex officio if that proves to be in party’s interest, and where there is no need to conduct a separate examining procedure and there are no reasons whatsoever that prevent issuing of a decision without delay (deciding on prior issue or other), the authority shall issue a decision and deliver it to the party as soon as possible and not later than 20 days after the submission of proper request. In rest of the cases where the procedure is instituted on party’s request, i.e. when it is instituted ex officio if that proves to be in party’s interest, the competent authority shall issue a decision and deliver it to the party within 1 month unless a shorter deadline is stipulated by the law. In case that the authority whose decisions are subject to appeal fails to issue a decision and deliver it to the party within determined deadline, the party shall have the right to lodge an appeal on the presumption that its request has been refused. In case that the party is not permitted to lodge an appeal, the party may institute an administrative dispute before a competent court in accordance with Law that regulates administrative dispute.

(iii) Final decisions under this paragraph are binding on the public authority holding the information, and that reasons are stated in writing, at least where access to information is refused;

The Law on Free Access to Information in Article 30, paragraph 3, prescribes that the decision rejecting an application for access to information shall contain a detailed explanation of the reasons why access to the requested information is not allowed. Provisions of Article 38 of the Law stipulate that the Agency is responsible to adopt a decision following an appeal on the decision on access to information and submit it to the complainant within 15 days of the filing of the appeal.

Norway

The Norwegian Environmental Information Act requires all public and private undertakings to hold information about factors relating to their operations that may have an appreciable effect on the environment, and to supply such information on request. Similar provisions for product-specific information have been included in the Product Control Act. Undertakings are required to provide information as soon as possible and no later than one month after the request was received. This time limit can be extended to two months. The Appeals Board for Environmental Information, which is regulated under Section 19 of the Environmental Information Act and in the Regulations pursuant to the Act, has been established to consider appeals against refusals of requests for environmental information. The existence of the Appeals Board ensures proper evaluation and control of whether requests for environmental information are treated in accordance with the provisions of the Act. The reader is referred to the translation of the Act (http://www.regjeringen.no/en/doc/laws/Acts/environmental-
Disputes relating to access to environmental information pursuant to the Environmental Information Act and the right to public participation pursuant to Chapter 5 of the Act can be brought before the ordinary courts under the Civil Procedure Act (Act of 17 June 2006 No. 90). The court will determine whether the decision is valid. In such cases, the public authority as such is the defendant, not the individual employee. However, in very rare cases an individual employee may be taken to court in a case where access to environmental information has incorrectly been refused. In addition, such matters come within the sphere of authority of the Ombudsman for Public Administration pursuant to the Act of 22 June 1962. The Ombudsman system represents “another independent and impartial body established by law”. The Ombudsman’s opinions are made in writing. In all but the fewest of cases, the public authorities act in accordance with his conclusions even though they are not binding. Anyone may file a complaint to the Ombudsman over a refusal of a request for information. This must be done within a year after the decision of the public administration has been made. The Ombudsman system is free of charge. These arrangements ensure that article 9, paras. 1 and 2 are implemented in the legislation.

A decision by the Appeals Board of Environmental Information on the right to information from undertakings may also be brought to court. The losing party risks having to bear both their own legal expenses and those of their counterpart.

Article 9, paras. 4 and 5, have been implemented through the ordinary law of procedure. When the Environmental Information Act was adopted, amendments were also made to sections 3-5 and 15-6 of the Enforcement Act to satisfy the Convention’s requirement that procedures to which article 9 applies must not be “prohibitively expensive”. These provisions were repealed 1 January 2008 and replaced with respectively sections 32-11 and 34-2 of the Civil Procedure Act. Normally, a claimant is liable for damages if interim measures are granted under the Enforcement Act and it later proves that the claimant’s claim was not valid when the application for interim measures was granted. For example, this would be the case if a company had later reduced its emissions in accordance with the currently applicable discharge permit. The principle of strict liability applies, which means that the claimant may be liable to pay damages even if he acted in good faith, and substantial sums of money may be involved. The amendment to section 3-5 provided that in cases relating to the environment, a claimant may only be ordered to pay damages if he knew or should have known that his claim was not valid when his application for interim measures was granted. Similarly, section 15-6 was amended so that in cases relating to the environment, the claimant cannot be ordered to provide security to cover his possible liability for damages if interim measures are granted after oral proceedings and the claim has been shown to be probable. These amendments, now found in sections 32-11 and 34-2 of the Civil Procedure Act, ensure that procedures under article 9 of the Convention are not prohibitively expensive.

Three of the comments received from organisations within media, environment and outdoor recreation to the draft implementation report point out that access to justice is hampered by legal expenses and lack of binding effect of the opinions of the Parliamentary Ombudsman. They claim that this is contrary to the obligations of the Convention. One of the comments points out that most cases within the environmental field are finally decided within the organs of public administration, claiming that the administrative appeals system is not sufficiently independent. It is pointed out that only 0, 5% of the cases brought before the courts during the period between 1996-2005 concerned environmental issues. It is suggested that an expert committee is established to consider the introduction and organisation of a nature and environment appeals board as broadly described in the comment, or other similar solutions. One of the other comments argues that the Regulations on environmental information of 2003 nr. 1572 § 10 should be changed to avoid that legal expenses hampers justice. It is proposed to make the Appeals Board for environmental information the legal counterpart in cases where an undertaking contests a decision finding for the claimant’s right of access to information. It is argued that in some cases where the Board have found in favour of those requesting information, the undertaking has refused to provide access and the claimant has not been able to enforce his claim due to legal expenses.

A similar proposal to consider a nature and environment appeals board was introduced in connection with consideration by the parliament of the whitepaper 14 (2015-2016) on a Norwegian action plan for nature diversity, but did not receive sufficient support.

The parliament received a report from the Ombudsman recently concerning a case where a ministry did not follow its opinion (Document 4:2 (2015-2016)).
Poland

170. Right of access to justice in cases concerning environment is guaranteed in administrative proceedings, court-administrative and civil proceedings.
171. CAP guarantees the right to appeal the administrative decision to the body of higher instance. This right is guaranteed to the parties of the proceedings, namely each person, whose obligations and legal interests are influenced by the proceeding. The appeal is exempt from fees.
177. Any person whose request for information has been refused has the right to appeal to the authority of second instance and then to the court.
178. When a given body will not respond to the application for access to information on environment, or will provide incomplete information, the applicant is entitled to submit a complaint to the administrative court on idleness of the administration body.
179. Regulations of law of the administrative court procedure are applied to complaints considered in the proceeding on access to information on environment and its protection.
180. The Act on Provision of Information on the Environment provides access to the appeal procedure similar to previously described procedures established in the code of administrative proceedings and law of the administrative courts proceedings, however, with the difference that the Act on Provision of Information on the Environment states the term of 15 days within which a complaint and answer to the complaint shall be submitted by a competent body to the administrative court. The administrative court considers the complaint within 30 days from the date of receipt of the files along with the answer to the complaint.
193. In the court-administrative proceeding, the principle where the party that lost incurs costs of the party that won applies only when the winner is the party questioning the decision. If the person loses the case, no costs are incurred.
194. Decisions of the authorities and court statements are delivered in writing (the Code of Administrative Proceedings, Law of the Administrative Courts Procedure, the Code of Civil Proceedings). Court statements and administrative decisions are provided upon request, excluding personal data (respective parts of the documents are anonymous). When the number of parties to the proceeding exceeds 20, the parties may be informed about decisions of the authority through an announcement or in other customarily adopted way in a given place; in these cases notice or delivery is considered as completed after fourteen days from the date of public announcement.
195. Information about the appeal procedure is submitted to the interested parties, for example during trainings for non-governmental organizations, part of which is financed by the National Fund for Environmental Protection and Water Management and voivode ship funds for environmental protection and water management. What is more, persons who have not received access to information on the environment and its protection, have the access to information (at www.ekoportal.gov.pl) on the principles of access to information on the environment and its protection.

Portugal

The right to information, participation and access to justice are interdependent rights on which the Aarhus Convention is based. In actual fact, in the context of environmental issues and making the decisions relevant to them, the process of participation depends on the access to information, just as access to justice ensures the exercise of participation and information rights.

In general, Portugal has vast and updated legislation that ensures access and freedom of information. The legal texts in force guarantee the right of access to information, participation and access to justice in environmental matters to all citizens in a very comprehensive framework, in particular through the right of every citizen to act on behalf of the common interest.

In administrative procedures, the right to information belongs to those directly interested in the procedure to which the intended information refers, Articles 61 and 62 of the Constitution and, by extension, this right also
extends to any person proving they have a legitimate interest in knowing the intended information, Article 64, paragraph 1 of the Constitution. Outside of these cases, in situations of extra-procedural information, it is possible to access administrative records and files under the conditions referred to in Article 65 of the Constitution, complying with the rules and limitations contained in LADA, Directive 2003/98/EC of the European Parliament and of the Council of 17 November, and Law No. 67/98 of 26 October - Personal Data Protection Act (LPD).

The requests have to be satisfied by the administration within 10 days, Article 61, paragraph 3 of the Constitution, counted in accordance with Article 72. As far as extra-procedural information is concerned, in the cases provided for in Article 14, paragraph 4, of LADA, it is stated that, in exceptional cases, if the volume or the complexity of the information warrants such, the time limit may be extended by a maximum of two months. In that case the applicant shall be informed within 10 days, stating the reasons for such.

If the requests are not satisfied, although there is always an optional complaint to the body that denied the information, in whole or in part, or has not replied to the request, Article 184 and subsequent of the Constitution, there are two ways to proceed:

- Appeal by means of a complaint to an independent administrative authority, and/or
- file a legal challenge.

Any applicants who consider their request for information has been ignored, totally or partially wrongfully refused, obtained an inadequate response or where compliance with the law was not assured, can challenge the legality of the decision, act or omission pursuant to general law, and also submit a complaint to an independent public entity, in this case to the Commission for Access to Administrative Documents (CADA), an entity that works with the Portuguese Parliament and has the purpose of ensuring, in accordance with legislation, compliance with law regarding access to administrative information.

The CADA is responsible for ensuring compliance with the LAIA law, Article 15. In order to ensure the exercise of the right of access to information on the environment, LADA, which has supplementary application in this area through Article 18 of the LAIA, governs access to the administrative documents and their re-use establishes free recourse to the CADA. The complaint must be assessed by CADA within 40 days, preparing a report appraising the situation, sending the appropriate findings to all stakeholders. On receiving the report, the public authority must inform the interested party of the final decision within 10 days, otherwise no decision will be considered to have been taken. The opinions of CADA are not binding. However, if the public authority chooses not to abide by the opinion of CADA, applicants may challenge that decision in the courts pursuant to Article 15, paragraph 6 of LADA.

It is also possible to file complaints for acts or omissions of the public authorities to the Ombudsman, whenever the rights, freedoms, guarantees and legitimate interests of citizens are at risk. The Ombudsman is an independent public body designated by the Portuguese Parliament that appraises the complaints, without decision-making power and makes recommendations to the competent bodies to prevent and remedy injustices.

In the judicial challenge it is possible for the interested party to request:

- The issue of a writ of summons on the administrative entity to provide information, permit the consultation of documents or issue extracts, Article 104 and subsequent of the CPTA;
- administrative proceedings to convict the Administration for the practice of certain actions, Articles 66 to 71 of the CPTA, and
- The right to class action, Article 52 of the CRP and Law no. 83/95 of 31 August.

The legal procedure of writ for consultation of documents or issue of extracts applies, a summary procedure especially suitable for verifying the reasons for the refusal of requests made by individuals to public entities, as provided for in the CPTA, approved by Law No. 15/2002 of 22 February, amended by Law No. 59/2008 of 11/09, Law No. 63/2011 of 14/12 and Decree-Law No. 214-G/2015 of 02/10. Pursuant to Articles 104 to 108 of the CPTA, this process is characterised by the speed and effectiveness: the procedural deadlines are reduced, the decision period is short, tending to be less than one month, Article 107 of the CPTA, and the judge may order the levying of mandatory penalty payments for each day late in the event of conviction of the entity from which the information was requested, Article 108, paragraph 2 of the CPTA. Once the challenge is submitted, the judge orders the administrative entity to respond within 10 days. In case of deciding for the action, the judge sets
the time limit in which the summons must be served, which cannot exceed 10 days. If the summons is not complied with without acceptable justification, then mandatory penalty payments may be ordered and civil, disciplinary and criminal liability may be ascertained.

The most common situation is to attempt an intra-administrative solution of the matter with the CADA before proceeding to court, since, although the summons has particularly low cost, cf. Article 12, paragraph 1(b) of Decree-Law No. 34/2008 of 26 February (Regulation of Costs of Proceedings), it always requires contracting a lawyer and paying the fees, while the use of CADA is free and no lawyer needs to be hired. Furthermore, there is nothing in the law indicating that one procedure obligatorily takes precedence over the other.

Romania

The legislative measures that implement the provisions regarding access to justice include:


The Romanian Constitution states, in Article 52, that should any person’s rights or legitimate interest be violated by a public authority, that person may have recourse to the law courts.

Law of administrative contentious No.554/2004, as amended, provides in Article 1 that “Any person which consider that one of their rights or legitimate interests is injured by a public authority, by an administrative act, or by the failure to settle a petition within the legal term, may address to the law court on administrative contentious, for the annulment of the act, the acknowledgement of the claimed right of the legitimate interest and the legal redress of the damage caused. The legitimate interest may be private or public. ” GD No. 878/2005 on public access to environmental information contains provisions of access to justice related to environmental information (Pillar One), as follows:

“Article16(1) Any applicant who considers that the request for environmental information was unjustifiably rejected, totally or in part, was ignored or was given an inappropriate answer by a public authority or that the provisions of art. 3 - 8, art. 11 - 15 and art. 29 - 31 were not complied with, may submit a complaint to the head of the public authority, requesting the reconsideration of the acts or omissions.

(2) The preliminary complaint provided under paragraph (1) shall be solved as provided in art. 7 of administrative Contentious Law No. 554/2004, published in the Official Journal of Romania, Part I, No. 1.154 of 7 December 2004.

(3) The preliminary administrative procedure provided under paragraph (1) is free of charge.

Article 17:

(1) The applicant who considers, as a result of the application of the provisions of art. 16 par. (1), that maintains an impairment of his/her rights provided for by the present decision, or that it did not receive an answer to his/her complaint within legal timeframe, can bring an action before the competent administrative contentious court of law, where the acts or omissions of the public authorities concerned are reviewed.

(1) The case is solved according to the provisions of Law No. 554/2004.

Article 18:

According to the Law No. 554/2004, the competent administrative court may also be addressed by a third party affected in its right or legitimate interest as a result of the provision of environmental information.

Article 19:

(1) The final and irrevocable courts’ decisions, which admit the applications formulated according to the provisions of Law no 554/2004, represent enforceable titles against public authorities holding the environmental information.

(2) The decisions of the court of law shall be stated in writing and shall be grounded de facto and de jure.”
Article 2 (5) of GD No. 878/2005 provides that the applicant for environmental information may be any natural or legal person requesting environmental information, regardless of its citizenship, nationality or domicile, and in case of the legal persons, regardless of the place where they are registered or where the effective centre of their activities is.

Serbia

Please, refer to Article 6 of the Law on Free Access to Information of Public Importance defining the principle of equality according to which everyone is allowed to exercise the rights in this law under equal conditions, regardless of their nationality, temporary or permanent residence or place of establishment, or any personal characteristic such as race, religion, national or ethnic background, gender, etc.

(a) With respect to paragraph 1, measures taken to ensure that:

(i) Any person who considers that his or her request for information under article 4 has not been dealt with in accordance with the provisions of that article has access to a review procedure before a court of law or another independent and impartial body established by law;

- Please, refer to Article 40 of the Law on General Administrative Procedure specifying that a party to the procedure may be any natural or legal person. A government authority, a territorial and local self-government authority, an organisation, a local community, a group of people, etc., who do not have the status of a legal person, may be parties to the procedure if they are holders of rights and obligations or legal interests which are to be decided in the procedure (Paragraph 1 and 2).

- Article 22 of the Law on Free Access to Information of Public Importance stipulates that an applicant may lodge a complaint with the Commissioner if: a public authority rejects or denies an applicant’s request, within 15 days of service of the relevant decision or other document; a public authority fails to reply within 48 hours of receipt of the requests which can reasonably be assumed to bear on the protection of a person's life or freedom and/or the protection of public health and the environment; a public authority made the issuance of a copy of a document containing the requested information conditional on the payment of a fee exceeding the necessary reproduction costs; a public authority does not grant access to a document containing the requested information using the equipment available to a public authority or does not allow the applicant to have access to a document using his/her own equipment; a public authority does not grant access to a document containing the requested information and/or does not issue a copy of the document in the language in which the request was submitted, although it has the document in the language in question; a public authority otherwise obstructs or prevents an applicant from exercising his/her freedom of access to information of public importance, contrary to the provisions of this law. Complaints are inadmissible if lodged against decisions of the National Assembly, the President of the Republic, the Government of the Republic of Serbia, the Supreme Court of Cassation of Serbia, the Constitutional Court and the Public Prosecutor of the Republic of Serbia (Article 22, Paragraph 2), but an administrative dispute complaint may be lodged against the decision (Article 22, Paragraph 3). The Commissioner’s decisions are binding, final and enforceable (Article 28, Paragraph 1), while failure to comply with a decision of the Commissioner is punishable by this law (Article 46, Paragraph 1, Item.14). If they are not complied with voluntarily, the Commissioner’s decisions shall be administratively enforced by the Commissioner by coercive means i.e. pronouncement of fines. If the Commissioner is unable to enforce his/her decisions, the law stipulates that the government shall ensure compliance with the Commissioner’s decisions. Article 27 states that an administrative dispute may be instituted against a decision of the Commissioner. Administrative disputes regarding the exercise of the right to free access to information of public importance shall be resolved in expedited proceedings.

- According to Article 81 of the Law on State Administration, state administration authorities shall provide a suitable procedure for submission of complaints about their work and about improper conduct of employees. In the case of a submitted complaint, the state administration authority shall respond within 15 days from the day the complaint was served, if the person submitting a complaint requires an answer. State administration authorities are obliged to examine the issues covered by complaints at least once every 30 days.
Article 11 of the Law on Administrative Disputes stipulates that a party to an administrative dispute may be any natural or legal person maintaining that an administrative document infringes on their rights or legal interests defined by law. A government authority, an authority of the autonomous province and local self-government authority, an organisation, a local community, a group of people, etc., who do not have the status of a legal person, may be parties to an administrative dispute, if they are holders of rights and obligations or legal interests which are to be decided in the administrative dispute (Paragraph 1 and 2).

- Please, refer to Article 29 of the Law on Constitutional Court regulating the issue of the participants in procedures before the Constitutional Court.

- Please, refer to Article 25 of the Law on the Protector of Citizens (LPC) stating that any physical or legal, local or foreign person who considers that their rights have been violated by an act, action or failure to act of an administrative authority may file a complaint with the Protector of Citizens. The Protector of Citizens shall direct the complainant to instigate relevant legal proceedings when such proceedings are provided, and shall not instigate investigation until all legal remedies have been exhausted. Complaints should be submitted in writing or orally for the record, and filing a complaint does not involve any fees or other charges. The complaint must be filed within one year of the violation of citizens' rights. At the request of the complainant, the Secretariat of the Protector of Citizens will provide, free of charge, technical assistance in the preparation of the complaint to the complainant (Article 26 and 27). After identifying all the relevant facts and circumstances, the Protector of Citizens may inform the complainant that the complaint is unfounded or it can determine omissions in the work of public authorities. If the Protector of Citizens finds omissions in the work of public authorities a recommendation to the authority how to observe omissions should be remedied. No later than 60 days after receiving recommendations, the public authority will inform the Protector of Citizens whether the omissions were remedied according to the recommendation, and will report the reasons for lack of acting upon the recommendation (Article 31).

- Please, refer to Articles 2 and 3 of the Law on Mediation.

(ii) Where there is provision for such a review by a court of law, such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law;

- Please, refer to Article 24 of the Law on Free Access to Information of Public Importance (LFAIPI) stating that the Commissioner shall pass a decision without delay and within 30 days from the submission of the complaint at the latest, having first given the public authority, and where appropriate also the applicant, an opportunity to reply in writing. The proceedings before the Commissioner are governed by the provisions of the Law on General Administrative Procedure pertaining to the appellate decisions of second-instance bodies. Proceedings before the Commissioner is free of charge.

- Please, refer to Article 14 of the Law on General Administrative Procedure stipulating that the procedure shall be conducted without delay and at the lowest possible cost for the parties and other participants in the procedure, yet to ensure that the facts which are essential for adoption of a lawful and fair decision are accurately and completely established. According to Article 7 of the Law on General Administrative Procedure, the authorities conducting procedures and deciding in administrative matters shall ensure efficient, high-quality and complete exercise and protection of rights and legal interests of natural persons, legal persons or other parties.

- Article 110 of the Law on General Administrative Procedure states that the authority conducting the procedure may exempt a party from payment of costs, either in full or in part, if it finds that such costs cannot be borne without prejudice to the necessary sustenance of the party or his/her family. The authority shall adopt such a conclusion at the request of the party, on the basis of a certificate of means issued by the competent authority (Paragraph 1). Please, refer also to Article 168 of the Civil Procedure Code specifying that the court shall exempt a party from the liability of paying the costs of the proceedings where that party's material situation does not allow them to bear such costs.

(iii) Final decisions under this paragraph are binding on the public authority holding the information, and that reasons are stated in writing, at least where access to information is refused;
Please refer to Article 16 of the LFAIPI stipulating that if a public authority refuses to inform an applicant, either entirely or partially, whether it holds the requested information, to grant an applicant access to a document containing the requested information or to issue or send to an applicant a copy of the document, it shall have duty to pass, without delay, and within 15 days of receipt of the request at the latest, a decision rejecting the request and provide rationale for such decision in writing, and will furthermore be required to notify the applicant in its decision on available relief against such a decision.

Please refer to Article 24 of the Law on Free Access to Information of Public Importance specifying that the Commissioner shall pass a decision without delay and within 30 days from the submission of the complaint at the latest, having first given the public authority, and where appropriate also the applicant, an opportunity to reply in writing. The Commissioner shall pass a decision ordering a public authority to grant free access to information of public importance to the applicant where he/she finds a complaint justified.

Please refer to Article 28 of the Law on Free Access to Information of Public Importance according to which the Commissioner’s decisions are binding, final and enforceable, failure to comply with a decision of the Commissioner is punishable by this law (Article 46, Paragraph 1, Item.14). If they are not complied with voluntarily, the Commissioner’s decisions are administratively enforced by the Commissioner by coercive means, i.e. pronouncement of fines. If the Commissioner is unable to enforce his/her decisions, the law stipulates that the government shall ensure compliance with the Commissioner’s decisions.

In accordance with Article 196 of the Law on General Administrative Procedure, decisions shall be in written form and contain, among other elements, the rationale and notice of legal remedy.

The Constitution of the Republic of Serbia guarantees everyone the right to legal assistance (Article 67). This is the first time in our legal system that this right has become guaranteed in the Constitution where it is stated that the right to legal assistance, including free legal assistance is exercised in accordance with the law.

Slovakia

The legislative measures implementing the provisions on access to legal protection mentioned in Article 9 include all regulations related to providing information, which stipulate directly in these regulations under what circumstances a person can appeal to a court (e.g. Article 19 (4) of Act No. 211/2000 Coll. on free access to information).

New Act No. 162/2015 Coll. The Administrative Procedure Code⁵ regulates public access to administrative and court procedures in several ways, as:
- a party to the procedure,
- a participating person,
- the public interested.

The scope of rights connected with the particular form of participation results from special regulations and from the regulations about procedures before an administrative body and before court.

(a) (i)

In case the applicant for information appealed to a superior body and did not succeed in the appeal proceedings, he/she can appeal to a court. Pursuant to Article 10 and Article 13 (1) of the Administrative Procedure Code, the regional court, in whose territory the general government body, which made the decision at the first stage, has its registered office shall be the competent court.

Pursuant to Article 193 of the Administrative Procedure Code, in examining the lawfulness of the decision on refusing to disclose information issued according to a special regulation, the administrative court may oblige the defendant to provide reasons, for which the requested information cannot be made accessible, within the period specified by the administrative court. If the existence of reasons for non-disclosure of information is not proved, the administrative court will, in its verdict, oblige the person obliged to make information accessible according to a special regulation to make available the requested information. The objective of the above provision is to increase the efficiency of the legal proceeding in order to prevent unlawful refusal to disclose information that is mentioned in Part VIII of the Report in obstacles encountered in the implementation of article 4 of the Aarhus Convention. At the same time, it is an "injunctive relief" pursuant to Article 9 (4) of the Aarhus Convention in the form of a legal remedy.

Pursuant to the Act on Court Fees, ecological organisations are exempt from court fees in accordance with Article 4 (1) (i) and (j) (note on the action against the inactivity of a general government body and on the competence action). Moreover, in case of an organisation other than an ecological organization and in case the applicant requests information and the obliged person is inactive, the applicant can appeal to a court pursuant to Article 242 of the Administrative Procedure Code so that it orders the obliged person that they start acting. In this case the judicial proceedings are exempt from court fees. In other cases the person shall pay a court fee in the amount of EUR 70 under the administrative action against the decision of a general general government body or measure of a general general government body which shall be returned to them in case of a successful dispute solution. New proceedings start due to the application of the cassation principle of administrative justice repealing the administrative body decision and returning the matter to the administrative body for further proceedings.

The court’s final decision shall be binding on parties to the proceeding, the persons participating in the proceeding, the public interested and on the public authorities (Article 145 (4) of the Administrative Procedure Code).

According to the statistics, the duration of a trial to review the legality of a decision or about an administrative action may take one year. The counterparty can appeal against the verdict, thus, the legal proceeding may last even longer. After the court's decision, the administrative procedure can begin, within which the authority may again refuse to provide information (e.g. due to another legal reason). In practice, therefore, the process of claiming information before the court may take several years.

Information on access to administrative and judicial review is provided to the public in various forms of information provision, e.g. through websites of central government bodies (e.g.: https://www.enviroportal.sk/agendy/podnikatel/posudzovanie-vplyvov-na-zp-1/podnikatel-v-procese-eia/podnikatel-v-procese-sea/verejnost-privpade-zainteresovana-verejnost), or directly by government bodies in particular matters. Article 3 (6) of the Administrative Rules: "Government bodies are obliged to provide the public with comprehensible and timely information on the official board of the government body, on the internet, if available, or in any other suitable way, about the commencement, execution and end of procedures in the matters that represent the subject of public interest or that are laid down in a special act. While doing so, they are obliged to protect the rights and legally protected interests of the parties to the procedure and other persons. The official board of the government body must be constantly accessible by the public."

Slovenia

The right to legal protection (an administrative complaint) is afforded to anyone who finds that their request for information was not taken into account, was denied without grounds, or finds the provided information unsuitable. The right is provided also in cases of administrative silence.

The right to administrative appeal is governed by Article 27 of the ZDIJZ, the ZUP applies to the appellant procedure. A special (specialised) administrative authority that decides on appeals is formatted (The Information Commissioner and it should be emphasised that, in practice, the regulation of a specialised appellant authority greatly contributed to raising the awareness of the authorities concerning their duty to provide public information.

 Authorities are obliged to observe the decision of the Information Commissioner, and if an appeal is upheld or if there is an administrative silence, they are required to provide the requested information.

Judicial protection in an administrative dispute may be exercised against a decision by the Information Commissioner.

There has been an increasing trend recently in disputes noticed by the public concerning publicly accessible environmental information. “In 2015, two such high-profile cases were the request to release a report on the environmental due diligence of Cinkarna Celje, and a request to release the amended investment programme for
the installation of a replacement block at the Šoštanj Thermal Power Plant.” (From the 2015 Report of the Information Commissioner).

The public is informed of the access to administrative and judicial review procedures and of the options to establish a suitable assistance mechanism to eliminate or reduce financial and other obstacles to access to justice though the websites of the Government of the Republic of Slovenia and the websites of courts and non-governmental organisations that are responsible for promoting access to justice (more in point II of this report). All significant decisions of the administrative, supreme, and higher courts are publicly accessible; significant judgments of first-instance courts will also gradually be published.

Plan B (an NGO network) finds that the state does not meet the requirements of Article 9.5. of the Convention for it does not take active measures (actions) to ensure that the public is informed of their possibilities on access to justice. Furthermore, it warns that the state does not systematically collect information on the participation and legal recourse of the public in environmentally relevant matters.

Spain

140. Article 20 of Law 27/2006 establishes that a member of the public who considers that an actor, where applicable, an omission attributable to a public authority has impaired his/her rights to information and public participation as recognized by this Law may seek the administrative remedy regulated in Law 30/1992 on the Legal System of Public Authorities and the Common Administrative Procedure. Following resolution of the administrative appeal, if the private party is not satisfied, a judicial review may be sought, as established in Law 29/1998 (13 July) regulating the jurisdiction of judicial reviews. The decisions on the administrative and judicial appeals are binding for the authorities and they must be motivated and notified in writing.

143. The general regulations on the procedure for the resolution of administrative appeals and judicial reviews apply. These establish all of the guarantees for ensuring the efficacy and public disclosure of the decisions adopted to resolve administrative appeals and judicial reviews, including the possibility of adopting injunctive measures.

144. Article 40 of Law 39/215 of October 1st sets forth the obligation of publishing notices within ten days. These notices must indicate whether the act is final in the administrative system, the applicable expression of appeals, the body to which these should be submitted and the term in which to present them, without prejudice to the fact that stakeholders may carry out, where applicable, any other procedure that they consider appropriate.

Special mention must be made to the innovations introduced on electronic notifications, which are a priority and will be held in the electronic office or e-mail address only enabled, as appropriate sending notices notification whenever this is possible, electronic devices and / or address: also legal certainty for stakeholders by establishing new measures to ensure knowledge of the provision of notifications as increases email statement that the person concerned, as well as access their notifications through the electronic access Point General Administration will function as a gateway.

145. Regarding the reduction of financial obstacles, Article 23. 2 of Law 27/2006, in accordance with Article 119 of the Constitution provides that legal persons of non-profit character referred in paragraph 1 of this article shall be entitled to legal aid under the terms provided in Law 1/1996 of Free legal assistance and its Regulations (RD 996/2003). However, despite the recognition of the Law 27/2006 of benefit to legal aid for environmental NGOs -which meet certain requirements-, the exclusive application of the law 1/1996 on legal aid creates difficulties for access to it. Consequently, it would be advisable to contemplate legislative reform to reconcile the two texts.

146. Notwithstanding the right to a trial “without undue delays” (Article 24.2 of the Spanish Constitution), the main obstacle to the full implementation of Article 9 lies is the excessive length of judicial proceedings. In this regard, with the aim of expedite the procedures, the Law 18/2011, of 5 July, regulating the use of information technology and communication in the Administration of Justice, was recently passed although the situation of excessive duration persists.
Sweden

The right to appeal a decision of a public authority refusing a request to access an official document is set out in chapter 2, section 15, of the Freedom of the Press Act (1949:105). The main rule is that decisions taken by an administrative authority are appealed to the courts. Decisions by government ministers are appealed to the Government. It follows from chapter 6, section 3, of the Public Access to Information and Secrecy Act (2009:400) that the person examining a matter concerning the release of a document has to inform the applicant of the possibility of requesting an examination by the authority and that a written decision by the authority is required for the decision to be appealable.

Under chapter 6, section 7, of the Public Access to Information and Secrecy Act, a person who has requested the release of a document but whose request has been refused or who has only been allowed to examine the document with a restriction can appeal the decision. Normally, the applicant can appeal the decision to the administrative court of appeal (or if it is the administrative court of appeal that has taken the decision – to the Supreme Administrative Court). Decisions of the general courts are appealed to the next highest instance.

A decision of a private sector body covered by the Act on Environmental Information held by Certain Private Sector Bodies (2005:181) is appealed to the administrative court of appeal (section 9).

(ii) Where there is provision for such a review by a court of law, such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law;

An appeal of a decision of a public authority refusing a request to access an official document has to be examined promptly (chapter 2, section 15, of the Freedom of the Press Act.)

Public authorities also have considerable possibilities of re-examining their decisions. If a public authority finds that the decision it has issued is manifestly wrong, the authority has an obligation, under Section 27 of the Administrative Procedure Act, to change the decision in certain circumstances.

Both the re-examination procedure and the appeal procedure are free of charge.

(iii) Final decisions under this paragraph are binding on the public authority holding the information, and that reasons are stated in writing, at least where access to information is refused;

As a general rule, a decision of a public authority in a matter that relates to the exercise of public authority vis-à-vis an individual has to state the justification for the decision in writing (section 20 of the Administrative Procedure Act; section 23 of the Ordinance (1996:271) on Cases and Matters in the General Courts). A decision to refuse a request for environmental information has to be in writing if so requested by the applicant (chapter 6, section 3 of the Public Access to Information and Secrecy Act and section 8 of the Act on Environmental information held by Certain Private Sector Bodies).

When a court has decided after an appeal to grant a request to access an official document, the authority holding the document has to ensure that the applicant is given access to it.

No fees are charged for appeals of permit decisions, decisions on participation or decisions on the release of environmental information. Nor is any legal representation required to obtain access to justice. A person who appeals a decision is not responsible for their opposite party’s trial costs either. The same applies to supervisory decisions.

The main rule is that judgments and decisions in cases at courts of law and public authorities have to be documented in writing, at any rate if so requested by a party (see for example chapter 17, sections 7 and 9, of the Code of Judicial Procedure, section 31 of the Administrative Court Procedure Act (1971:291), and section 21 of the Administrative Procedure Act). Decisions and judgments are accessible to the public under the rules on the public nature of official documents in the Swedish principle of public access to information. In addition to this, there are rules that judgments have to be kept available at the office of the court, with the keeper of the file, etc.
once they have been issued (see for example chapter 22, section 21, of the Environmental Code and chapter 17, section 9, of the Code of Judicial Procedure).

Under Swedish law an appealable decision of a court or other public authority shall always contain information about how to appeal the decision (see, for example, Section 21 of the Administrative Procedure Act). As mentioned above, the public has access to the decisions.

Switzerland

i) On federal level any person whose access to official documents has been limited, deferred or refused or whose application was not decided by the authority within the deadline according to Article 13 paragraph 1 of the Federal Act of 17 December 2004 on Freedom of Information in the Administration (FoIA, SR 152.3) can file a request for mediation. If the authority should intend granting access contrary to the wishes of a person, who was consulted pursuant to Article 11 FoIA, this person is also entitled to file a request for mediation.

The request for mediation must be filed in writing with the Federal Data Protection and Information Commissioner within 20 days of receipt of the decision from the authority or the date of the authority’s failure to comply with the deadline (Art. 13 para. 2 FoIA). Should the mediation succeed, the matter is deemed to have been settled (Art. 13 para. 3 FoIA). If the mediation fails the Federal Data Protection and Information Commissioner has to provide the participants to the mediation proceedings with a written recommendation within 30 days of receipt of the request for mediation (Art. 14 FoIA). According to Article 15 FoIA the applicant or the person consulted pursuant to Article 11 FoIA can within ten days of receipt of the recommendation request a decision pursuant to Article 5 of the Administrative Procedure Act of 20 December 1968 (APA, SR 172.021). The authority has to hand down a decision if it intends to act in contrary of the recommendation. The decision has to be issued within 20 days of receipt of the recommendation or of the request for a decision. Both the mediation proceedings (Art. 13 FoIA) and the proceedings before the first instance (Art. 15 FoIA) are free of charge.

Decisions from a cantonal authority concerning a request for information can also be subject to an appeal. The contested decision will then be reviewed by a cantonal administrative authority. If the party concerned disagrees with the decision of the administrative authority it can appeal to a cantonal court of law. Rulings of cantonal courts of law can be contested before the Federal Supreme Court.

ii) As described in the answer above the Swiss legislation provides a review procedure before an independent and impartial body established by law.

iii) Article 15 FoIA provides that, if mediation fails, the applicant or a third party concerned can request a decision pursuant to Article 5 APA. Decisions based on Article 5 APA are binding for the authority as well as for the applicant. According to Article 34 paragraph 1 APA the authority has to notify the parties in writing of its rulings. Similar provisions are provided by cantonal law.

i) Article 29a of the Federal Constitution of the Swiss Confederation of 18 April 1999 (Cst, SR 101) gives every person in a legal dispute the right to have their case determined by a judicial authority. All decisions adopted under the procedures referred to in Article 9 paragraphs 1, 2 and 3 of the Convention, such as Article 15 FoIA, etc., can be subject to an appeal. On federal level the appellate authority is the Federal Administrative Court. This court handles complaints against decisions made by authorities of the federal administration. Its main role is to examine the legality of decisions in matters falling under the authority of the federal administration. The proceedings are subject to the provisions of the APA unless specified otherwise in the Federal Act of 17 June 2005 on the Federal Administrative Court (FACA, SR 173.32). According to Article 49 APA, an appeal may be filed if there has been a violation of federal law including the exceeding or abuse of discretionary powers, if there has been an incorrect or incomplete determination of the legally relevant facts of the case, or if the decision rendered is inadequate. Rulings from cantonal courts can be subject to an appeal before the Federal Supreme Court.
An appeal before the Federal Administrative Court has a suspensive effect (Art. 55 para. 1 APA). This means that the decision from the administrative authority is not legally binding until the court has passed its judgement. This provision corresponds with the requirement for injunctive relief in Article 9 paragraph 4 of the Aarhus Convention.

The ruling of the Federal Administrative Court can be subject to an appeal. The appellate authority is the Federal Supreme Court. This Court is the highest judicial authority in Switzerland. It rules as the final national instance. The Federal Supreme Court ensures that Swiss law is correctly applied in individual cases and that the rights of citizens enshrined in the constitution are protected.

In Article 9 paragraph 4 of the Convention it is further required that remedies are not prohibitively expensive. The proceedings before the Federal Administrative Court are subject to a charge. However according to Article 29 paragraph 3 Cst any person who does not have sufficient means has the right to free legal advice and assistance, unless their case appears to have no prospect of success. The right to free legal representation in court is granted, if it is deemed necessary to safeguard a party's rights. The legal requirements for a party to be entitled to appointment of a legal representative are laid down in Article 65 paragraph 2 APA. In keeping with this constitutional principle, Article 65 paragraph 1 APA also foresees that procedural costs and advanced payments can be waived on a case-per-case basis. The decision on whether to waive procedural costs is generally made at the start of the proceedings in the form of an interim ruling. Procedural costs may be waived if the following conditions are met: a request for a waiver of procedural costs is submitted, indigence is proven and the case has some prospect of success. A person is considered to be indigent if payment of procedural costs and legal fees prevent a party from being able to cover its basic needs and those of its family. The Federal Administrative Court assesses a person's financial situation and reaches its decision on the basis of information provided in a special form.

According to Article 29 paragraph 1 FACA the Federal Administrative Court informs the public about his jurisdiction. It publishes anonymous decisions (Art. 29 para. 2 FACA). The Court regulates principals of the information in a specific regulation (Art. 29 para. 3 FACA). Based on Article 27 FSCA the same applies to the Federal Supreme Court.

Tajikistan

There are situations when request to the holder of the information does not lead to positive results. In this situation, there is a need to protect legitimate rights and interests. The legislation distinguishes several types of protection of rights and legitimate interests applicable to this issue: pre-judicial (administrative), judicial, appeal to the prosecutor's office and self-defence

Pre-trial procedure. Most often this procedure is called "administrative" and involves solving the problems that arise with access to information through a higher authority or an official. According to the Law of Tajikistan "On right to access to information", a person requested information has the right to appeal against the established procedure for the actions of bodies and organizations, their officials who violated the right to access information and the established procedure for its implementation. According to Art. 31 of the Law of Tajikistan "On Information" in case of refusal to provide a document for acquaintance or postponement of the satisfaction of the request, a person requested information has the right to appeal against refusal or delay to higher authorities. If a negative response is given to a complaint submitted to a higher authority, a person requested information has the right to appeal this refusal to the court.

Appeal to the court. We quote the main provisions that give citizens the possibility of judicial protection of the right to access to information. The Law on Information explicitly establishes the possibility of appealing in court to denial of access to public information, the provision of knowingly inaccurate information, and "classifying information to the category of information with limited access." The law also provides for the right to compensation for damage caused by these actions (articles 31 and 32).

Another important act is the Law of Tajikistan "On the Right of Access to Information". According to this law (articles 10, 16), actions or decisions of state bodies, local self-government bodies, institutions, enterprises and their associations, public associations and officials, civil servants who violate the rights and freedoms of a citizen can be appealed both in higher instances, and in court. It is important to note that the provisions of the
Law apply not only to state institutions and their employees, but also, for example, to enterprises and public associations. Of course, refusal to provide information can be considered a decision of the relevant body or institution. An inaction may also be appealed, as a result of which the rights and freedoms of a citizen were violated (in this case, the lack of response to a request).

**Appeal to the Prosecutor's Office.** Another way to protect the rights can be the submission of an application or complaint to the Prosecutor's Office. One of the functions of the prosecutor's office is to monitor the compliance with human and civil rights and freedoms, not only by state bodies and their employees, but also by "bodies and heads of commercial and non-commercial organizations." The bodies of the Prosecutor's Office have the right to make "the submission of the elimination of violations of the law" to the body on which the elimination of these violations depends. In some cases, this path may be faster and more effective than going to court.

It should be noted the important provisions of the Order of the Prosecutor General of the Republic of Tajikistan dated 25 October 2000 N290 "On strengthening of the prosecutor's supervision for strict observance of legality in the consideration of applications of citizens," according to which the prosecutor's offices ensure timely and qualitative consideration of citizens' applications, those bodies or officials whose actions or decisions are appealed or whose wrongful actions are reported, and also urged to strictly observe the statutory period for the consideration of complaints.

**Turkmenistan**

**Administrative review procedure:** In Turkmenistan, a special law "On citizens' appeals and the procedure for their consideration" was adopted on January 14, 1999. It provides for extrajudicial treatment of citizens in the event that their rights are violated. Another important legal basis for extrajudicial consideration of cases is the Decree of the President of Turkmenistan "On the Procedure for Considering Proposals, Applications and Complaints of Citizens" dated December 2, 1992, which regulates the procedural issues of extrajudicial examination/consideration of cases.

In accordance with the Law, citizens of Turkmenistan, in accordance with the Constitution and laws of Turkmenistan, have the right to make written or oral proposals to state, public and other bodies, enterprises, organizations and institutions of all forms of ownership proposals for improving their activities, to address them with complaints and appeals (p.2).

State, public and other bodies and their officials, heads and officials of enterprises, establishments, organizations of all forms of ownership are obliged to timely, objectively and comprehensively examine citizens' appeals, verify the facts stated in them, take decisions in accordance with the current legislation, provide them their implementation, inform citizens about the results of consideration/review of their appeals.

**Form of appeal:** Appeal may be oral, stated by the citizen at a personal reception with an official, or by written, sent mail or directly transferred by a citizen to the relevant body, enterprise, organization or institution. Written application must be signed by the applicant with the date.

**Form of decision:** The answer on the results of consideration of applications is mandatory given by the body, enterprise, organization, institution that received the appeal and whose competence includes resolving the issues raised in the circulation.

The decision on refusal to satisfy the appeal is brought to the attention of the citizen in writing, with reference to the current legislation and setting out the reasons and reasons for the refusal, as well as explaining the procedure and terms for appealing against the decision.

**Remedies:** Article 11 provides for that state, public and other bodies, enterprises, organizations and institutions of all forms of ownership, their managers and officials within their powers are obliged to:

- Carefully consider appeals, objectively, comprehensively and timely resolve them;
- If necessary, request and demand the necessary documents, go to the site for verification, take other measures to resolve the issues raised in the appeal;
- In the interest of the matter, to invite a citizen to investigate his appeal;
Cancel or change the appealed decisions in cases provided for by the legislation of Turkmenistan, take immediate measures to stop illegal actions, identify and eliminate the causes and conditions that contributed to violations;

To ensure the real restoration of violated rights and the implementation of the decision taken in connection with the appeal;

Take measures to recover material damage caused to a citizen as a result of infringement of his legitimate rights and interests in the manner prescribed by law, to decide the issue of liability of persons whose fault was infringed;

Inform the citizen about the results of the consideration of the appeal, the essence of the decision, the procedure and terms of its appeal in a written form;

To ensure that records and records management of citizens' appeals comply with regulatory requirements;

Personally organize and verify the status of consideration of applications of citizens, take effective measures to prevent manifestations of formalism and red tape, incorrect permission of applications, sending unmotivated responses to applicants that generate repeated appeals of citizens;

Systematically analyse and inform the higher authorities, their officials and the public about the state and measures to improve the work with citizens' appeals.

**Length of procedure:** Article 12 of the Law provides that citizens' applications are allowed within a period of not more than one month from the date of receipt, and those that do not need additional verification, promptly, not later than fifteen days from the date of their receipt. In cases where a special inspection or examination of a significant amount of material is necessary to resolve a request, the head of the relevant body, enterprise, organization, institution or his deputy shall set the necessary period for its resolution, as reported to the person who submitted the appeal. At the same time, the total period for the resolution of circulation should not exceed forty-five days.

**Liability:** According to the Law, the guilty persons shall bear disciplinary, administrative, property or criminal liability provided for by the legislation of Turkmenistan for violation of the established order of consideration/review of citizens' appeals, the superficial and biased consideration of the issues raised in them, allowed red tape, violation of ethical standards in relations with the applicants, unreasonable refusal to resolve applications, as well as prosecution of citizens in connection with filing appeals, (Article 14).

**Review by law enforcement:** Filing complaints to the organs of the prosecutor's office is one of the extrajudicial mechanisms for the implementation of access to justice in matters relating to the environment. The activities of the prosecution authorities are regulated by the Law “About the Prosecutor's Office”. A new Law on the Prosecutor's Office was adopted on 21 November 2015. In accordance with the Law, the General Prosecutor of Turkmenistan and the prosecutors subordinated to him are in charge for the supervision of accurate and uniform observance of Turkmenistan's laws, acts of the President of Turkmenistan, the Cabinet of Ministers of Turkmenistan, resolutions of the Parliament of Turkmenistan. Prosecutor protects citizens' rights and lawful interests of the public and public participation in the consideration of cases in the courts on the grounds and in the manner prescribed by law (Article 1).

**Judicial review:** The Law of Turkmenistan "On challenging in court the actions of State bodies, public associations, local Government bodies and officials that violate constitutional civil rights and freedoms of citizens" dated February 6, 1998, regulates the procedure for filing complaints against unlawful actions of officials.

**III. Trends and observations**

3.1. Parties provided different levels of detail when answering the questions regarding access to justice in cases on the right to environmental information. In particular, generic statements, lists of legislation without explanations and selective approach in describing the key elements of the existing review procedures represent information gaps in this area that could be addressed through additional survey. Nevertheless, the majority of Parties demonstrated considerable effort in the preparation of their reports and some trends, conclusions and good practices can be shown below.
(a) Grounds for appeal

3.2 In their responses, Parties to the Convention described various grounds for an appeal by any person whose request for environmental information was not dealt properly. Such grounds can include (a) omission of public authorities to respond to the information request (Montenegro, Slovenia), (b) falsification and/or deliberate provision of false information, provision of out-of-date, incomplete or inaccurate information or inexact response (e.g. Azerbaijan, Kazakhstan, Tajikistan, and Slovenia), (c) a refusal to grant permission to use unrestricted environmental information (e.g. Azerbaijan and Croatia), (d) the unjustified classification of information as classified information (e.g. Azerbaijan and Kyrgyzstan) and (e) refusal to provide photocopies or copies of data on other format (Iceland).

In Sweden, a person who has requested the release of a document but whose request has been refused or who has only been allowed to examine the document with a restriction can appeal the decision.

3.3 Some Parties indicated that the failure by the public authority to reply within the prescribed time limit was considered as refusal to grant access to information and could be appealed in accordance with the established framework.

3.4 The national implementation reports revealed the challenges in appealing incomplete answers or partial provision of environmental information.

(b) Time limits for appeal

3.5 Time limits for appeal reported by Parties could vary depending on the forum selected by a person to appeal a refusal for access to information but in many cases this information was not reported consistently. For example, the reported time limits for appeal could vary among the Parties from 15 days to 1 year depending on the selected forum.

3.6 Denmark reported that the right of appeal was supplemented by the non-statutory administrative law principle of resumption.

3.7 Several Parties reported that under certain circumstances the time limits for appeal could be extended. For example, in Germany if the explanation of legal remedy was absent or erroneous, this lead as a matter of principle to a one-year period for filing an action. That period would begin with the service, opening or pronouncement of the ruling. In Latvia, if an administrative act contained no indication of deadlines and a place for appeal, the appeal period would be one year instead of one month.

(c) Selection of forums to challenge a refusal of a request for information

3.8 Majority of Parties indicated that they have established several forums where a person whose request for environmental information was inadequately dealt with could bring his appeal. Their review procedures could vary in grounds for appeal, timeliness, costs, and binding effect of the decisions.

3.9 All Parties reported that a refusal of a request for environmental information could be appealed to a court of law. In one third of Parties, such appeals would be considered by administrative courts. At least five Parties reported only courts as the forum to appeal such refusals for access to information.

3.10 In some Parties such refusals could be appealed to the specialized bodies dealing with environmental matters. For example, they could be appealed in Denmark to the Environmental and Food Board of Appeal and in Malta to Environment and Planning Review Tribunal and Information.

3.11 One third of Parties submitted national implementation reports reported that they have established independent administrative authority responsible for ensuring freedom of access to information or documents. Nine Parties have established a commission or independent commissioner for access to information. Belgium has established the Federal Commission for access to Environmental Information and Ireland has established the Commissioner for Environmental Information. Malta has established Data Protection Appeals Tribunal.

3.12 Half of the Parties submitted national implementation reports informed that a refusal of a request for environmental information could be appealed to public authority refused the provision of information within the framework of reconsideration procedure or to the higher public authority or official. Nevertheless, several national implementation reports highlighted that the independence and impartiality if higher authority or official was not necessarily guaranteed.
3.13. Nine Parties indicated the possibility to submit a complaint against the refusal to access to information to an Ombudsman for public administration, the conclusions of which were generally not binding, but followed in all but the fewest cases as some Parties stated.

3.14. Several Parties informed about the possibility to submit a complaint to challenge acts and omissions of public authorities refusing access to environmental information to the Office of the Prosecutor. For example, in Tajikistan, the bodies of the Prosecutor's Office have the right to make "the submission of the elimination of violations of the law" to the body that could take measures for the elimination of these violations.

3.15. Serbia and Switzerland reported that a mediation procedure could be applicable to cases on the right to environmental information.

3.16. Finland, Denmark, Norway, Sweden, Tajikistan, Turkmenistan and others Parties also reported on the possibilities to consider appeals against refusals of requests for environmental information by private sectors bodies.

3.17. Some information could be retrieved from national implementation reports about the length of review procedure but this information was not reported consistently. For example, many reported Parties that the public authorities, Information Commissioner or Commissioners were given between 15 and 30 days to conduct the review and issue a decision. In some of these Parties the established length of procedure could vary depending on whether additional research would be required.

3.18. As reported by many Parties, the judicial review procedure could take longer between several weeks to several years, especially if no special provisions were set out to prioritize such cases.

3.19. Hungary, Ireland, Luxembourg, Malta, Montenegro, Poland, Portugal and Sweden reported that the courts and tribunals should handle these cases in an expedited manner. Malta highlighted that the Tribunal, as per Regulation 11A of the Freedom of Access to Information on the Environment Regulations, should give due regard to the need for expeditiousness and should hold its first hearing within six working days from receipt of the appeal. In Portugal, the procedural deadlines of judicial review were reduced tending to be less than one month. Once the appeal was submitted, the judge could order the administrative entity to respond within 10 days.

3.20. Nevertheless, some national implementation reports highlighted the challenges in ensuring the formally established time limits for expeditious procedures and the need to strengthen the capacity of courts and other review bodies to ensure the timely review procedures.

3.21. Spain highlighted the innovations introduced on electronic notifications. In this regard, with the aim of expedite the procedures, the Law 18/2011, of 5 July, regulating the use of information technology and communication in the Administration of Justice, was recently passed although the situation of excessive duration persists.

3.22. Several Parties informed that courts or other review bodies could be addressed by a third party affected in its right or legitimate interest as a result of provision of environmental information. In Switzerland, if the authority should intend granting access contrary to the wishes of a person, who was consulted pursuant to Article 11 Freedom of Information Act, this person was also entitled to file a request for mediation.

3.23. Available remedies could vary depending on the forum where an appeal was brought by a person whose request for information has not been dealt properly with. If the appeal should be satisfied, the available remedies could vary from ordering the disclosure of the requested information by public authority holding the information or perform other actions to requesting a new reconsideration procedure by this public authority. Additional information and statistics about available remedies with respect to particular review procedures could facilitate more comprehensive analysis of this matter.
3.24. In Slovakia, the administrative court may oblige the defendant to provide reasons, for which the requested information cannot be made accessible, within the period specified by the administrative court. If the reasons for non-disclosure of information were not proved, the administrative court would, in its verdict, oblige the responsible person to make information accessible according to a special regulation to make available the requested information.

3.25. Some national implementation reports highlighted the challenges when an appeal before the courts could only be resulted in the annulment of an administrative decision but not be decided on the substance. In such cases, the administrative procedure should start again which could take time before the environmental information would be made public.

3.26. Azerbaijan, Cyprus, Kyrgyzstan, Latvia, Lithuania, Romania and Tajikistan reported the possibility to initiate legal proceedings in a court for the recovery of damages in case of a refusal of access to environmental information. Portugal informed that the judge may order the levying of mandatory penalty payments for each day late in the event of conviction of the entity from which the information was requested. In Latvia, the law framework also provided for a person’s right to compensation, if the authority’s administrative act or activity had resulted in damages. In this case, indemnification of losses could be claimed simultaneously with an appeal of administrative act to a higher authority or, if this was not possible, simultaneously with an appeal of an administrative act in court. Indemnification could also be claimed simultaneously with an appeal of an authority’s action.

3.27. Several Parties indicated that officials whose acts or omissions violated the right to environmental information could be subject to administrative, civil, disciplinary or criminal liability. For example, in Latvia, the State or NGO officials refusing to publish information in the mass media could be punished by a fine up to €142; for provision of incorrect information up to €350, the fine for concealing or misrepresenting environmental information (e.g., in the EIA process) could be from €220–1400. In Lithuania a person who considered that his or her request for environmental information was ignored or was inadequately answered due to the actions or omissions of a particular official, which was not based on existing legislation, could also appeal to the manager of this official requesting an evaluation of the officials’ conduct and, where necessary, the application of official responsibility.

(g) Final decision and its enforcement

3.28. Decisions by courts and tribunals that were not further challenged were generally reported as binding on public authorities holding the requested information and in many Parties were publicly accessible.

3.29. Majority of the reported Parties informed that decisions of the public authorities or higher public authorities or officials on appeal were also binding for information holders but could be further challenged in court. Some challenges were reported with respected to administrative decisions that did not contain information that they might be further challenged at a court, and were presented to the public as final.

3.30. Decisions of Information Commissioners or Commissions were reported either binding or to be adhered. They also could be challenged in court in most Parties. For example, in Croatia no appeal could be filed against a decision of Information Commissioner but an administrative dispute could be initiated before the High Administrative Court. In Ireland, a decision of the Commissioner for Environmental Information could be appealed to the High Court on the point of law.

3.31. The decisions of Ombudsman are mostly non-binding but respected in all but a few cases and no further review procedure against their decisions were mentioned. The lack of the binding effect of decisions was sometimes reported as a challenge.

3.32. The Parties reported various approaches with regard to enforceability of the review decisions obliging to disclose the requested environmental information and the time limits that could vary from several days to a month. For example, if the public authority in Belgium did not implement the decision, the appeal body would carry out the decision itself as soon as possible. In Luxembourg, the beneficiary of a court decision that had become final had the right to secure the enforcement of a judgment that an administrative authority had failed to execute within a reasonable time. The beneficiary might, under an extraordinary procedure, call for a ‘special commissioner’ to secure the enforcement of the judgment. In Ireland, public authorities must comply with decisions of the Commissioner for Environmental Information within 3 weeks of receipt of the decision. The
Commissioner might apply to the High Court for an order directing a public authority to comply with a decision should it fail to do so. In Serbia, if public authorities were not complied with the decision voluntarily, the Commissioner’s decisions should be administratively enforced by the Commissioner by coercive means i.e. pronouncement of fines. In Portugal, if the summons were not complied without acceptable justification, then mandatory penalty payments might be ordered and civil, disciplinary and criminal liability might be ascertained.

(e) Costs

3.33. Bringing an appeal before public authorities or higher public authorities, Information Commissioners or Commissions and Ombudsman were mainly reported to be free of charge or small fee.

3.34. Filing appeals before a court of law or tribunals would require to pay certain fees and bear other costs. In some countries (e.g. Italy, Slovakia and Sweden), the judicial review in cases on the right to environmental information is free of charge. In the court-administrative proceeding in Poland, the principle where the party that lost incurred costs of the party that won applied only when the winner was the party questioning the decision. If the person loses the case, no costs would be incurred.

3.35. To provide more detailed overview on costs and availability of legal aid with regard to cases on the right to environmental information, additional information about existing practices would be needed.

IV. The way forward

3.36. The capacity of courts and other review bodies to ensure the timely review procedures and the possibility of handling these cases in an expedited manner should be further strengthened.

3.37. Use of electronic notifications and other information and communication technologies to ensure timeliness and cost effectiveness of the review procedures should be further promoted.

3.38. The establishment of a specialised appellant body for access to information or environmental information with effective powers could greatly contribute to raising the awareness of the authorities concerning their duty to provide public information.

3.39. The effectiveness of the overall system of access to justice in cases on the right to environmental information should be kept under continuous monitoring, and the latter also could contribute to the review of implementation of targets 16.3 and 16.10 of Sustainable Development Goal 16.

3.40. Further measure should be taken to expand effective access of the public to a comprehensive overview of available review procedures to protect the right to environmental information.