

COOPERATION WITH NATIONAL JUDGES IN THE FIELD OF EU ENVIRONMENTAL LAW



Trainer's Manual Module on National Judges and the EU Aarhus *Acquis* – Focus on Access to Justice



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I. Introduction

This training module on **EU National Judges and the EU Aarhus Acquis – Focus on Access to Justice**, developed by ERA on behalf of the European Commission, addresses judicial training institutes, networks of judges, national judges, experts from NGOs, academic experts, trainers, any other relevant actors (for example, prosecutors) and end-users of European Union Member States wishing to organise training sessions in the area of EU environmental law with particular focus on legal standing, scope of the judicial review, effective remedies, costs for access to justice and time limits of procedures.

Objectives

The training module addresses judges and prosecutors dealing with environmental issues with previous general, and in certain cases specific, knowledge regarding the subject. The module will provide judges and prosecutors with relevant information on the latest developments of the EU environmental law *acquis*, relevant jurisprudence of the Court of Justice of the EU and an in-depth analysis of the topic with a special focus on EU National Judges and the EU Aarhus Acquis – Focus on Access to Justice. This training module will also assist national judges as well as national prosecutors to apply the relevant EU instruments in detail.

The training module will gather materials in order to conceive an online workshop, divided in four half-day sessions, with the goal to develop and raise understanding on the key legal aspects of National Judges and the EU Aarhus Acquis – Focus on Access to Justice. The key topics to be covered are:

- Introduction to the Aarhus Convention
- European Environmental Law and the Aarhus Convention
- Access to Information
- Public Participation in environmental decision-making
- Right to bring a legal challenge (legal standing)
- Scope and standard of the judicial review
- Effective Remedies
- Litigation costs and time limits of the procedures
- Preliminary reference procedure on interpretation and validity in the context of EU judicial protection in environmental matters

After this training on EU National Judges and the EU Aarhus Acquis – Focus on Access to Justice, participants will have greater knowledge of international and EU actors and instruments presented. They will have gained a better understanding of the legal aspects related to EU Aarhus Acquis – Focus on Access to Justice and implementing EU instruments and they will be in a better position to actively apply EU rules transposed into their respective national legislation. They will

also have an excellent opportunity to exchange views regarding implementation practices in their respective Member States with colleagues from other jurisdictions.

Structure

The workshop implementing the training module is divided in four sessions of half a day.

The workshop programme “EU National Judges and the EU Aarhus Acquis – Focus on Access to Justice” consists of 12 interrelated but self-standing units. These units can be combined into an implementing workshop depending on the prior knowledge of participants, the time available and the specific training approach.

Setting the scene

- Unit 1: Introduction to the Aarhus Convention
- Unit 2: EU Environmental Law and the Aarhus Convention

Overview of the 1st and 2nd pillars of the Aarhus Convention

- Unit 3: Access to Information
- Unit 4: Public participation in environmental decision-making

3rd pillar of the Aarhus Convention: Access to Justice

- Unit 5: Right to bring a legal challenge (legal standing)
- Unit 6: Case study on public participation and legal standing – Focus on Water Framework Directive
- Unit 7: Scope and standard of judicial review
- Unit 8: Effective Remedies
- Unit 9: Litigation costs and time limits of the procedures
- Unit 10: Case study on judicial review and effective remedies – Focus on Air Quality Directive

Enforcement at national level

- Unit 11: Preliminary reference procedure on interpretation and validity in the context of EU judicial protection in environmental matters
- Unit 12: Closing session – evaluation of the workshop

The various training methods that can be used in future workshops based on this material will also be presented in the module, together with recommendations on how and in which part of the training they may be best employed. Face-to-face presentations can be combined with practical exercises requiring active contribution of participants, IT-supported learning, allowing participants to familiarise themselves with available tools and interactive sessions promoting the exchange of good practice and experience.

II. Methodology

Time frame

The workshop is divided in four sessions of half a day. The exact structure and length will, of course, be decided by the training providers.

Elements that should be taken into account in each instance when finalising the workshop programme and deciding on the allocation of time between the different sub-sessions include the need to effectively cover all the main features of the subject matter and provide sufficient time for participants to ask questions and interact with the trainers and with each other. The fact that long sessions have proven to be less effective in adult training should be borne in mind. Frequent breaks or changes in teaching style should therefore be introduced in the workshop.

- An indicative time allocation for each unit will be provided in Part IV of this trainer's manual.

Trainer's profile

Crucial for the success of the training workshop is the selection of trainers. It has been proven that trainers with a professional background common to that of the participants tend to have a better understanding of their training needs and be more effective when addressing them. For this reason, the composition of the target group is a factor to be considered when selecting the trainers of an implementing workshop.

It is also important to identify the right trainer for each unit. In the units where the emphasis is on practical issues, the involvement of a practitioner, lawyer or judge with personal experience in the issue would be ideal. If the focus of a presentation is the transmission of information or the introduction to concepts or a broader area of law, an academic or a suitable policy officer even with a scientific background could also constitute a good option.

- More concrete input on the trainer's profile seemingly best fitting to each unit will be provided in Part IV of this trainer's manual.

In addition to professional qualifications, the quality of an implementing workshop will also depend on the individual trainer's didactic competences and pedagogical skills. Trainers should not only be knowledgeable, but also be able to effectively transmit information, assist end users in developing new skills and motivate them to actively follow the training. They would have to provide the necessary information in a clear and structured manner, highlight the links between participants' daily work and issues being discussed, retain some flexibility in order to adapt to the specific needs and interests of the end users attending the workshop as they become apparent, and be open and encouraging in discussing and exchanging views with them in the course of the session.

Other skills that potential trainers should ideally possess and which should be considered are the trainer's linguistic skills (when workshops are international), and their familiarity with IT

products; the use of technology would be required in at least some parts of the training (IT-training sessions, use of PowerPoint or other audio-visual material, e-learning course, etc.).

For the successful implementation of the workshop and in order to better address participants' training needs, some diversity among the trainers should be sought. Variety between speakers' professional background, gender and (in the context of cross-border training) nationality would enrich the event, offering different perspectives on the issues, employing different teaching methods and ensuring a more comprehensive analysis of waste law.

Finally, although not always easy to assess, the potential trainer's personal motivation could be a factor worth considering. For the implementation of a workshop on the basis of the training module, significant flexibility and commitment, as well as the willingness to interact with end users is expected from the trainers. Engaging experts, who have an interest in the project and are prepared to make the necessary effort for a successful outcome would bring added value to the workshop, while further motivating the participants.

Criteria for selecting the workshop trainers:

- Good knowledge and expertise in the subject and objectives of each sub-session
- Didactic competences and pedagogical skills
- Linguistic and IT skills
- Professional background similar to that of the workshop's participants
- Diversity in the group of trainers
- Motivation

Teaching methods

Lecture-style presentation

The optimal method for the provision of a large amount of information in a limited period of time is lecture-style presentations, conducted in plenary. This method provides the trainer with the necessary time and flexibility to structure and present the content of the sub-session as s/he sees fit.

Supporting material such as outlines, and PowerPoint or other presentation tools should be employed during the lecture. This would not only enable participants to follow the presentation better, but constitute a reference document for the future as well, should end users wish to review the main issues of the sub-session.

One of the objectives of the workshop is to familiarise participants with existing legislation. In this context, reference to the material included in the user's pack should be made throughout the lecture and participants should be encouraged to go through the legal texts, identify the provisions and acquire a better understanding of their structure and applicability.

Enriching the lecture with practical examples could also be a means of emphasising the link between theory and practice and better illustrating the application of various legal instruments. Brief exercises or questions could also be formulated by the trainers, requiring participants to reflect and discuss them before presenting the answer. Trainers would, thus, not only create an

atmosphere of dialogue within the group, but also assess whether the concepts have been properly explained.

Time for discussion or Q&A sessions should in all cases be ensured for end users wishing to ask for clarification or further information. Depending on the content and structure of each lecture, questions may be raised during the presentation or in a subsequent discussion session moderated by the trainer or the workshop leader.

Although the key role in face-to-face presentations is played by the trainer, end users should also be encouraged to actively contribute to different sub-sessions. Participants learn not only from the provision of the training per se, but also from hearing questions and problems they have not yet found themselves confronted with. For this reason, it is important that all end users attending the workshop are encouraged and feel comfortable enough to share thoughts and ideas and contribute with their own experiences. This element is of particular importance in international workshops, where participants have the possibility to expand their knowledge with information on the application of EU environmental law in other Member States, learning from each other.

Workshop case studies

In addition to information on the EU general aspects and frameworks on environmental law, the training also aims at providing participants with some practical experience in the particularities of related cases.

In order to further highlight issues requiring special attention and allow participants to develop specific skills, it is important to ensure their involvement in this part of the training. For this reason, specially designed workshop case studies will complement each thematic unit. Another advantage of this method is that the preparation of a case study constitutes an interactive way of learning. After having listened to face-to-face presentations or read background material, participants would appreciate a change of presentation technique.

- Case studies prepared in working groups

During the workshop exercises, participants will be given the opportunity to use their skills and knowledge to solve case studies related to i. the EU environmental principles and general environmental-related legislation ii. access to justice on environmental matters.

A short introduction on the organisational aspects of the task shall be provided to participants by the trainer with the questions and answers session to be followed during the plenary session: which issues shall be discussed in the groups, what results shall be aimed for and which deliverables shall be presented during the plenary session to be followed after the discussions.

Participants should subsequently be divided into smaller working groups and working space should be provided for each of them. Working in smaller groups has significant advantages for participants: the possibility to focus on case studies will enable them to deepen their recently acquired knowledge by applying it to concrete cases. This approximates a real-life scenario and can constitute valuable experience for the future. The working group format would allow each participant to be actively involved in the debate and improve their communication skills.

As one of the key objectives of the exercise is the exchange of opinions among end users, it is important that the workshop leader allocates participants to the working groups to support this interaction: in international implementing workshops and as long as participants working languages allow it, end users from different Member States or from jurisdictions with different legal traditions should be brought together in the working groups. If a workshop is organised as a national judicial training, judges from different courts could be asked to work together. Further to solving the case, this diversity would allow participants to obtain better insights into how the questions would be dealt with and how the EU legislation involved is applied in another country, by a different legal profession, in a different city or court.

➤ As two case studies are recommended for the workshops implementing this training module, altering the composition of the working groups in each exercise would be a way to further increase participant interactivity.

The trainer shall set exact timing for each part of the task during the introductory part of the case study. Depending on the time available, the trainer, coordinating each exercise, will have to decide whether all working groups should deal with all case studies or if specific case studies should be allocated to different groups in order to ensure that end users are able to thoroughly examine all issues.

Once the working groups have been set up, they should organise themselves, develop a working method and identify which member(s) of the group will be responsible for reporting the conclusions of their discussion to other end users. The trainer leading the exercise should be present and following the interaction in each group to a certain extent, offering advice on time management, being available to provide clarification and answering questions, and being prepared to assist participants if they face major difficulties or their discussion becomes derailed. If trainers of other subjects of the workshop are present, they may also get involved in discussions of the chosen smaller group for monitoring the discussion and helping out on the subject matter.

When all the groups complete their work, participants should return to the plenary session room to discuss their conclusions. This will allow them to compare their solutions to the features of the case studies, get further ideas from their colleagues in the other groups and broaden their understanding of the subject matter.

To achieve the objectives of this closing discussion, it is important to ensure that all groups take the floor and present the results of their work. It would be most effective to discuss one case at a time, invite the rapporteur of one of the groups to present their conclusions and the main elements of their discussion and then ask the end users of the other groups for additional comments, different opinions etc. In conclusion, the trainer should summarise the main points raised in the discussion and give his/her own feedback, so that participants can confirm whether they successfully dealt with the case or whether there could be further improvement.

- IT-supported learning

IT-supported learning can enhance the efficiency of training and give end users the opportunity to gain practical experience by making use of the possibilities the internet offers on issues related

to environmental law in general. In this way end users will have the opportunity to become familiar with the various EU websites in the area (such as the E-Justice Portal, the EJTJN website, Eur-Lex, the Curia website, ECLI etc.), where they can acquire further information and advice on how to apply EU instruments covered by the workshop. By efficiently using these websites, participants will actively learn how to find the relevant legal texts and cases and receive assistance on practical problems they may face when applying EU law in this area.

Documents

The documents to be made available at the training workshop consist of the contents of the user's pack. The user's pack will, in particular, include:

- blended e-learning material;
- workshop reader;
- background documentation set;
- workshop programme;
- list of participants;
- list of trainers/ speakers;
- CVs of the trainers;
- speakers' contributions;
- evaluation form.

III. User's pack: the function of different elements of the training module

Introduction

The term 'user's pack' means the entire wealth of material that will be made available to participants of an implementing workshop. This will consist mostly of the blended e-learning material, training material (related printed legal documents, links to online sources of bibliography of legal instruments on the topic on a USB stick, trainers' contributions and case studies) as well as supporting documents, such as the workshop programme, the list of participants, workshop evaluation forms etc.

It is, of course, at the discretion of the workshop organisers and trainers to use the materials provided in the manner they deem most fitting and to also include additional documents where necessary. All key EU legal instruments required for the provision of the training on National Judges and the EU Aarhus *Acquis* – Focus on Access to Justice are already part of the user's pack, but as implementing workshops may be structured with a specific focus, further material could be of use.

The materials for inclusion in the user's pack can and should be provided mainly in electronic format, either using a USB stick or by making the content available online and granting all workshop participants access to it. Material that needs to be regularly referred to during the workshop or that would make it easier to follow proceedings should be provided in a hardcopy for ease of reference during the event:

- workshop programme;
- list of participants;
- list of trainers/ speakers;
- trainers' contributions;
- printed texts of the legal acts to be analysed;
- case studies;
- evaluation forms.

➤ When presenting the material that should accompany each unit, distinction should be made between 'necessary material' to be provided in hardcopy and 'additional material' that should be included in the electronic documentation.

Blended e-learning

The training module has been structured to include 'blended learning' as a methodological approach, given that it combines the interactivity of face-to-face training during the implementing workshops with the flexibility provided by e-learning material. As the e-learning material has different functions and can be used by the workshop participants at several stages of their learning process, it is important that they have access to it on different occasions: before the implementation of the workshop, in order to prepare for the meeting, while it is taking place, in order to make best use of the available material with the help of the trainers, and after the

workshop, as a point of reference for finding information on National Judges and the EU Aarhus *Acquis* – Focus on Access to Justice.

The key function of this e-learning material is to introduce end users to a number of legal topics with regard to various aspects of EU Aarhus *Acquis*. Namely, the access to information, public participation in environment decision-making, legal standing as well as the scope and standard of judicial review relating to access to justice, effective remedies, litigation costs and time limits of the procedures.

It will include:

- The main international and EU legal instruments as well as case law that will be analysed during the workshop which participants should go through before they attend the course, as well as the corresponding quiz to test their knowledge. The aim is not to replace the face-to-face sessions on these subjects but to complement them by ensuring that all participants have a common basic level of knowledge before they start and can make the most of the discussion to clarify issues in the face-to-face workshops.
- Access to the bibliography of legal instruments and other relevant source material which participants can refer to at any time.
- Access to the remainder of the e-learning version of the training module to be provided after the face-to-face workshop for participants to use as a refresher and to re-use with their colleagues alongside the face-to-face training materials.

Once participants have been selected, they should receive information on how to access the e-learning materials and be encouraged to go through its contents 7-10 days before the implementation of the workshop. In this way, they will have the possibility to refresh or acquire some basic knowledge and be better prepared for the workshop programme.

Background documentation

Legal texts will make up the large majority of the content of the training materials: international conventions, treaty articles, regulations, directives, case law of the Court of Justice of the European Union etc. will constitute the background to analysis in the workshop. A comprehensive collection of all background documents, which can be referred to after the conclusion of the workshop, should be included in the electronic documentation. Participants are likely to come back to these texts in order to refresh their memory, find a specific provision or judgment, and seek guidance or inspiration if confronted with a case on the subject at a later stage. This format could also support easy further dissemination of this material, which workshop participants could forward to their colleagues if requested.

Further to legal texts, links to online databases, tools and sources, such as the e-justice portal, Eur-Lex, Curia, ECLI and other similar websites should also be included as background material in the electronic documentation.

- Proposals on which specific material to include in this part of the user's pack are included in Part d) on the analysis of each sub-session of the workshop.

The material should be provided in the language of the workshop. When international workshops are organised, links to EU databases (such as <http://eur-lex.europa.eu/> or <http://curia.europa.eu/>) could be included, so that end users can access EU legal texts in the language of their choice. Further to their inclusion in the electronic documentation, providing the few documents in hard copy that are absolutely essential during the workshop is recommended. Being able to quickly find a provision, see the structure of a legal instrument, make notes etc. could help end users to better follow the training and further familiarise themselves with the legal instruments being discussed.

Workshop exercise material

Two workshop exercises are proposed for the workshops implementing the training module on 'National Judges and the EU Aarhus *Acquis* – Focus on Access to Justice'. Both of them are structured on the basis of case studies. Preparatory material supporting the workshops' case studies, such as the tasks of the different cases that are to be discussed or additional legal texts that will be needed for solving the cases must be provided for the participants in hardcopy during the workshop.

Trainer's contributions

In addition to the background documents, every time an implementing workshop on 'National Judges and the EU Aarhus *Acquis* – Focus on Access to Justice' is organised, the trainers involved should be asked to prepare their own supporting material, in the form of PowerPoint presentations, outlines, notes or full texts of their lectures. Trainers should be free to structure the material supporting their presentations as they prefer. The main objective would be to help end users attending the workshop to better follow the presentation, and for this reason particular emphasis should be given to the provision of a clear structure.

Trainers may also be advised to prepare a well-judged number of slides, leaving some time for questions and answers session during the presentation or if an unplanned discussion evolves.

The trainers' contributions could also be used as a reference document for identifying the main points of the subject matter.

Speakers' contributions should additionally be included in the user's pack. They should also be included in hardcopy in the documentation pack.

- Providing some kind of written support of the lectures is always recommended and for this reason always mentioned under 'necessary documents'. Especially an outline of the PowerPoint presentation reflecting the structure of the sub-session allows participants to better understand the structure and follow the lecture.

Additional documents

Further to the training material, a number of documents supporting the organisation of the workshop must be made available to participants. These would be of immediate and continuous use during the workshop and should therefore be provided in hardcopy.

The finalised workshop programme must be provided at the beginning of the training, allowing participants to plan accordingly and better understand the training flow. A list of all workshop participants should be provided, facilitating the interaction between end users attending the workshop. Moreover, by including certain contact details (professional position and postal address) participants are given the opportunity to maintain contact even after the conclusion of the workshop. Finally, in order to achieve an immediate evaluation of the workshop, a questionnaire seeking participant feedback on the workshop content, organisational features and overall effectiveness shall be distributed.

IV. Organising and implementing workshop: structure, content and methodology

For the training module on ‘National Judges and the EU Aarhus *Acquis* – Focus on Access to Justice’ and its implementing workshops, a structure on the basis of thematic units is proposed. Each thematic unit will focus on a specific topic of EU law in this area. Each implementing workshop will thus consist of several units, ensuring the alternation of theoretical and practical elements. The final structure will, however, have to be decided by taking into consideration end users’ prior knowledge and training priorities. With the addition of opening and closing units, serving both pedagogical and organisational purposes, an implementing workshop of 2 days could be designed as detailed below:

Setting the scene

- Unit 1: Introduction to the Aarhus Convention
- Unit 2: EU Environmental Law and the Aarhus Convention

Overview of the 1st and 2nd pillars of the Aarhus Convention

- Unit 3: Access to Information
- Unit 4: Public participation in environmental decision-making

3rd pillar of the Aarhus Convention: Access to Justice

- Unit 5: Right to bring a legal challenge (legal standing)
- Unit 6: Case study on public participation and legal standing – Focus on Water Framework Directive
- Unit 7: Scope and standard of judicial review
- Unit 8: Effective Remedies
- Unit 9: Litigation costs and time limits of the procedures
- Unit 10: Case study on judicial review and effective remedies – Focus on Air Quality Directive

Enforcement at national level

- Unit 11: Preliminary reference procedure on interpretation and validity in the context of EU judicial protection in environmental matters
- Unit 12: Closing session – evaluation of the workshop

Setting the scene

Short description of the contents

The workshop should always start by welcoming the participants and providing a brief introduction and explanation of the content of the programme, organisation and implementation of the workshop.

General objectives

The main objective of this first session is to welcome trainers and participants to the workshop, to set the scene by reminding them of the framework of the training course and to encourage their interaction and active participation in the course.

Specific learning points

Introduction of organisers of the workshop

The welcoming session shall be used to introduce the training manager of the workshop, who is responsible for the successful implementation of the content of the programme, chairing of presentations, managing of the questions and answers sessions, arranging and implementing of the practical exercises, and dealing with *ad hoc* issues during the whole workshop. The training manager may be assisted by a judicial training advisor of the workshop, who, ideally, shall be an expert on the topic (a judge, a legal practitioner or an academic) and who is usually involved in preparation of the workshop material from the very beginning (setting the structure of the programme, arranging the content of each presentation as well as of practical exercise to be covered, checking all the prepared presentations to make sure that the material is not duplicating each other and also helping in implementing a workshop, if needed).

Introduction of participants and trainers

The opening session should also be used in order to allow participants to introduce themselves, present their national and professional background, and illustrate their expectations for the workshop. In this way, end users will be familiar with addressing the group, which should facilitate their active participation in the following sessions and they will also get to know their colleagues' background a little better. Making trainers and participants aware of which nationalities and professional groups are represented in the workshop can be of great relevance in the discussion and an asset in ensuring effective exchange of information and experience. The possibility to discover from participants the experience which they bring with them to the training course and what they are primarily seeking to achieve by their participation could help the workshop leader to better adapt the programme to meet participants' specific needs, by emphasising certain aspects, making adjustments on the time allocated in the different sub-sessions, etc.

- This may be achieved by inviting participants to ask a key question they expect to see addressed during the workshop or to indicate which element made them apply for the workshop.

Presentation of the workshop's programme

The workshop should include, at the beginning, a presentation of the programme, scope and objectives. The focus of each unit will be indicated and the expected contribution of the participants in each part of the programme emphasised. It is important that end users realise the goal of each unit and the flow of the workshop programme in order to be better equipped to follow the discussions and make sure they do not miss the opportunity to raise questions or clarify any ambiguity.

Presentation of the training material

The opening session is also the opportunity to present the material included in the user's pack and explain its function, so that end users may use it throughout the workshop. The content of the electronic documentation should be outlined (all related legal texts, links to online sources, suggested solutions to the case studies, etc.) and explanations provided on the documents that will have been made available to the participants in hardcopy for reference during the workshop (e.g. trainers presentations and outlines, key legal texts, the case studies for the workshop exercises, documents such as the list of participants, the workshop assessment tools etc.).

Presentation of the workshop's organisational aspects

Further to this, all logistical aspects of the workshop will be presented. The locations that will be used during the workshop for the different sessions, the exercises and the lunch and coffee breaks will be indicated, the possibility to use computers, Wi-Fi, a library, a business station etc. laid out and information on the lunches organised and dinners provided. It is important here to ensure that end users are reminded of and are able to profit from all measures taken to facilitate their participation in the workshop, as well as of the importance of the joint activities in allowing a less formal interaction among trainers and fellow participants.

Methodology

While participants are in plenary; everyone is invited to introduce themselves. The programme of the workshop will be presented by the training manager of the workshop.

After welcoming participants and trainers to the workshop, they will be given the opportunity to introduce themselves and express their expectations regarding the workshop. This will improve the atmosphere of the workshop from the very beginning, which is a key element for its success. Participants are more likely to be active during the event if they know their colleagues' backgrounds.

Furthermore, the outline and main objectives of the workshop will be presented. This introduction will contain information on both the programme and the logistics (e.g. which rooms will be available for the participants during the workshop, library, availability of computers and Wi-Fi, coffee breaks and meals, evening programme).

Duration

The time allocated to the opening session will depend on the number of participants attending the workshop. Taking into account that the workshop should ideally have 20 to 30 participants, the opening session should last approximately 30 minutes, in order to ensure sufficient time for all trainers and participants to present themselves, and for the provision of all necessary information on the event.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	Final version of the workshop programme
02	List of trainers
03	Trainers' CVs
04	List of participants

The training manager should demonstrate the entire user pack in this unit, including the electronic documentation, in order to inform participants of all the different features of the pack.

Trainer's profile

The opening session will be held in plenary and coordinated by the training manager, the person responsible for ensuring the coherent management of the workshop, or the judicial training advisor. There would be an added value in assigning the role of the 'workshop manager' to the person responsible for the organisation of the workshop. He or she would be most suitable to present the programme's structure and main objectives, having made all related decisions and given priority to specific features of the training over others.

Unit 1: Introduction to the Aarhus Convention

Short description of content and general objectives

The aim of this unit is to introduce the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention) and its unique role among the legal tools of environmental protection. The presentation starts with the development and negotiations regarding the Convention so that participants can understand the ideas behind the Convention, its scope and aims. Moreover, emphasis is given to the three-pillar structure and implementation of the Convention within EU law. These should be given particular attention by the presenter since other presentations build upon this issue. Finally, several simple cases are provided in order to explain the scope and applicability of the Convention.

Specific learning points

- Aims of the Aarhus Convention
 - Development, negotiations and Parties to the Convention
 - Combining notions from environmental as well as human rights law
- The Compliance mechanism
 - The Compliance Committee and the Meeting of Parties
 - Jurisprudence through “findings”
- The Aarhus Convention and the EU law
 - The Compliance Committee and the Meeting of Parties
- The Aarhus Convention in Practice
 - Principles
 - Definitions
- The three-pillar structure
 - Access to information
 - Participation in decision-making
 - Access to justice
- Importance of the Aarhus Convention for national law and implementation

Methodology

This unit should be conducted as a face-to-face frontal presentation in plenary session, either online or in person. The scope of this unit is large, but attempts to not go beyond what is necessary for national judges. There will be sufficient time for participants to raise questions or discuss any unclear points and to contribute with their own experience after other presentations. Therefore, this introductory part should be as clear as possible and not skip any key points which will be elaborated later on.

Time frame

The time allocated to this unit should be approximately 45 minutes, followed by a 15 minutes quiz.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	PowerPoint Presentation: "Introduction to the Aarhus Convention"
02	A full text of the Aarhus Convention

Trainer's profile

The ideal speaker has knowledge of the practical application of the Convention and the corresponding case law of the CJEU, either from the judiciary or academia.

Unit 2: EU environmental law and the Aarhus Convention

Short description of content and general objectives

The general objective of this presentation is to give a comprehensive overview of the implementation of Aarhus Convention (AC) in the EU legal system. Emphasis is put on the effective judicial protection of rights conferred by EU Law as well as the status of the AC in the EU legal order. In particular, the jurisdiction of the CJEU to interpret the AC as well as to define the relevant obligations taken over both by the Community and the Member States. Following brief insights into the direct effect of provisions in an agreement concluded by the EU and a non-member country, such as the Aarhus Convention, the main focus of this presentation is on the analysis of the Commission's measures regarding access to justice in environmental matters.

Specific learning points

- Effective judicial protection of rights conferred by EU law
- Status of the Aarhus Convention in the EU legal order
- Direct effect of a provision in an agreement concluded by the EU and a non-member country
- Approach to judicial review
- Commission and Access to Justice in Environmental Matters
 - Communication on 'Improving access to justice in environmental matters in the EU and its Member States
 - European Green Deal
 - Background and key characteristics
 - Decisions, acts, omissions – Role of national courts
 - Access to Justice in Environmental matters

Methodology

This unit should be conducted as a face-to-face frontal presentation in plenary session, online or in person, encouraging questions and discussion.

Time frame

The time allocated to this unit should be approximately 45 minutes if you talk rather quickly and if there are not too many questions and discussions. If you talk more slowly or know that the participants are talkative, 60 minutes may be better.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	PowerPoint Presentation: "The Aarhus Convention and the EU – Recent developments"
02	Commission Notice on Access to Justice in Environmental Matters, 2017/C 275/01

Additional material (to be included in the electronic documentation – USB stick):

	EU legislation and documents
01	The Aarhus Convention (AC) ratification by EU (Decision2005/370)
02	Treaty on the Functioning of the European Union (TFEU)
03	Regulation 1367/2006
04	Directive 2003/4/EC
05	Environmental Impact Assessment Directive
06	Industrial Emissions Directive
07	SEVESO (major accident hazards) III
08	Drinking Water Directive
09	Environmental Liability Directive
	Case Law
01	CJEU, C-72/95 <i>Kraaijeveld and Others</i>
02	CJEU, C-237/07, <i>Janecek</i>
03	CJEU, C-165 to 167/09, <i>Stichting Milieu</i>
04	CJEU, C-240/09 LZ 1, <i>Slovak Brown Bear</i>
05	CJEU, C-243/15 LZ 2, <i>Slovak Brown Bear</i>
05	CJEU, C-404/13, <i>Client Earth</i>
06	CJEU, C-664/15 <i>Protect Natur</i>
07	CJEU, C-71/14 <i>East Sussex</i>
08	CJEU, C-137/14 <i>Commission v. Germany</i>

09	CJEU, C-529/15 <i>Gert Folk</i>
10	CJEU, C-260/11 <i>Edwards</i>
11	CJEU, C-470/16 <i>North East Pylon</i>
12	CJEU, C-167/17 <i>Klohn</i>
13	CJEU, C-196 to 197/16 <i>Commune di Corridonia</i>
14	CJEU, C-664/15 <i>Protect Natur-, Arten- und Landschaftsschutz Umweltorganisation</i>
15	CJEU, C-197/18 <i>Wasserleitungsverband Nördliches Burgenland</i>

Trainer's profile

An ideal speaker is a representative of the European Commission with expertise in this field.

Unit 3: Access to information

Short description of content and general objectives

The general objective of this presentation is to provide an in-depth understanding of the first pillar of the Aarhus Convention, its status in the EU law landscape, as well as access to environmental information. Following the background information relating to access to documents and access to environmental information based on the relevant CJEU case, the main focus of this presentation is on the notions of “environmental information” and “public authority”, highlighting the contribution of the CJEU in determining them. Furthermore, emphasis is given to the passive and active dissemination as well as to the grounds for refusal access to environmental information highlighting the notions of “emissions into the environment” and “information on emissions into the environment”. Understanding the application and challenges regarding access to information at the EU and national level is also an important aspect of this presentation.

Specific learning points

- Access to documents / access to environmental information
 - Interpretation by EU courts
 - Effects within EU legal order and within AC
- Basic understanding of how this Convention is applied in the European Union at both EU and national level
- Thorough knowledge and understanding of the challenges existing at EU and national level as regards access to information
- Notions of “environmental information” and “public authority”
- Passive and active dissemination
- Grounds for refusal
 - Notion of “emissions into the environment”
 - Notion of “Information on emissions into the environment”
- Charges

Methodology

This unit should be conducted as a face-to-face frontal presentation in plenary session, either online or in person.

Time frame

The time allocated to this unit should be approximately 45 minutes.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	PowerPoint Presentation: “Access to Information in Environmental Matters”
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02	Aarhus Convention
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Additional material (to be included in the electronic documentation – USB stick):

	EU legislation and documents
01	Directive 2003/4/EC
02	Regulation 1049/2001/EC
03	Regulation 1367/2006/EC
	Case Law
04	CJEU, C-188/89 <i>Foster</i>
05	CJEU, C-240/09 <i>LZ 1, Slovak Brown Bear</i>
06	CJEU, C-279/12 <i>Fish Legal/Shirley</i>
07	CJEU, C-515/11 <i>Deutsche Umwelthilfe</i>
07	CJEU, C-675/13P <i>Commission v Stichting Greenpeace Nederland and PAN Europe</i>
08	CJEU, C-71/14 <i>East Sussex</i>
09	CJEU, C-442/14 <i>Bayer CropScience and Stichting De Bijenstichting</i>

Trainer's profile

The ideal speaker is a professor or a representative of the European Commission with expertise in this field.

Unit 4: Public participation in environmental decision-making

Short description of the contents and general objectives

The aim of this unit is to introduce the second pillar of the Aarhus Convention and its implementation in the particular EU directives. The presentation starts with the three-pillar structure and a general overview of the public participation provisions under EU environmental law. After this the participants are guided through the provisions of the three groups of most important EU directives implementing the requirements of the second pillar at national level: Directives explicitly implementing the Aarhus Convention (decision-making), directives implementing the Aarhus Convention according to the CJEU (decision-making), Directives focused on participation in the elaboration of plans.

Specific learning points

- Identification of the “public concerned”
- Exceptions for public participation requirements
- Public participation provisions under the EU substantive environmental law
- Directives explicitly implementing the Aarhus Convention (decision-making)
 - EIA Directive – environmental impact assessment (construction and other activities)
 - IED Directive – industrial emissions (permits for industrial activities)
 - Seveso III Directive - major accident hazards
- Directives implementing the Aarhus Convention according to the CJEU (decision-making)
 - The Habitats Directive (Natura 2000) – assessment of plans and projects: Art. 6(3)
 - Participation required as a condition for access to justice (C-664/15)
- Directives focused on participation in the elaboration of plans and programmes
 - SEA Directive
 - Water Framework Directive
 - Air Quality Directive
 - Waste Framework Directive

- Environmental Noise Directive

Methodology

This unit should be conducted as a face-to-face frontal presentation in a plenary session, either online or in person. The scope of this unit is not large, but can be rather confusing for judges with no experience in the field, especially given the short duration of the unit. Therefore, the speaker should focus more on the principles and relationship between various provisions instead of reading the parts of the EU directives word by word. The EIA and IED directives in particular deserve specific attention since they provide comprehensive regulation and are accompanied by the case-law of the Court of Justice. It is recommended to ask the audience whether the slides are understood correctly and leave some time even during the presentation for questions and remarks from the audience.

Duration

The duration of this session should be 60 minutes.

Documentation (see general list of materials)

Necessary material (to be made available in hardcopy during the sub-session):

01	PowerPoint Presentation 'Public participation in environmental decision-making'
02	The IED Directive - Articles 24 - 26 + Annex IV
03	The EIA Directive (2011/92/EU) - Art. 6 + Art. 11
04	The Aarhus Convention
05	Sveso III Directive

Additional material (to be included in the electronic documentation - USB stick):

	EU legislation and documents
01	Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information
02	Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003
03	Council Directive 85/337/EEC
04	Council Directive 96/61/EC
05	Regulation (EC) N°1367/2006 of the European Parliament
06	Regulation (EC) No 1049/2001

07	Habitats Directive
08	SEA Directive (2001/42/EC)
09	Water Framework Directive (2001/42/EC)
10	Air Quality Directive (2008/50/EC)
11	Waste Framework Directive (2008/98/EC)
12	Environmental Noise Directive (2002/49/EC)
	Case Law
13	CJEU, C-570/13 <i>Gruber</i>
14	CJEU, C-263/08 <i>Djurgården-Lilla Värtans Miljöskyddsförening</i>
15	CJEU, C-137/14 <i>Commission v Germany</i>
16	CJEU, AG in C-470/16 <i>North East Pylon Pressure Campaign a Sheehy</i>
17	CJEU, C-73/16 <i>Puškár</i>
18	CJEU, C-216/05 <i>Commission v Ireland</i>
19	CJEU, C-280/18 <i>Flausch and Others</i>
20	CJEU, Joined cases C-128/09 to C-131/09, C-134/09 and C-135/09 <i>Boxus</i>
21	CJEU, C-182/10 <i>Solvay</i>
22	CJEU, C-348/15 <i>Stadt Wiener Neustadt</i>
23	CJEU, C-664/15 <i>Protect Natur-, Arten- und Landschaftsschutz Umweltorganisation</i>
24	CJEU, C-243/15 <i>Lesoochránárske zoskupenie II</i>
25	CJEU, C-237/07 <i>Janecek</i>

Trainer profile

The ideal speaker is someone with knowledge in the practical application of the Convention and the corresponding case law of the CJEU, either from judiciary or academia.

Unit 5: Right to bring a legal challenge (legal standing)

Short description of content and general objectives

The general objective of this presentation is to give an understanding of the legal standing according to Article 9 of the Aarhus Convention and how this is implemented in EU law and case law. First it covers legal standing as such, then the different categories of legal standing rights (request for environmental information, activities subject to public participation, request for action under environmental liability rules and other subject matters). Within these categories emphasis is given to the explicit provisions for legal standing under the EU substantive environmental law and locus standi for environmental NGOs and individuals. The presentation also raises discussions regarding public participation

Specific learning points

- Basis for locus standi
- Requests for environmental information and entitlement to receive information
- Specific activities that are subject to public participation requirements
- Requests for action under environmental liability rules
- Sufficient interest or impairment of a right
- Other subject matter
 - Implementing legislation
 - General regulatory acts
 - Plans and programmes
 - Derogations

Methodology

This unit should be conducted as a face-to-face frontal presentation in plenary session, either online or in person, encouraging questions and discussion.

Time frame

The time allocated to this unit will be approximately 75 minutes, followed by a 15-minutes quiz. If you want to really look up all references to case-law and discuss them together, more time will be needed.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	PowerPoint Presentation: "Right to bring a legal challenge (legal standing)"
02	Aarhus convention

03	The Access to Environmental Information Directive, 2003/4/EC (not needed but might be useful)
04	Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control), IED (not needed but might be useful)
05	Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, EIA directive (not needed but might be useful)
06	Directive 2012/18/EU on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC, Seveso directive (not needed but might be useful)
07	Directive 2004/35/CE on environmental liability with regard to the prevention and remedying of environmental damage (not needed but might be useful)
08	The Treaty on the Functioning of the European Union (not needed but might be useful)
09	Charter of Fundamental Rights (not needed but might be useful)

Additional material (to be included in the electronic documentation – USB stick):

	EU legislation and documents
01	INSPIRE Directive, 2007/2/EC
02	Bathing Water Directive, 2006/7/EC
	Case Law
01	CJEU, Case C-237/07 <i>Janecek</i>
02	CJEU, Case C-263/08, <i>Djurgården - Lilla Värtans Miljöskyddsförening</i>
03	CJEU, Joined Cases C-105/09 and C-110/09 <i>Terre Wallonne and Inter-Environnement Wallonie</i>
04	CJEU, Joined Cases C-165 to C-167/09 <i>Stichting Natuur en Milieu</i> .
05	Case C-115/09, <i>Bund für Umwelt und Naturschutz Deutschland, Landesverband Nordrhein-Westfalen (Trianel Kohlekraftwerk Lünen)</i>
06	CJEU, Case C-240/09 <i>Lesoochránárske Zoskupenie VLK (The first Slovak Brown Bear)</i>
07	CJEU, Case C-41/11 <i>Inter-Environnement Wallonie</i>
08	CJEU, Case C-570/13 <i>Gruber</i>

09	CJEU, Case C-71/14 <i>East Sussex</i>
10	CJEU, C-243/15 <i>Lesoochránárske Zoskupenie VLK II</i> (The second Slovak Brown Bear)
11	CJEU, Case C-529/15 <i>Gert Folk</i>
12	CJEU, Case C-664/15 <i>Protect Natur-, Arten- und Landschaftsschutz Umweltorganisation</i>
13	CJEU, Case C-826/18 <i>Stichting Varkens in Nood e.o.</i>
14	CJEU, Case C-268/06 <i>Impact</i>
15	CJEU, Cases C-439/14 and C-488/14 <i>Star Storage and Others</i>
16	CJEU, Case 348/16 <i>Sacko</i>
17	CJEU, Case C-73/16 <i>Puškár</i>

Trainer's profile

An ideal speaker is a professor or a practitioner. It is important that they are familiar with the Aarhus Convention and how AC Article 9 is reflected, implemented and applied in EU law together with EU law principles.

Unit 6: Case study on public participation and legal standing – Focus on Water Framework Directive

Short description of content and general objectives

In this unit a case study will be presented. It is a fictional case, which will help the participants to understand and discuss various aspects of public participation concerning a project to extract water from a river, which may affect the status of aquatic ecosystems in a beautiful mountain country that hosts a large number of skiing resorts. The project seems to have a relatively low impact on the environment and does not fall under the EIA Directive or the Habitats Directive. Thus, the participants should analyse the case basing on the Water Framework Directive read in conjunction with the Aarhus Convention. They are also asked to consider the national procedural aspects related to the case.

Specific learning points/ questions raised for the case study

- Legal Standing
- Costs relating to access to justice
- Decision challenge
- National implementation of the Water Framework Directive and of the Aarhus Convention

Methodology

The trainer will present the case by raising the main factual features. After the introductory presentation, participants will be divided into groups of 6-8 people. The groups will discuss the case on the basis of EU law and national (procedural) law. After the group discussion, participants will return to the plenary. Each group will have a rapporteur to explain the results of their discussion and the trainer will comment on their findings.

Time frame

The introduction of the case study should take 15 minutes; afterwards participants will divide into groups. The discussion on the case will take 45 minutes, the following discussion in plenary including the debriefing will take another 30 minutes.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	Case study
02	PowerPoint: Solution to the case study

Trainer's profile

Continuous training of judges on the subject can be more successful when done by a colleague who has the same professional background ("speaking the same language"). An ideal speaker could therefore be a judge experienced in administrative justice or an experienced professor of environmental law.

Unit 7: Scope and standard of judicial review

Short description of content and general objectives

The objective of this presentation is to provide an in-depth understanding of the decisions and measures that are subject to judicial review (scope) under the Aarhus Convention as implemented in EU law and interpreted by the Court of Justice as well as of the (minimum) standard of judicial review that needs to be applied. The slides start with the scope of review under Article 9(2) and (3), that is with regard to decisions subject to public participation as well as acts and omissions contravening environmental law. Then the minimum standard of review that courts should apply is presented. Finally, those issues are discussed with regard to access to environmental information under Articles 9(1) and 4.

Specific learning points

- Scope
 - Articles 9(2) and 6
 - Decisions subject to public participation
 - Standing: Members of the public concerned (private parties and NGOs)
 - Challenge the Substantive and Procedural Legality
 - Article 9(3), in particular legal effect
- Review
 - Procedural Autonomy, subject to the principles of equivalence and effectiveness
 - Minimum Standard of review derived from EU court practice
 - Wide discretion with regard to complex assessments and balancing
 - Substantial review limited to manifest errors
 - Procedural requirements (public participation, providing reasons) subject to stricter review
 - Limits to discretion
- Articles 9(1) and 4
 - Scope: Environmental Information
 - Standard: distinction between legal terms (strict review) and balancing (discretion)

Methodology

This unit should be conducted as a face-to-face frontal presentation in plenary session, with two small case studies around half time, either online or in person. The subsequent discussion should be moderated either by the trainer or the chair of the event.

Time frame

The time allocated to this unit should be approximately 105 minutes, including time for questions and answers.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	PowerPoint Presentation: "Scope and standard of judicial review"
02	Treaty on the European Union
03	Treaty on the Functioning of the European Union
04	EU Charter of Fundamental Rights
05	Aarhus Convention
06	Directive 2011/92 (EIA)

Additional material (to be included in the electronic documentation – USB stick):

	EU legislation and documents
01	IE Directive 2010/75
02	Regulation 1049/2001
03	Regulation 1367/2006
04	Directive 2003/4
	Case Law
05	C-115/09 – <i>Bund Naturschutz [Trianel]</i>
06	C-237/07 – <i>Janecek</i>
07	C-470/16 – <i>North East Pylon Pressure Campaign and Sheehy</i>
08	C-240/09 – <i>Lesoochranske Zoskupenje</i>
09	C-243/15 – <i>Lesoochranske Zoskupenje VLK</i>
10	C-664/15 – <i>Protect</i>
11	C-442/14 – <i>Bayer CropScience</i>
12	Case Law of the Aarhus Convention Compliance Committee (2004-2014) (www.unece.org/fileadmin/DAM/env/pp/compliance/CC_Publication/ACCC_Case_Law_3rd_edition_eng.pdf)
13	C-826/18 – <i>Stichting Varkens in Nood e.o.</i>

14	<i>C-723/17 – Craeynest e o.</i>
15	<i>C-441/17 – Commission/Poland (Białowieża Forest)</i>
16	<i>C-120/97 – Upjohn</i>
17	<i>C-211/03 – HLH Warenvertrieb and Orthica</i>
18	UK Courts in C-404/13 – <i>ClientEarth</i>

Trainer's profile

The ideal speaker is a professor or a practitioner with relevant knowledge and/or experience of Access to Courts under EU law and under the Aarhus Convention

Unit 8: Effective remedies

Short description of content and general objectives

The general objective of this presentation is to give an understanding of effective remedies according to Article 9.4 of the Aarhus Convention and how this is implemented and enforced in EU law. The presentation mainly looks into the principles of equivalence and of effectiveness, interim measures (injunctive relief), and CJEU case law related to the topic.

The presentation is based on the Commission Notice on Access to Justice in Environmental Matters, C (2017) 2616 final.

Specific learning points

- Principle of national procedural autonomy
 - o Principle of equivalence
 - o Principle of effectiveness
 - o Principle of cooperation in good faith
- Effects of procedural defects
 - o Setting aside flawed legislation
 - o Make good any harm
- Interim measures (Injunctive relief)
- CJEU case law

Methodology

This unit should be conducted as a face-to-face frontal presentation in plenary, either online or in person, encouraging questions and discussion.

Time frame

The time allocated to this unit should be approximately 45 minutes. If you want to really look up all references to case-law and discuss them together during the presentation, more time will be needed.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	PowerPoint Presentation: "Effective remedies"
02	Aarhus Convention

Additional material (to be included in the electronic documentation – USB stick):

	EU legislation and documents
01	Treaty on the European Union
02	Charter of Fundamental Rights
	Case Law
03	CJEU, Case C-72/95, <i>Kraaijeveld</i> , p 61
04	CJEU, Case C-435/97 <i>WWF and Others</i> , p 70
05	CJEU, Case C-129/96 <i>Inter-Environnement Wallonie</i>
06	CJEU, Case C-201/02 <i>Wells</i>
07	CJEU, Case C-215/06 <i>Commission v Ireland</i>
08	CJEU, Case C-237/07 <i>Janecek</i>
09	CJEU, Joined Cases C-128/09 to C-131/09, C-134/09 and C-135/09 <i>Boxus and C 182/10, Solvay</i>
10	CJEU, Case C-115/09, <i>Bund für Umwelt und Naturschutz Deutschland, Landesverband Nordrhein-Westfalen (Trianel Kohlekraftwerk Lünen)</i>
11	CJEU, Case C-416/10 <i>Križan</i> , p 86
12	CJEU, Case C-420/11 <i>Leth</i>
13	CJEU, Case C-72/12 <i>Altrip</i>
14	CJEU, Case C-404/13 <i>Client Earth</i>
15	CJEU, Case C-399/14 <i>Grüne Liga Sachsen</i>
16	CJEU, Case C-348/15 <i>Stadt Wiener Neustadt</i>
17	CJEU, Case C-379/15 <i>Association France Nature Environnement</i>
18	CJEU, Cases C-196/16 and C-197/16 <i>Comune di Corridonia</i>
19	CJEU, Case T-51/89 <i>Tetra Pak Rausing</i>
20	CJEU, Case C-6/60 <i>Humblet v. Belgium</i>
21	CJEU, Case C-222/84 <i>Johnston v. Chief Constable of the RUC</i>

22	CJEU, Case C-222/86 <i>UNECTEF v. Heylens</i>
23	CJEU, Case C-327/02 <i>Panayotova v. Minister voor Vreemdelingenzaken en Integratie</i>
24	CJEU, Case C-213/89 <i>R v. Secretary of State for Transport, ex p Factortame Ltd</i>
25	CJEU, Case C-312/93 <i>Peterbroeck</i>
26	CJEU, Cases C-430 and 431/93 <i>Van Schijndel</i>
27	CJEU, Case C-71/14 <i>East Sussex</i>
28	CJEU, Case C-9/90 <i>Francovich and others</i>
29	CJEU, Case C-591/10 <i>Littlewoods Retail and Others</i>
30	CJEU, Case C-249/11 <i>Byankov</i>
31	CJEU, Case C-41/11 <i>Inter-Environnement Wallonie and Terre wallonne</i>
32	CJEU, Case C-752/18 <i>Deutsche Umwelthilfe eV</i>

Trainer's profile

An ideal speaker is a professor or a practitioner. It is important that they are familiar with the Aarhus Convention and how AC Article 9.4 is reflected, implemented and applied in EU law, but also with the interaction between the principles of legality and primacy of EU law and the necessity of protecting the environment stemming from those primary EU law provisions and then from secondary EU law.

Unit 9: Litigation costs and time limits of the procedures

Short description of content and general objectives

The general objective of this presentation is to raise the awareness of the Aarhus / EU law requirements when it comes to litigation costs and time limits of legal proceedings in environmental matters. The slides try to facilitate the approach by giving concrete examples drawn from Ireland, the UK and Germany. This enables the audience to participate actively and exchange experiences in the field. The leading CJEU-Judgments are discussed. The subjective and the objective elements of the cost assessment are presented and explained. This is done in a comprehensive way that should be easy to understand.

Specific learning points

- Aarhus Convention / EU law / domestic law
 - interplay of different layers of law
- Litigation costs
 - Aarhus Convention and its guarantees
 - How to understand “not prohibitively expensive”
 - EU Law as a transposition of the Aarhus Convention
 - Directives (EIA / SEA / Seveso) on costs
 - Edwards and Pallikaropoulos Judgment
 - Cost assessment by national judges
- Timely procedures
 - Significance for the good administering of justice
- Commission Notice on Access to Justice in Environmental Matters

Methodology

This unit should be conducted as a face-to-face frontal presentation in plenary session either online or in person. The order in which the different points of the unit are presented should be defined by the trainer. The subsequent discussion should be moderated either by the trainer or the chair of the event.

Time frame

The time allocated to this unit will be approximately 45 minutes and should include some time for discussion with the participants.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	PowerPoint Presentation: "Litigation costs and time limits of the procedures"
02	Aarhus Convention
03	EIA Directive [Article 11 (4)] and IED Directive [Article 25 (4)]
04	Commission Notice on Access to Justice in Environmental Matters

Additional material (to be included in the electronic documentation – USB stick):

	EU legislation and documents
01	Seveso III Directive, 2012/18/EU
02	Charter of Fundamental Rights
03	European Convention on Human Rights
04	Improving access to justice in environmental matters in the EU and its Member States COM(2020) 643 final
	Case Law
05	CJEU, C-427/07 (<i>Commission v Ireland</i>)
06	CJEU, C-260/11 (<i>Edwards and Pallikaropoulos</i>)
07	CJEU, C-530/11 (<i>Commission v United Kingdom</i>)
08	CJEU, C-348/15 (<i>Stadt Wiener Neustadt</i>)

Trainer's profile

An ideal speaker is a professor or a practitioner. However, it is important that they are able to show the audience how litigation costs and timely procedures are relevant for an adequate access to justice in environmental matters.

Unit 10: Case study on judicial review and effective remedies – Focus on Air Quality Directive (AQD)

Short description of content and general objectives

In this unit a case study (“A(ir)ccountability”) will be presented. It is about a fictional case which will help the participants to understand and discuss various aspects of scope and standard of judicial review as well as effective remedies in an air quality case case. The session is meant to incite legal discussions among the participating judges who work in different systems of administrative justice and may enjoy sharing their experience.

Specific learning points/ questions raised for the case study

- Scope and standard of judicial review
- Effective remedies
- The scope of an ex officio legal review
- Procedural autonomy, principle of effectiveness and equivalence
- Control of legality of air quality standards

Methodology

The trainer will present the case by raising the main factual features. After the introductory presentation, participants will be divided into groups of 6-8. The groups will discuss the case on the basis of the EU law and national (procedural) law. After the group discussion, participants will return to the plenary. Each group will have a rapporteur to explain the results of their discussion and the trainer will comment on their findings.

Time frame

The introduction of the case study should take 15 minutes; afterwards participants will divide into groups. The discussion on the case should take 45 minutes, the ensuing discussion in plenary, including the debriefing, should take another 30 minutes.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	Case study: A(ir)ccountability
02	PowerPoint: Solution to the case study (A(ir)ccountability)

Trainer's profile

Continuous training of judges on the subject can be more successful when done by a colleague who has the same professional background ("speaking the same language"). An ideal speaker is therefore a judge experienced in administrative justice.

Unit 11: Preliminary reference procedure on interpretation and validity in the context of EU judicial protection in environmental matters

Short description of content and general objectives

The objective of this presentation is to provide understanding of

- why the preliminary reference procedure is important
- how the procedure works in general
- what specific conditions and considerations are relevant for a reference to the validity of EU legal acts
- which remedies and sanctions relate to the preliminary reference procedure

Specific learning points

- Relevance of the preliminary reference procedure
 - Precedence (also: primacy, supremacy)
 - Direct effect (including Directives)
 - Indirect effect (interpretation in conformity)
 - Flanked by the principles of effectivity & equivalence / effective judicial protection
 - Effet utile / practical effect
- The procedure
 - Subject matter
 - Power to make a reference
 - Obligation to make a reference
 - Formal requirements
 - Timing of a reference
 - Procedure in the CJEU
 - Costs
- Validity Reference
 - Scope
 - Reasons for a validity reference
 - Validity Reference
- “Sanctions” and Remedies
 - CJEU decides by order, domestic appeals, disciplinary action
 - Complaint over failure to refer to Constitutional Court or ECtHR
 - EU law consequences for failure to refer

Methodology

This unit should be conducted as a face-to-face frontal presentation in plenary, online or in person, but has a small quiz around half time. The subsequent discussion should be moderated either by the trainer or the chair of the event.

Time frame

The time allocated to this unit should be approximately 105 minutes, including time for questions and answers.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	PowerPoint Presentation: "Preliminary reference procedure on interpretation and validity and EU judicial protection in environmental matters"
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Additional material (to be included in the electronic documentation – USB stick):

	EU Legislation and documents
01	Treaty on the European Union
02	Treaty on the Functioning of the European Union, EU Charter of Fundamental Rights
03	Statute of the CJEU
04	Rules of Procedure of the CJEU
05	Aarhus Convention
06	Directive 2011/92 (EIA)
	Case Law
07	26/62 – <i>van Gend & Loos</i>
08	6/64 – <i>Costa</i>
09	41/74 – <i>van Duyn</i>
10	C-240/09 – <i>Lesoochranske Zoskupenje</i>
11	C-115/09 – <i>Bund für Umwelt und Naturschutz (Trianel)</i>
12	283/81 – <i>Cilfit and Others</i>

13	314/85 – <i>Foto Frost</i>
14	C-416/17 – <i>COM/France</i>
15	C-224/01 – <i>Köbler</i>
16	C-453/00 – <i>Kühne & Heitz</i>
17	C-441/17 – <i>COM/Poland (Białowieża)</i>
18	C-293/17 and C-294/17 – <i>Nitrates + Natura 2000</i>
19	T-339/16, T-352/16 and T-391/16 <i>Ville de Paris and Others v Commission</i>
20	C-92/09 and C-93/09 <i>Schecke</i>
21	C-362/14 <i>Schrems</i>
22	C-129/00 <i>COM/Italy</i>
23	C-416/17 <i>COM/France</i>
24	C-224/01 <i>Köbler</i>
25	C-453/00 <i>Kühne & Heitz, stringent conditions</i>

Trainer's profile

The ideal speaker is a professor or a practitioner with relevant knowledge and/or experience on Access to Courts under EU law and under the Aarhus Convention.

Unit 12: Closing session – evaluation of the workshop

Short description of content

In the final session of the workshop, conclusions will be drawn and participants will be invited to evaluate the event.

General objectives

Participants will provide feedback on the whole event, the preliminary information, the workshop documentation, the e-learning module and the usefulness of the workshop for their daily work.

Specific learning points

- Summing up the event
- Obtaining the feedback
- Use the feedback and the evaluations to improve the training module (for organisers)

Methodology

Participants will be in plenary, either online or in person. Before the final discussion and evaluation of the event is actually opened, each participant should have already filled in the evaluation form. If possible, all participants, i.e. including the speakers and the training manager and/or judicial training advisor of the workshop, shall participate in this final evaluation session. The training manager of the workshop should encourage the participants to speak openly about their impressions of the workshop.

Time frame

The closing session should take approx. 20-30 minutes.

Documentation

Necessary material (to be made available in hardcopy during the sub-session):

01	Evaluation form
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Trainer profile

The closing session will be chaired by the training manager and/or the judicial training advisor of the workshop.

Annex I: Template indicative workshop programme

NATIONAL JUDGES AND THE EU AARHUS *ACQUIS* Focus on Access to Justice

WORKSHOP FOR JUDGES AND PROSECUTORS

- Date & Place

Speakers & training managers

Key topics

- Article 9(1), (2), (3), (4) of the Aarhus Convention
- European Commission Notice on Access to Justice in Environmental Matters
- Legal standing
- Scope of the judicial review
- Effective remedies / interim measures
- Litigation costs
- Time limits of procedure
- Relevant CJEU case law
- Preliminary ruling procedures
- Case studies on the topics

Language

Organiser

Date – 1st Session

- 08:45 Join the platform
- 09:00 **Introduction and practical information**
Training manager
- 09:15 **“Ice-breaking” exercise with the participants**

SETTING THE SCENE

- 09:30 **Introduction to the Aarhus Convention**
- Development, aim, main features
 - The three-pillar structure
 - The Aarhus Compliance mechanism
- Speaker*
- 10:15 Quiz Session
- 10:30 **EU environmental law and the Aarhus Convention**
- Status in Europe and direct effect at EU level
 - European Commission Communication on improving access to justice in environmental matters in the EU and its Member States (14.10.2020)
- Speaker*
- 11:15 Break

OVERVIEW OF THE 1ST AND 2ND PILLARS OF THE AARHUS CONVENTION

- 11:30 **Access to information**
- Directive 2003/4/EC on public access to environmental information environment
 - Definition of “environmental information” and “public authority”
 - Passive and active disclosure
 - Grounds for refusal of access
 - Charges for access to information
- Speaker*
- 12:15 Break
- 12:30 **Public participation in environmental decision-making**
- Identification of the “public concerned”
 - Exceptions for public participation requirements
 - Public participation provisions under the EU substantive environmental law (EIA/SEA, Water Framework Directive, IED, Seveso III, Air Quality Directive, Waste Framework Directive, Environmental Noise Directive)
- Speaker*
- 13:30 End of the first session

Date – 2nd Session

- 08:45 Join the platform
- 09:00 **Welcome and practical information**
Training manager

III. 3RD PILLAR OF THE AARHUS CONVENTION: ACCESS TO JUSTICE

- 09:15 **Right to bring a legal challenge (legal standing) – Part 1**
- Categories of legal standing rights
 - Explicit provisions for legal standing under the EU substantive environmental law (Directive on public access to environmental information, ELD, IED, EIA, Seveso III)
 - *Locus standi* for the environmental NGOs
 - CJEU case law
- Speaker*
- 10:15 Break
- 10:30 **Right to bring a legal challenge (legal standing) – Part 2**
Speaker
- 11:15 Quiz Session

Objective

This 4-session online workshop will provide the participants with an overview of the three pillars of the Aarhus Convention. The focus will be on access to justice in light of the relevant European Commission Notice published in April 2017.

Emphasis will be given to legal standing, scope of the judicial review, effective remedies, costs for access to justice and time limits of procedures.

By addressing these issues regarding the relationship between Aarhus Convention and EU environmental law, this workshop aims at facilitating the handling of future national court proceedings relating to this topic.

Venue

Who should attend?

Judges and prosecutors interested in environmental law

Your contact persons

- 11:30 Break
- 11:45 **Case study on public participation and legal standing – Focus on Water Framework Directive**
- Introduction to the case study
 - Working groups
 - Plenary discussion of the results
- Speaker*
- 13:30 End of the second session

Date – 3rd Session

- 08:45 Join the platform
- 09:00 **Welcome and practical information**
Training manager

IV. 3RD PILLAR OF THE AARHUS CONVENTION: ACCESS TO JUSTICE (cont.)

- 09:15 **Scope and standard of judicial review – Part 1**
- Grounds of the judicial review
 - Intensity of the judicial review
 - CJEU case law
- Speaker*
- 10:00 Break
- 10:15 **Scope and standard of judicial review – Part 2**
Speaker
- 11:00 Break
- 11:15 **Effective remedies**
- Principle of equivalence and principle of effectiveness
 - Interim measures (Injunctive relief)
 - CJEU case law
- Speaker*
- 12:30 Break
- 12:45 **Litigation costs and time limits of the procedures**
- Excessive and prohibitive costs for access to justice
 - Reasonable timeliness of court procedures
 - CJEU case law
- Speaker*
- 13:30 End of the third session

Date – 4th Session

- 08:45 Join the platform
- 09:00 **Welcome and practical information**
Training manager

V. 3RD PILLAR OF THE AARHUS CONVENTION: ACCESS TO JUSTICE (cont.)

- 09:15 **Case study on judicial review and effective remedies – Focus on Air Quality Directive**
- Introduction to the case study
 - Working groups
 - Plenary discussion of the results
- Speaker*
- 11:00 Break

VI. ENFORCEMENT AT NATIONAL LEVEL

- 11:15 **Preliminary reference procedure on interpretation and validity in the context of EU judicial protection in environmental matters – Part 1**
- Article 267 TFEU

- National court and uniform interpretation of EU Environmental Law

Speaker

12:15 Quiz session

12:30 **Preliminary reference procedure – Part 2**

Speaker

13:00 **Evaluation of the workshop**

Training manager

13:30 End of the online workshop

Annex II: Background material to be contained in the user's pack

1. EU Treaty

1.	<u>Treaty on European Union (consolidated version) 7 June 2016, OJ C202/01</u>	Online
2.	<u>Treaty on the Functioning of the European Union (consolidated version), 7 June 2016, OJ C202/01</u>	Online
3.	<u>Charter of Fundamental Rights of the European Union, (2016/C 202/02)</u>	Online
4.	<u>Explanations relating to the Charter of Fundamental Rights (OJ C 303, 14.12.2007, p. 17)</u>	Online

2. Participatory Rights in EU Environmental Law – The Aarhus Convention and EU Legislation

5.	<u>Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention), 25 June 1998</u>	1
6.	<u>C(2017) 2616 final, Communication from the Commission of 28 April 2017 - Commission Notice on Access to Justice in Environmental Matters</u>	Online
7.	<u>Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies</u>	Online
8.	<u>Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC</u>	Online
9.	<u>Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC</u>	Online
10.	<u>DIRECTIVE 2014/52/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment</u>	27

11.	DIRECTIVE 2011/92/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment	Online
12.	DIRECTIVE 2001/42/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (SEA Directive)	Online
13.	DIRECTIVE 2000/60/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 October 2000 establishing a framework for Community action in the field of water policy (Water Framework Directive)	Online
14.	Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control)	45
15.	Directive 2008/50/EC (consolidated version) of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (Air Quality Directive)	Online
16.	DIRECTIVE 2008/98/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 November 2008 on waste and repealing certain Directives (repealed: Directive 2006/12/EC, 91/689/EEC and 75/439/EEC) (Waste Framework Directive)	Online
17.	DIRECTIVE 2004/35/CE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (Environmental Liability Directive)	Online
18.	Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC (Seveso III)	Online
19.	Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise (Environmental Noise Directive)	Online

3. General EU Policy Documents (guidelines, reports, implementing texts)

20.	European Commission, Citizen's Guide to Access to Justice in Environmental Matters, 28 September 2018	Online
21.	Briefing, European Parliament, Implementing the Aarhus Convention – Access to justice in environmental matters, October 2017	Online
22.	Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action	Online

	<u>Programme to 2020 'Living well, within the limits of our planet' (7th Environment Action Programme to 2020)</u>	
23.	<u>COM(2018) 10 final, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, "EU actions to improve environmental compliance and governance", 18 January 2018</u>	Online
24.	<u>Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, An Action Plan for nature, people and the economy (COM(2017) 198 final, 27 April 2017)</u>	Online
25.	<u>COM(2017) 63 final, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, "The EU Environmental Implementation Review: Common challenges and how to combine efforts to deliver better results", 3 February 2017</u>	Online
26.	<u>Annex "Guidance to Member States: Suggested Actions on Better Environment", 3 February 2017</u>	Online
27.	<u>Commission Communication, Next steps for a sustainable European future; European action for sustainability (COM(2016) 739 final, 22 November 2016)</u>	
28.	<u>COM(2016) 316 final, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, "Delivering the benefits of EU environmental policies through a regular Environmental Implementation Review", 27 May 2015</u>	Online
29.	<u>Aarhus Convention: An implementation guide, United Nations Economic Commission for Europe, 2014</u>	Online
30.	<u>COM 2014/15 final Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "A policy framework for climate and energy in the period from 2020 to 2030", 22 January 2014</u>	Online
31.	<u>DECISION No 1386/2013/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet'</u>	Online
32.	<u>COM(2012) 95 final, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Improving the delivery of benefits from EU environment measures: building confidence through better knowledge and responsiveness, 7 March 2012</u>	Online

33.	Standing up for your right(s) in Europe, A Comparative study on Legal Standing (Locus Standi) before the EU and Member States' Courts, Policy Department C, 2012	Online
34.	COM(2011) 244 final , Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, "Our life insurance, our natural capital: an EU biodiversity strategy to 2020", 3 May 2011	Online
35.	COM(2010) 2020 final Communication from the Commission „EUROPE 2020 A strategy for smart, sustainable and inclusive growth”, 3 March 2010	Online
36.	Communication from the Commission on the Precautionary Principle, COM (2000) 1 final, 2 February 2000	Online
37.	Council Directive 91/692/EEC of 23 December 1991 standardizing and rationalizing reports on the implementation of certain Directives relating to the environment	Online

4. Case law of the CJEU for participatory rights in environmental matters

38.	Judgment of 30 May 1991, Commission v Germany C-361/88	Online
39.	Judgment of 17 October 1991, Commission v Germany C-58/89	Online
40.	Judgment of 24 October 1996, Kraaijeveld C-72/95	Online
41.	Judgment of 14 July 1998, Safety Hi-Tech C-284/95	Online
42.	Judgment of 29 April 1999, Standley C-293/97	Online
43.	Judgment of 7 December 2000, Commission v France C-374/98	Online
44.	Judgment of 7 January 2004, Wells C-201/02	Online
45.	Judgment of 7 September 2004, Waddenzee C-127/02	Online
46.	Judgment of 13 March 2007, Unibet C-432/05	Online
47.	Judgment of 25 July 2008, Janecek C-237/07	Online
48.	Judgment of 15 April 2008, Impact C-268/06	Online
49.	Judgment of 3 July 2008, Commission v Ireland C-215/06	Online
50.	Judgment of 16 July 2009 Commission v Ireland C-427/07	Online
51.	Judgment of 30 April 2009, Mellor C-75/08	Online
52.	Judgment of 15 October 2009, Djurgården C-263/08	Online
53.	Judgment of 12 May 2011, Bund für Umwelt und Naturschutz C-115/09	Online
54.	Judgment of 18 October 2011, Boxus <u>Joined Cases C-128/09 to C-131/09, C-134/09 and C-135/09</u>	Online

55.	Judgment of 8 March 2011 LZ I C-240/09	Online
56.	Judgment of 26 May 2011, Stichting Natuur en Milieu C-165 to C-167/09	Online
57.	Judgment of 16 February 2012, Solvay and others C-182/10	Online
58.	Judgment of 28 February 2012 Inter-Environnement Wallonie C-41/11	Online
59.	Judgment of 15 January 2013, Križan C-416/10	Online
60.	Judgment of 14 March 2013, Leth C-420/11	Online
61.	Judgment of 11 April 2013, Edwards and Pallikaropoulos C-260/11	Online
62.	Judgment of 3 October 2013, Inuit C-583/11P	Online
63.	Judgment of 7 November 2013, Altrip C-72/12	Online
64.	Judgment of 19 December 2013, Fish Legal and Shirley C-279/12	Online
65.	Judgment of 13 February 2014, Commission v United Kingdom C-530/11	Online
66.	Judgment of 19 November 2014, Client Earth EU C-404/13	Online
67.	Judgment of 6 October 2015, East Sussex C-71/14	Online
68.	Judgment of 15 October 2015, Commission v Germany C-137/14	Online
69.	Judgment of 15 October 2015, Gruber C-570/13	Online
70.	Judgment of 14 January 2016, Grüne Liga Sachsen C-399/14	Online
71.	Judgment of 21 July 2016 Commission v Romania C-104/15	Online
72.	Judgment of 28 Juin 2016, Association France Nature Environnement — C-379/15 EU	Online
73.	Judgment of 13 July 2017, Saint-Gobain Glass Deutschland GmbH v European Commission, Case C-60/15, ECLI:EU:C:2017:540	Online
74.	Judgment of 8 November 2016, LZ II C-243/15	Online
75.	Judgment of 10 November 2016, Eco-Emballages, C-313/15 and C-530/15	Online
76.	Judgment of 17 November 2016, Stadt Wiener Neustadt C-348/15	Online
77.	Order of the President of the Court of 24 April 2008 in Commission v Malta C-76/08	Online
78.	Opinion 1/09, Creation of a Unified Patent Litigation System, EU:C:2011:123	Online
79.	Judgement of 1 June 2017, Folk, C-529/15, ECLI:EU:C:2017:419	Online
80.	Judgement of 26 July 2017, C-196/16 and C-197/2016, Commune di Corridonia, ECLI:EU:C:2017:589	Online
81.	Judgement of 19 October 2017, C-281/16 - Vereniging Hoekschewaards Landschap	Online

82.	Judgement of 20 December 2017, Case C-664/15, Protect Natur, Arten- und Landschaftsschutz v Bezirkshauptmannschaft Gmünd, ECLI:EU:C:2017:987	Online
83.	Judgement of 15 March 2018, C-470/16 North East Pylon Pressure Campaign Limited and Maura Sheehy v An Bord Pleanála and Others	Online