I. Constitutional Foundations

The Cyprus Constitution was drafted in the 1950's before environmental rights became popular. Consequently there is no express provision in the Cyprus Constitution regarding the environment, either as an obligation by the state or as a right towards nature or the individual. There is a right to life (Article 7) which has been interpreted by case law as a right to a healthy environment (Pyrga Community v. the Republic (1991) 4CLR). Given that there is no environmental provision in the Constitution, the main provisions regarding access to justice on environmental matters are those that apply generally, and the Constitution's main provisions regarding access to justice are delineated in Articles 29 and 146. Article 29 provides that every person (including non-Cypriots and legal persons) has a right individually or jointly with others to address any competent authority, to have their complaint attended to expeditiously and to receive a response within 30 days. (This refers to complaints addressed to civil service departments or other public authorities). Article 146 prescribes who may apply to the Court against a decision, act or omission of a public authority and this would, therefore, apply with respects to environmental issues. For such right to arise the complainant must have an existing personal and legitimate interest which has been directly affected by such decision, act or omission exercised by a public authority in a manner which is contrary to the Constitution, to any law or represents an abuse of power. Citizens can invoke a constitutional right to life and its interpretation. Parties to an administrative or judicial procedure can rely directly on international agreements only if the agreements have been transposed into Cyprus law. The Aarhus Convention was ratified and transposed in 2003 by Law Number 33(III)/2003. No cases have arisen so far involving the principles of the Convention nor is it known to have been quoted in Court.

II. Judiciary

Cyprus follows the principle of separation of powers. Justice is exercised by an independent judiciary in the following courts:

The Supreme Court of the Republic which has the jurisdiction stated below:

Appellate Court

The Supreme Court has jurisdiction to hear and determine all appeals from all inferior courts in civil and criminal matters. The Court can uphold, vary, set aside or order the retrial of a case as it may think fit.

Administrative matters

The Supreme Court as the only administrative court in the country, has exclusive jurisdiction to adjudicate on any recourse filed against a decision, act or omission of any organ, authority or person exercising any executive or administrative authority on the ground that it violates the provisions of the Constitution or any law or it is in excess or in abuse of any power vested in such organ, authority or person.

Constitutional matters

The Supreme Court has jurisdiction to adjudicate as to whether a law is compatible with the provisions of the Constitution or whether any conflict of power or issue of competence arises between any organs or authorities of the Republic. In addition the Supreme Court has jurisdiction to hear recourse by the President of the Republic as to whether a law passed by the House of Representatives is repugnant to or inconsistent with any provision of the Constitution.

Elections

The Supreme Court as the Electoral Court has the power to hear and determine petitions concerning the interpretation and application of the Electoral Laws.

Prerogative orders

The Supreme Court has exclusive jurisdiction to issue the prerogative orders of habeas corpus (to release a person from detention) and other orders instructing a party, to do something or to refrain from doing something, or to correct a decision (mandamus, prohibition, quo warranto and certiorari).

Admiralty

The Supreme Court has jurisdiction to hear and determine admiralty cases. The original jurisdiction is exercised by a single judge and an appeal against his decision lies to the Full Bench of the Supreme Court.

First Instance Courts are: District Courts; The Assize Courts; Family Courts; Industrial Disputes Tribunal; Rent Control Tribunal; Military Court.

The District Courts

Civil and criminal jurisdiction

There are six District Courts, one in each of the six towns of the island. Two of them (the Famagusta and the Kyrenia District Courts) have ceased to be functioning since 1974, and their jurisdiction has been taken over by the Nicosia and Larnaca Courts. Each District Court has jurisdiction to hear and determine all civil actions. Where the cause of action has arisen wholly or in part within the limits of the district where the Court is established, or where the defendant at the time of the filing of the action resides or carries on business within the limits of the Court. A criminal offence may be tried by a President of the District Court, a Senior District Judge or a District Judge sitting alone or by an Assize Court.

The Assize Court

An Assize Court (there are now four Assize Courts) is composed of three Judges and has jurisdiction to try all the criminal offences which are punishable by the Criminal Code or any other law and has the power to impose the maximum sentence provided by the relevant law.

The Family Courts

The Family Court (there are three Family Courts) has jurisdiction to take up petitions concerning the dissolution of marriage as well as matters which relate to parental support, maintenance, adoption and property relations between spouses provided that the parties are residing in the Republic.

The Industrial Dispute Tribunal

The Industrial Tribunal (there are now three Industrial Tribunals) has jurisdiction to entertain applications by employees for unjustified dismissal and redundancy payments. It is composed of a President (who is a judicial officer) and two lay-members representing the employers and employees.

The Rent Control Tribunal

The Rent Control Tribunal (there are now three Rent Control Tribunals) has jurisdiction to try all the disputes which arise from the application of the Rent Control Laws, which include amongst other matters, the payment of rent and recovery of possession. A Rent Control Tribunal is composed of a President (who is a judicial officer) and two lay-members representing the tenants and the landlords.

The Military Court

The Military Court has jurisdiction to try military offences under the Criminal Code and any other crimes committed by members of the armed forces. It is composed of a President (who is a judicial officer) and two assessors who are pointed by the Supreme Council of Judicature from a list of military officers. Civil and criminal proceedings start in the District and Assize Courts respectively and move to the Supreme Court on appeal. For all administrative issues however, the Supreme Court is the only court, exercising both first instance and appellate jurisdiction. There are no special courts to decide on environmental matters. However, in cases of public environmental liability, the Law on Environmental Liability Number 189(I)/2007 has set up an environmental authority to consider administrative penalties and other measures to restore damage to protected species and habitats, water sources and soil. ‘Forum shopping’ is not normally possible. In some circumstances a party may decide whether to bring an action e.g. in the District Court or in the Industrial Disputes Court depending on the level of damages sought (higher in the District Court but much lengthier process), but normally proceedings should start in the right court and the right city. In relation to damages caused as a result of violation of the environmental law, an action can be filed in the district court where the damage was caused. A criminal case may also be filed by the Attorney General based on a specific/environmental law (e.g. protection of nature) or under the newly enacted law for crimes against the environment. There is no distinction between ordinary and extraordinary remedies before a court. Panels of three Judges decide finally on civil and criminal appeals. They may uphold, vary, set aside or order the retrial of a case as they may think fit. It is nevertheless, possible for the Attorney General to promote an extraordinary remedy such as a nolle prosequi which is an order to arrest proceedings, on grounds of public interests or to make a recommendation for clemency. The Supreme Court sitting as an Administrative Court has no competence to consider the substance. It may review the legality of the challenged act or decision, but does not extend to the merits of the case. In this respect the Supreme Court has similar powers to a Cour de Cassation. It may quash an administrative action in part of in full and remand the case to the authority issuing the decision. The authority is bound by the Court decision. Principally most environmental matters are subject to the procedure for administrative recourses. Nevertheless some environmental issues are decided under criminal or civil jurisdiction, e.g. the Law for Crimes against the environment Number 22(I)/2012 and Law on Environmental Liability, Number 189(1)/2007. In criminal procedures, everyone is entitled to report criminal acts (e.g. misuse of power by certain authorities) to the prosecutor. They can participate and bear witness at the proceedings. Remedies against court decisions are restricted to the prosecutor and the accused. In order to seek a judicial remedy the complainant must have a legitimate interest as defined in Article 146 of the Constitution. This right must be exercised within 75 days of becoming aware of the event complained of. Three new Laws recognize the right of NGOs to complain against certain administrative acts. They are the Law of EIA (Number 140(I)/2005), the Integrated Pollution Prevention and Control (IPPC) Law Number 56(I)/2003 and 15(I)/2006 and the Environmental Liability Law Number 189(I)/2007. The court in administrative proceedings can examine from its own motion matters of general interest such as time limit, executory nature of the act, competence of the organ, legitimate interest. The court cannot examine on its own motion constitutional issues and violation of fundamental rights. These constitutionality issues must be specifically pleaded.

III. Access to Information Cases

Under Article 10(I) of the Access to Environmental Information Law Number 119(I)/2004, a hierarchical appeal maybe made (e.g. letter) within 30 days to the Minister of a department which has failed to respond or responded inadequately. This does not preclude the claimant from exercising his/her rights under the Constitution (Article 146) or from applying to the Ombudsperson for a statement of opinion. Refusal of requests for information must be justified and in writing (Article 8(8) of the law), and must include information regarding the judicial review procedures provided for in Articles 10 and 11. Any person may ask for access to environmental information by written letter and without needing to show any special interest. For those seeking remedy against refusals the procedure is again straight forward. It could involve a hierarchical appeal to the Minister responsible for the department which is refusing the information. If the claimant decides to go to court it should be done within 75 days of the refusal and he/she would need to show that, viz. the procedural rules that would apply are the provisions at Article 10 of the Law. The conditions under Article 146 of the Constitution were would also need to be complied with, i.e. the claimant should show a personal and legitimate interest. The administrative file containing all the information is filed before the court and it is examined by the judge before taking the decision. The Court has the power and responsibility to regulate the production of evidence in accordance with the requirements for the due discharge of its competence under Article the Court has power to summon any person to give evidence or produce documents for the purpose of enabling the court to come to a just decision in the cases.

IV. Access to Justice in Public Participation

There are no special procedures for public participation in environmental matters, but a number of sectoral laws (e.g. zoning, IPPC, EIA) provide for public notification, invitation of comments and public participation in an open deliberation. Unless otherwise provided in a specific law there is normally no superior administrative body to which an appeal would be made against administrative decisions. First instance administrative decisions can and are taken directly to court, although it would be usual in practice to appeal first either to the Minister responsible or to the Ombudsperson or both. If so provided in the law, administrative decisions can be subject to review by a higher authority. If the claimant exercises this right, the time within which to file recourse is suspended till the administrative process is completed. If there is no provision in the law the applicant must file its recourse directly to the court. If a hierarchical recourse is provided by the law, the applicant may choose to wait for the outcome and then file the recourse. Applying to the ombudsman will not be considered as a hierarchical recourse and the outcome of it is not subject to review by the court and the time limit will not be suspended pending the outcome of the decision of the ombudsman. The legality of the acts or omissions of any organ, authority or person exercising any executive or administrative authority is reviewed

and, they are either annulled (in part or in full) or confirmed. The Supreme Court cannot go into the merits of the decision under review and resolve the matter with a decision, on the substance, of its own. The court cannot go into the scientific merits of a finding of a technical nature, it can only examine whether in adopting such finding the administration has acted in a proper manner from the point of view of constitutionality, legality and excess or abuse of powers.

Plans and other decisions defining the use of space can be reviewed in Court following an appeal from a party with a legitimate interest as per Article 146 of the Constitution, the EIA or the IPPC laws. The Court examines whether the administration has acted in a proper manner and has the power and responsibility to regulate the production of evidence in accordance with the requirements for the due discharge of its competence under Article 146, including the summoning of any person to give evidence or to produce documents for the purpose of enabling the court to come to a just decision in the case. The hearing is conducted in public. Each party submits its case in writing and may, with the leave of the Court, call witnesses or produce evidence (if necessary) in support of its case. The applicant, the respondent and the interested parties are the only ones that have a right to participate in the hearing. Courts review the procedural and the substantive legality.

There are no particular provisions in the EIA law for review of screening decisions. It is open however, to NGOs under Article 25(1)(c) to appeal with reference to Article 146 of the Constitution, if dissatisfied with the environmental permit granted by the Environment Department. There are no particular provisions in the law for judicial or other review of scoping decisions which, in any case, would form part of the process, not a final decision. As preparatory acts they cannot be challenged separately but can be reviewed as part of a final decision. EIA decisions/authorizations can be reviewed in court within the provisions of Article 146 of the Constitution and Article 25(1) of the EIA law. Participation in the public consultation phase is not a prerequisite for acquiring standing before the Courts. Standing is derived from the legitimate interest of the party. There are no special provisions for injunctive relief in EIA procedures. Although available within the standard judicial procedures, it is a remedy very rarely granted to private persons and normally only on payment of a substantial deposit into court. Procedurally the Court, may, at any time, make a provisional order for injunctive relief without judging the case on its merits, if the justice of the case so requires either on the ground of urgency or of other special circumstances, be made without notice and upon such terms as it may be deemed fit in the circumstances: Flagrant illegality and irreparable damage are necessary prerequisites to the grant of a provisional order which is to be decided independently of the merits of the main recourse.

Review of IPPC decisions is possible under with the regular procedures available to persons satisfying Article 146 of the Constitution or NGOs meeting the requirements of Article 9c (1) of the IPPC Law. Standing before the court in IPPC procedures is not dependent on participation in the public consultation phase, but is derived from the existence of a legitimate interest by the party. In other respects, revision of IPPC decisions is the same as was mentioned regarding EIA decisions.

V. Access to Justice against Acts or Omissions

Although the relevant EU directive (on Environmental Liability 2004/35/EC) has been transposed into Cyprus law (Law Number 189(I) of 2007), a general civil liability scheme does not exist so far, nor has this law been tested in court. Actions under this law could impose an ‘administrative penalty’ for ‘restoration of Nature’ of up to € 200.000 and an additional penalty up to €5000 for each day the violation continues. Actions against individuals could also be brought between individuals/legal entities under the general civil liability causes of action such as nuisance or negligence. Both damages and injunctive remedies can be sought. Claims against state bodies can be submitted directly to the Supreme Court under Article 146 of the Constitution provided bodies against which the claim is made are acting in an administrative, and not a regulatory, capacity. Claims would be for annulment of an act and damages or in the case of an omission for an order of mandamus (to perform a certain act) and damages, if suffered. If the case succeeds the party may then apply to the district court for damages. The competent authority under the Environmental Liability Law (Number 189(I)/2007) is the Environment Department (Article 2) unless the Minister of Agriculture, Natural Resources and Environment issues an order nominating another or an additional competent authority, depending on the situation and the damage that has occurred. A request for action can be filed by any natural or legal person including an environmental NGO (Article 14(I) of the law), if likely to be affected or having a legitimate interest. However, this request cannot be made in the case of future damage. The request is submitted in writing to the Environment Department accompanied by all necessary material to substantiate the complaint. According to Article 17 of the Environmental Liability Law, a court review of the decisions taken by the competent authority would fall within the requirements of Article 146 of the Constitution. One would file recourse under Article 146 either against a failure of the competent authority to take action following a request for action, or against inadequate measures taken to restore a habitat(s) or species.

VI. Other Means of Access to Justice

Other remedies available in environmental matters are applications to either the Ombudsperson or the Environment Commissioner, though neither have executive power, so applying to either, even if they produce a favorable statement, might not always produce a remedy. The office of the Ombudsperson was established in 1992 to protect citizens’ rights when affected by public administration decisions which are contrary to the law or not in accordance with the proper exercise of administrative authority. An investigation or inspection undertaken by the Ombudsperson does not suspend any procedure or deadline applicable within the exercise of a legal action or hierarchical appeal. Any person, including non-Cypriots within the Republic, or an NGO, may apply to the Ombudsperson. However, the decision of the Ombudsperson is not binding on the administrative authorities. Quite often the decision is observed, but this is not always the case, especially when it involves recommendations to demolish an illegality or to withdraw a development license. The Commissioner of the Environment is appointed by and reports to the President. The Commissioner may submit proposals and recommendations to the relevant Ministries for the implementation of environmental policy and legislation. In specific cases of serious effects on the environment or blatant infringements, the Commissioner may initiate investigations and inspections of the alleged infringements and recommend solutions. Additionally he can provide research guidelines to the appropriate service of a Ministry and ask that a report be submitted. All citizens including NGOs, can address the Commissioner for the Environment, even though his/her recommendations are not binding on any authority. Public prosecutors acting under the office of the Attorney-General have the duty of preparing the pleadings and bringing criminal offences to court. Depending on the offence, the Factory Inspectorate of the Ministry of Labor or the Game Wardens of the Game Fund will play an active role in the prosecution. Private criminal prosecution is available under the law (not specifically for environmental offences) but not widely practiced. Complaint handling mechanisms include:

Complaints to the Ombudsperson or the Environment Commissioner

Complaints to the Minister responsible for an offending action/decision either in the mode of a formal hierarchical appeal or less formally.

Complaints to a local authority.

VII. Legal Standing

Legal Standing	Admin. Procedure (ιεραρχική προσφυγή)	Judicial Procedure (Διοικητική Προσφυγή)	Complaint to Ombudsman or Environment Commissioner
Individuals	Only against decision addressed to them.	Need to show a legitimate interest as stated in Article 146 of the Constitution or under sectoral laws.	Any person with an interest that has been affected whether a citizen or otherwise.
NGOs	Need to show a public interest		

		Need to show legal standing which will be recognized only if provided by law, viz. the EIA Law of 2005, the IPPC Law as amended by 15(I) /2006 or the Environmental Liability Law 189(I) /2007	Needs to show either a public service or a local authority mishandling, even if only loosely connected to the NGO.
Other legal entities	Local authorities directly affected or claiming a public interest for their inhabitants.	Under article 146 of the Constitution as interpreted by case law.	-------
Ad hoc groups	E.g. citizens groups. Need to show a justifiable interest.	No standing as a group, but members of the group as individuals would have standing if they satisfied the requirements of article 146 of the constitution.	Need to show either a public service or a local authority mishandling affecting them.
Foreign NGOs	No specific provision. Probably accepted if NGO demonstrates either a global interest in the subject matter or if the impacts go beyond Cyprus.	No standing, not even under the sectoral (EIA, IPPC Laws), as they refer specifically to NGOs registered under the Cypriot law.	No reason why they could not complain against a Cypriot administrative act that affected their subject of interest.

Parties must distinguish between hierarchical and administrative recourses. Hierarchical control is exercised by a supervisor or a director over his subordinates. Legislative provisions specify procedures for administrative review of executive acts by higher administrative authorities (hierarchical recourse). Such procedure however is not final or conclusive and does not bar the filing of recourse to the Supreme Court. The Court has repeatedly stated that there is no actio popularis in the Cyprus legal system. The public prosecutors working under the Attorney-General will initiate action in the case of offences against the Criminal Code and would, on receiving details from the appropriate department initiate proceedings against offenders under the Law for Crimes against the Environment Number 22(I)/2012. Furthermore, in certain circumstances the Attorney General may be allowed to appear as amicus curiae. The Ombudsperson and the Environment Commissioner do not have the power to initiate legal actions. The EIA Law (Article 25(I)) and the IPPC Law (Article 9 (c)) and the Environmental Liability Law (Article 17) specifically provide for environmental NGOs the locus standi needed to satisfy the requirements of the Constitution concerning access to the judicial process against specific administrative acts.

VIII. Legal Representation

Representation by legal counsel is not compulsory. An applicant may present his/her case personally, but given that administrative law is complex and dependent on case law this is unlikely. In Cyprus lawyers can deal with any legal matter and we do not have specializations . The list of the registered practicing lawyers is placed on the Cyprus Bar Association and it is updated once a month. There are no law firms specializing in environmental matters (consequently there is no published list). A person wishing to initiate proceedings on an environmental issue would be well advised to seek a lawyer with experience in Constitutional/Administrative law since the proceedings will most likely be conducted on the basis of Article 146 of the Constitution. Given that Cyprus is a small place, information travels by recommendation. There are no NGOs giving public consultation on environmental matters.

IX. Evidence

Environmental issues are considered within the general rules that apply to recourses against Government Departments, so the replies below refer to evidence in all administrative recourses made to the Supreme Court. In the Supreme Court the case is conducted on the basis of written submissions and the administrative department against which the recourse is must provide for examination of the Court the full file(s) relating to the case. The file(s) provide the main evidence. Furthermore under Rule 11 of the Supreme Court Rules, 1962, the Court has power to summon any person to give evidence or produce documents for the purpose of enabling the court to come to a just decision in the case. According to the Supreme Court Rules of 1962, Article 18, the civil procedure rules are applicable in administrative proceedings, but whenever it deems necessary for the proper fulfillment of its mission under the Constitution, the Supreme Court will not hesitate to relax or even depart from such law and rules of evidence. The applicant has to prove his/her case but there is no weight of evidence as in civil or criminal cases. The parties can produce new evidence by leave of the Court and the court may of its own accord ask for further evidence by way of personal appearance or production of documents. The usual process in the Supreme Court is through the submission of written presentations. So an expert report, if required, would normally be attached. Expert opinion is not binding on judges.

X. Injunctive Relief

There is no automatic suspensive effect of an appeal, nor is it possible to simply seek an injunction. An injunction would be part of recourse against the validity of the decision or action. An application for the suspension of the decision may be filed, where the applicant claims irreparable damages and flagrant illegality. In civil cases an interim order may be sought. If the decision is not suspended it will be executed. Unless provided in sectoral laws, there is no general provision for granting injunctions in environmental matters. The normal judicial procedure would need to be followed and satisfied. Requests coming from individuals or groups are very rarely granted and only with considerable financial undertakings as to cross-damages. Such conditions apply so that injunctions are more easily granted to a government department seeking to prevent an illegal act (e.g. to stop an individual from demolishing a building under preservation order). There is an appeal against a decision to refuse an injunction which is made to the Supreme Court either under its civil jurisdiction or in its revisional jurisdiction.

XI. Costs

The main cost in any judicial action would be lawyers' fees. Additionally stamps would be affixed to the action filed (court fees). In civil cases the court fees depend on the amount of damages claimed. In recourses the average lawyer´s fees granted by the court are € 1400 for first instance cases and the stamp amounts to 100 euros. For revisional appeals the cost for stamps amount to approximately € 120, whereas in civil appeals the stamp depends on the amount claimed. Expert fees for a report could be anything from € 500 upwards depending on the report to be prepared, plus a fee for the number of days spent by the expert in Court. As cases often get postponed, the expert may charge for several days when he has been called to the Court and the case is then adjourned. There is no standard fee for each day in Court. If there is no agreement between the lawyer and the client then the minimum fees apply. The minimum lawyer's fee according to the scales will be € 1700 for recourse to the Supreme Court sitting as a first instance court, and over € 2200 for an appeal. Most lawyers charge above the minimum fee. Not all costs are recoverable. The main cost is the very high cross-damages undertaking which will be set by the Court and has to be deposited with the Court in the form of cash or bank guarantee. The loser pays principle is prevalent, although the Court has the discretion not to allow all costs or to order each party to bear its own costs, but this will not be known in advance.

XII. Financial Assistance Mechanisms

There is no provision for special treatment in environmental cases. In any case the Courts cannot provide exemptions from procedural costs, duties, filing fees, taxation of costs, etc. in environmental matters. Legal Aid is available in criminal cases for defendants of limited means and is especially made

available to asylum seekers and aliens threatened with offences deportation. There is no practice of providing aid to voluntary organizations. There is no practice of pro bono legal assistance. There are no legal clinics dealing either with environmental or other matter. There are no public interest environmental law organizations or lawyers.

XIII. Timeliness

Under Article 29 of the Cyprus Constitution any person addressing a public authority should get a response within 30 days. The response however, often is simply an acknowledgement informing the claimant that further time will be necessary in order to reply fully. In theory a claimant could go to Court, but this would hardly ever be done in practice unless the delay or non-reply had serious financial consequences. Parties initiating an action against any administrative matter under Article 146 of the Constitution (not necessarily an environmental matter), must do so within 75 days of the date when the claimant became aware of the decision, act or omission being complained of. If the law provides that the decision or act must be published in the official gazette the 75 days time limit starts from the publication. No time limits are set for the Court to adjudicate on environmental or other cases. An environmental court case would be treated as any other and the duration is on average 16 months for a first instance liaising. An appeal would last much longer most often several years. According to the Practice Direction of 1986 judgments in District Courts must be delivered within six months of hearing final arguments. There does not appear to be a deadline for the Supreme Court. In practice all types of procedure take a very long time except in rent tribunals and in family courts concerning the interests of minors. If a judgment in the lower courts is not delivered within nine months, explanations will need to be given. There have been instances of recourse to the European Court of Human Rights against the Cyprus Republic because of court delays, and it was found such delays are in themselves a denial of justice.

XIV. Other Issues

Environmental decisions can be challenged under the EIA Law (Number 140(I)/2005), the IPPC Law (Number 56(I)/2003 and Number 15(I)/2006), and the Environmental Liability Law (Number 189(I)/2007) and then only at the end of the process when the decision is published. The public would know about access to justice in environmental matters only from newspaper reports. Alternative Dispute Resolution is available in Cyprus, but normally in civil or family law cases.

XV. Being a Foreigner

XVI.Transboundary Cases

For projects with transboundary impacts, Cyprus has ratified the ESPOO convention on Environmental Impact Assessment in a Transboundary Context and implements the related provisions of the convention regarding environmental justice issues.

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