

Access to Justice Clauses Comparison Table

EIA Directive Art 11	Nature Restoration Regulation proposal Art 16	Ambient Air Quality Directive proposal Art 25
<p>Article 11</p> <p>1. Member States shall ensure that, in accordance with the relevant national legal system, members of the public concerned:</p> <p>(a) having a sufficient interest, or alternatively;</p> <p>(b) maintaining the impairment of a right, where administrative procedural law of a Member State requires this as a precondition;</p> <p>have access to a review procedure before a court of law or another independent and impartial body established by law to challenge the substantive or procedural legality of decisions, acts or omissions subject to the public participation provisions of this Directive.</p> <p>2. Member States shall determine at what stage the decisions, acts or omissions may be challenged.</p> <p>3. What constitutes a sufficient interest and impairment of a right shall be determined by the Member States, consistently with the objective of giving the public concerned wide access to justice. To that end, the interest of any non-governmental organisation meeting the requirements referred to in Article 1(2) shall be deemed sufficient for the purpose of point (a) of paragraph 1 of this Article. Such organisations shall also be deemed to have rights capable of</p>	<p>Article 16</p> <p>Access to justice</p> <p>1. Member States shall ensure that members of the public, in accordance with national law, that have a sufficient interest or that maintain the impairment of a right, have access to a review procedure before a court of law, or an independent and impartial body established by law, to challenge the substantive or procedural legality of the national restoration plans and any failures to act of the competent authorities, regardless of the role members of the public have played during the process for preparing and establishing the national restoration plan.</p> <p>2. Member States shall determine what constitutes a sufficient interest and impairment of a right, consistently with the objective of providing the public with wide access to justice. For the purposes of paragraph 1, any non-governmental organisation promoting environmental protection and meeting any requirements under national law shall be deemed to have rights capable of being impaired and their interest shall be deemed sufficient.</p> <p>3. Review procedures referred to in paragraph 1 shall be fair, equitable, timely and free of charge or not prohibitively expensive, and shall provide adequate and effective remedies, including injunctive relief where necessary.</p>	<p>Article 27</p> <p>Access to justice</p> <p>1. Member States shall ensure that, in accordance with their national legal system, members of the public concerned have access to a review procedure before a court of law, or another independent and impartial body established by law, to challenge the substantive or procedural legality of all decisions, acts or omissions concerning air quality plans referred to in Article 19, and short term action plans referred to in Article 20, of the Member State, provided that any of the following conditions is met:</p> <p>(a) the members of the public understood as one or more natural or legal persons and, in accordance with national law or practice, their associations, organisations or groups, have a sufficient interest;</p> <p>(b) where the applicable law of the Member State requires this as a precondition, the members of the public maintain the impairment of a right.</p> <p>Member States shall determine what constitutes a sufficient interest and impairment of a right consistently with the objective of giving the public concerned wide access to justice.</p> <p>The interest of any non-governmental organisation which is a member of the public concerned shall be deemed sufficient for the purposes of the first</p>

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<p>being impaired for the purpose of point (b) of paragraph 1 of this Article.</p> <p>4. The provisions of this Article shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.</p> <p>Any such procedure shall be fair, equitable, timely and not prohibitively expensive.</p> <p>5. In order to further the effectiveness of the provisions of this Article, Member States shall ensure that practical information is made available to the public on access to administrative and judicial review procedures.</p>	<p>4. Member States shall ensure that practical information is made available to the public on access to the administrative and judicial review procedures referred to in this Article.</p>	<p>paragraph, point (a). Such organisations shall also be deemed to have rights capable of being impaired for the purposes of the first paragraph, point (b).</p> <p>2. To have standing to participate in the review procedure shall not be conditional on the role that the member of the public concerned played during a participatory phase of the decision-making procedures related to Article 19 or 20.</p> <p>3. The review procedure shall be fair, equitable, timely and not prohibitively expensive, and shall provide adequate and effective redress mechanisms, including injunctive relief as appropriate.</p> <p>4. This Article does not prevent Member States from requiring a preliminary review procedure before an administrative authority and does not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.</p> <p>5. Member States shall ensure that practical information is made available to the public on access to administrative and judicial review procedures referred to in this Article.</p>

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Fit for 55 - Parliament Drafting

Effort Sharing Regulation Art 15b – EP Proposal 8th June 2022	EPBD ITRE AM1400 -Matias	LULUCF AM 75
<p>Article 15b Access to justice</p> <p>1. Member States shall ensure that, in accordance with their national legal system, members of the public concerned who meet the conditions set out in paragraph 2, including natural or legal persons or their associations, organisations or groups, have access to a review procedure before a court of law, or another independent and impartial body established by law, to challenge the substantive or procedural legality of decisions, acts and omissions:</p> <p>(a) that fail to comply with the legal obligations provided for in Articles 4 to 8 of this Regulation; or</p> <p>(b) that are subject to Article 10 of Regulation (EU) 2018/1999.</p> <p>For the purposes of this paragraph, an act or omission that fails to comply with legal obligations arising under Articles 4 or 8 includes an act or omission with respect to a policy or measure adopted for the purposes of implementing those obligations, where that policy or measure fails to make a sufficient contribution to such implementation.</p> <p>2. Members of the public concerned shall be deemed to meet the conditions referred to in paragraph 1 where:</p> <p>(a) they have sufficient interest; or</p>	<p>Article 24 a Access to Justice/Just Transition</p> <p>1. Member States shall ensure that, in accordance with their national legal system, members of the public concerned who meet the conditions set out in paragraph 2, including natural or legal persons and their associations, organisations or groups have access to a review procedure before a court of law or other independent and impartial body established by law with a view to challenging the substantive or procedural legality of decisions, acts or omissions:</p> <p>(a) that fail to comply with the legal obligations provided for in Articles 3, 5, 7, 8, 9, 11, 15, 16, 19, 20 of this Directive; or</p> <p>(b) that are subject to Article 10 of Regulation (EU) 2018/1999.</p> <p>2. Members of the public concerned shall be deemed to meet the conditions referred to in paragraph 1 when:</p> <p>(a) they have a sufficient interest; or</p> <p>(b) they claim the impairment of a right where administrative procedural law of a Member State requires such a right to be a precondition.</p> <p>3. Member States shall determine what constitutes a sufficient interest for the purpose of paragraph 2, consistent with the objective of giving the public concerned wide access to justice in conformity with the Aarhus Convention on</p>	<p>(16a) The following Article 15a is inserted:</p> <p>‘Article 15a</p> <p>Access to justice</p> <p>1. Member States shall ensure that, in accordance with their national legal system, members of the public concerned who meet the conditions set out in paragraph 2 have access to a review procedure before a court of law, or another independent and impartial body established by law, to challenge failure to comply with the legal obligations provided for in Articles 4 to 10.</p> <p>2. Members of the public concerned shall have access to the review procedure as referred to in paragraph 1 when:</p> <p>(a) they have sufficient interest; or</p> <p>(b) they allege impairment of a right, where administrative procedural law of a Member State requires that as a precondition.</p> <p>What constitutes a sufficient interest shall be determined by Member States, consistently with the objective of giving the members of the public concerned wide access to justice and in conformity with the Aarhus Convention on Access to</p>

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<p>(b) they maintain impairment of a right, where administrative procedural law of a Member State requires that as a precondition.</p> <p>What constitutes a sufficient interest shall be determined by Member States consistently with the objective of giving the members of the public concerned wide access to justice and in conformity with the Aarhus Convention. To that end, the interest of any non-governmental organisation promoting environmental protection and meeting any requirements under national law shall be deemed to have sufficient interest for the purposes of this paragraph.</p> <p>3. Paragraphs 1 and 2 shall not exclude the possibility of being able to have recourse to a preliminary review procedure before an administrative authority and shall not affect the requirement to exhaust administrative review procedures prior to having recourse to judicial review procedures, where such a requirement exists under national law. Any such procedure shall be fair, equitable, timely and not prohibitively expensive.</p> <p>4. Member States shall ensure that practical information is made easily available to the public on access to administrative and judicial review procedures.'</p>	<p>Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters. To that end, any nongovernmental organisation promoting environmental protection and meeting any requirements under national law shall be deemed to have a sufficient interest or having rights capable of being impaired for the purpose of paragraph 1 of this Article.</p> <p>4. This Article shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law. Any such procedure shall be fair, equitable, timely and not prohibitively expensive.</p> <p>5. Member States shall ensure that practical information is made easily available to the public on access to administrative and judicial review procedures.</p>	<p>Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.</p> <p>To that end, the interest of any non-governmental organisation promoting environmental protection and meeting any requirements under national law shall be deemed to have sufficient interest for the purposes of this paragraph.</p> <p>3. Paragraphs 1 and 2 shall not exclude the possibility of being able to have recourse to a preliminary review procedure before an administrative authority and shall not affect the requirement to exhaust administrative review procedures prior to having recourse to judicial review procedures, where such a requirement exists under national law. Any such procedure shall be fair, equitable, timely and not prohibitively expensive.</p> <p>4. Member States shall ensure that practical information is made easily available to the public on access to administrative and judicial review procedures.';</p>