Reports of Cases

OPINION OF ADVOCATE GENERAL
MEDINA
delivered on 13 July 2023 [1]

Case C-252/22

Societatea Civilă Profesională de Avocați AB & CD
v
Consiliul Județean Suceava,
Președintele Consiliului Județean Suceava,
Agenția pentru Protecția Mediului Bacău,
Consiliul Local al Comunei Pojorâta,
joined party:
QP

(Request for a preliminary ruling from the Curtea de Apel Târgu Mureș (Court of Appeal, Târgu Mureș, Romania))

(Reference for a preliminary ruling – Environment – Aarhus Convention – Article 2(4) – Concept of 'the public' – Access to justice – Article 9(3) – Law firm partnership – Recognition of standing for disputes arising from the performance of professional activity – Law firm partnership contesting the administrative measures relating to the construction of a landfill – Absence of infringement of rights or legitimate interests – Concept of a not prohibitively expensive procedure)

1. The Aarhus Convention [2] was described by the former Secretary-General of the United Nations, Kofi Annan, as the 'most ambitious venture in environmental democracy undertaken under the auspices of the United Nations'. [3] According to its authors, that convention is 'more than an environmental agreement' as it 'addresses fundamental aspects of human rights and democracy, including government transparency, responsiveness and accountability to society'. [4] That statement, as it has been pointed out in academic literature, contributes to 'a grand narrative of how the Convention should be interpreted and understood'. [5]

1 Original language: English.

2 The Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters was signed in Aarhus on 25 June 1998 and entered into force on 30 October 2001. All Member States are Contracting Parties to that convention. It was approved on behalf of the European Community by Council Decision 2005/370/EC of 17 February 2005 (OJ 2005 L 124, p. 1; 'the Aarhus Convention').

3 Statement of the former Secretary-General of the United Nations, Mr Kofi Annan, at the first meeting of the Parties, Lucca, Italy, 21 to 23 October 2002 ('the first meeting of the Parties').

4 Lucca Declaration, adopted at the first meeting of the Parties, addendum, ECE/MP.PP/2/Add.1, 2 April 2004.

5 Barritt, E., *The Foundations of the Aarhus Convention*, Hart Publishing, 2020, London, p. 12.

2. By this request for a preliminary ruling, the Curtea de Apel Târgu Mureș (Court of Appeal, Târgu Mureș, Romania; 'the referring court') seeks guidance regarding the legal capacity and standing of a law firm partnership which seeks access to environmental justice to defend the interest of its members and the general interest. The questions raised invite the Court once more to examine the procedural rules that Member States may set for members of "the public" in order to bring an action in EU environmental law in the light of the Member States' obligation to ensure effective environmental protection.

I. Legal framework

The Aarhus Convention

3. Article 2 of the Aarhus Convention, under the heading 'Definitions', states in paragraph 4 that the term 'the public' means 'one or more natural or legal persons, and in accordance with national legislation or practice, their associations, organisations or groups'.

4. Article 9 of the Aarhus Convention, under the heading 'Access to justice', provides in paragraphs 2, 3 and 4:

'2. Each Party shall, within the framework of its national legislation, ensure that members of the public concerned:

(a) having a sufficient interest or, alternatively,

(b) maintaining impairment of a right, where the administrative procedural law of a Party requires this as a precondition, have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of Article 6 and, where so provided for under national law and without prejudice to paragraph 3 below, of other relevant provisions of this Convention.

What constitutes a sufficient interest and impairment of a right shall be determined in accordance with the requirements of national law and consistently with the objective of giving the public concerned wide access to justice within the scope of this Convention. To this end, the interest of any non-governmental organisation meeting the requirements referred to in Article 2(5), shall be deemed sufficient for the purpose of subparagraph (a) above. Such organisations shall also be deemed to have rights capable of being impaired for the purpose of subparagraph (b) above.

…

3. In addition and without prejudice to the review procedures referred to in paragraphs 1 and 2 above, each Party shall ensure that, where they meet the criteria, if any, laid down in its national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment.

4. In addition and without prejudice to paragraph 1 above, the procedures referred to in paragraphs 1, 2 and 3 above shall provide adequate and effective remedies, including injunctive relief as appropriate, and be fair, equitable, timely and not prohibitively expensive. …'

EU law

5. Article 8 of Council Directive 1999/31/EC,[6] entitled 'Conditions of the permit', sets out in paragraph (a)(i):

'Member States shall take measures in order that:

(a) the competent authority does not issue a landfill permit unless it is satisfied that:

(i) without prejudice to Article 3(4) and (5), the landfill project complies with all the relevant requirements of this Directive, including the Annexes'.

Romanian law

Law No 51/1995 on the organisation and practice of the profession of lawyer

6. Article 5(5) of the Legea nr. 51/1995 pentru organizarea și exercitarea profesiei de avocat (Law No 51/1995 on the organisation and practice of the profession of lawyer, 'Law No 51/1995') provides:

'The partnership shall consist of two or more confirmed lawyers. In the partnership, associate lawyers or lawyers who are in salaried employment may also practice their profession …'

The Statute of the profession of lawyer

7. Article 196(3) of the Statutul profesiei de avocat din 3 decembrie 2011 (Statute of the profession of lawyer of 3 December 2011, 'the Statute of the profession of lawyer'), adopted by the Uniunea Națională a Barourilor din România (National Union of Romanian Bar Associations) states:

'(3) For disputes arising from the performance of professional activity, the partnership may take legal action as an applicant or defendant, even if it does not have legal personality.'

Law No 554/2004 on administrative disputes

8. The Legea contenciosului administrativ nr. 554/2004 (Law No 554/2004 on administrative disputes), sets out in Article 1(1) and (2):

'(1) Any person who considers that one of his or her rights or legitimate interests has been infringed by a public authority, by means of an administrative measure or through a failure to deal with an application within the time limit laid down by law, may apply to the competent administrative court for annulment of the measure, recognition of the right or legitimate interest relied on, and compensation for the damage suffered. The legitimate interest may be either private or public.

[6] Directive of 26 April 1999 on the landfill of waste (OJ 1999 L 182, p. 1).

(2) Any person whose rights or legitimate interests have been infringed by an individual administrative measure addressed to another person may also apply to the administrative court.'

9. According to Article 2(1)(p), (r) and (s) of Law No 554/2004 on administrative disputes:

'(1) For the purposes of this Law, the terms and expressions set out below shall have the following meanings:

(p) "legitimate private interest" shall mean the ability to expect certain conduct with regard to the fulfilment of an anticipated future and foreseeable subjective right;

(r) "legitimate public interest" shall mean an interest with regard to the legal system and constitutional democracy, the guarantee of citizens' fundamental rights, freedoms and duties, the fulfilment of the needs of the community and the exercise of the powers of public authorities;

(s) "interested social organisations" shall mean non-governmental structures, trade unions, associations, foundations and other similar bodies, the purpose of which is to protect the rights of different categories of citizens or the proper functioning of public administrative services, as the case may be.'

10. Article 8(1)bis of Law No 554/2004 on administrative disputes states:

'Natural persons and legal persons governed by private law may bring an action to protect a legitimate public interest only by way of an alternative submission, where the infringement of the legitimate public interest logically stems from the infringement of a subjective right or of a legitimate private interest.'

Government Emergency Order No 195/2005 on the protection of the environment

11. The Ordonanța de urgență a Guvernului nr. 195/2005 privind protecția mediului (Government Emergency Order No 195/2005 on the protection of the environment, 'OUG No 195/2005') states in Article 5(d):

'The State shall acknowledge the right of every person to a "safe and ecologically balanced environment" by ensuring:

(d) the right to apply, directly or through environmental protection organisations, to the administrative and/or judicial authorities, as the case may be, in environmental matters, irrespective of whether or not damage has occurred.'

12. Article 20 of OUG No 195/2005 states in paragraphs 5 and 6:

'(5) Public access to justice shall be based on the legislation in force.

(6) Non-governmental organisations promoting the protection of the environment shall have the right to take legal action in environmental matters and have standing in disputes concerning the protection of the environment.'

II. The dispute in the main proceedings and the questions referred for a preliminary ruling

13. The applicant is a law firm partnership. It brought an action before the Tribunalul Cluj (Regional Court, Cluj, Romania) against the defendant local authorities, by which it sought, first, the annulment of the administrative decisions regarding the approval of the zoning plan and the planning permit in relation to the Pojorâta landfill ('the landfill') ('the contested administrative acts') and, second, the demolition of the landfill.

14. The applicant claimed standing by reference to the interests of the three lawyers who comprise that partnership. That interest consisted, essentially, in what the applicant qualified as 'the strong impact' that the landfill had on its members due to the feelings of consternation it provoked. The applicant claimed also to be acting in the defence of the general interest of the region of Bukovina and its population. It stated that its members employed the legal means that are available to them thanks to their profession in order to defend the environment and human health. As regards the substance of the action, the applicant put forward several arguments relating to the unlawfulness of the contested administrative acts.

15. The defendants objected that the applicant had neither the capacity to bring legal proceedings nor legal standing. On the merits of the action, they argued that the construction of the landfill observes all the technical requirements set out by Directive 1999/31.

16. By judgment of 7 February 2019, the Tribunalul Cluj (Regional Court, Cluj) considered that since the law firm partnership has legal capacity according to the national law, it should have capacity to bring legal proceedings. Therefore, it dismissed the objection as far as it concerned the lack of capacity of the partnership to be a party to the legal proceedings. By contrast, the Tribunalul Cluj (Regional Court, Cluj) upheld the objection with regard to the absence of legal standing and legal interest of the partnership. It held, more particularly, that according to Article 8(1)bis of Law No 554/2004 on administrative disputes, an applicant may invoke the public interest only in the alternative, where the infringement of the public interest stems from the infringement of a right or of a legitimate private interest. It considered that in the context of OUG No 195/2005, which governs access to justice in environmental matters, a distinction must be made between environmental NGOs and all other persons. Indeed, unlike environmental NGOs which have standing in environmental litigation, all other persons, such as the applicant in the main proceedings, have to observe the general rules on standing which depend on proof of the infringement of a right or of a legitimate interest. Since the applicant brought an 'objective' dispute – that is, one seeking protection of the public interest without invoking the infringement of a right or of a legitimate private interest – the Tribunalul Cluj (Regional Court, Cluj) concluded that the applicant lacked standing.

17. The applicant and the Consiliul Județean Suceava (the Suceava County Council) challenged the judgment of the Tribunalul Cluj (Regional Court, Cluj) before the Curtea de Apel Cluj (Court of Appeal, Cluj, Romania). That court, by its decision No 1195 of 26 September 2019, after dismissing the cross-appeal brought by the Suceava County Council and upholding the appeal brought by the applicant, set aside the judgment under appeal and referred the case back to the Tribunalul Cluj (Regional Court, Cluj).

18. During the appeal proceedings, the Suceava County Council lodged an application with the Înalta Curte de Casație și Justiție (High Court of Cassation and Justice, Romania) requesting that the case be transferred to another jurisdiction. That application was granted. The case was then

transferred to the referring court, the Curtea de Apel Târgu Mureș (Court of Appeal, Târgu Mureș). The judgment of the Curtea de Apel Cluj (Court of Appeal, Cluj) was automatically set aside as a result of the granting of the transfer application.

19. The referring court observes that the general rule on standing in administrative proceedings relies on a 'subjective dispute', that is, one in which an individual's rights or interests are invoked. It explains that the person whose rights or legitimate interests have been infringed has to rely on an interest of his or her own, which the legislature refers to as a 'legitimate private interest'. It is only in the alternative, after having invoked a legitimate private interest, that a natural or legal person or an interested organisation may pursue an 'objective dispute' by bringing an action to protect a legitimate public interest.

20. Particularly in the field of environmental protection, the referring court notes that OUG No 195/2005 recognises the possibility of an objective dispute. However, the category of persons who can primarily and directly rely on a legitimate public interest is limited to environmental NGOs. For all other members of the public, access to justice takes place in accordance with the general rules on administrative proceedings.

21. In the case in the main proceedings, the applicant is a law firm partnership which, according to the law, has limited capacity to bring legal proceedings in relation to disputes arising from the performance of its professional activity.

22. The referring court states that the applicant brought the action in its own name in order to defend the interests of the three lawyers who comprise it. In that context, the referring court explains that its first question comprises two aspects. The first aspect is whether the applicant may be recognised as 'the public' for the purposes of Article 2(4) and Article 9(3) of the Convention. The second aspect is whether the applicant, for the same purposes, may rely on the rights and interests of the natural persons of which it is comprised.

23. In the event of an affirmative answer by the Court to one or both of the aspects of the first question, the referring court asks the second question, namely whether Article 9(3) of the Aarhus Convention, read in the light of the right to effective judicial protection pursuant to Article 47 of the Charter of the Fundamental Rights of the European Union ('the Charter'), must be interpreted as precluding a provision of national law that makes access to justice for a law firm partnership conditional on proof of an interest of its own or on the fact that, by bringing the action, it seeks to protect a legal situation directly connected with the specific purpose for which that partnership was established.

24. The third question referred concerns the rule that the judicial proceedings should not be prohibitively expensive, according to Article 9(4) of the Aarhus Convention. In that regard, the referring court observes that Articles 451 to 453 of the Codul de proecudur*ă* civil*ă* ('the Code of Civil Procedure') provide a detailed breakdown of the costs of the proceedings (namely the court costs payable to the State, lawyers' fees, consultants' fees, the amounts payable to witnesses and so forth), the party who may be ordered to pay the costs (namely the unsuccessful party, at the request of the successful party), and the various criteria that the court may use to reduce, on a reasoned basis, the lawyers' fees. The possibility of reduction of the fees applies, in particular, where those fees are clearly disproportionate to the value or complexity of the case or to the work done by the lawyer, given the circumstances of the case.

25. The referring court questions, however, whether the abovementioned general provisions of national law contain sufficient criteria allowing a person governed by private law to assess and foresee the significant costs of disputes arising from non-compliance with environmental protection laws. It points out that such costs may dissuade a person from taking action in the matter.

26. It is in this factual and legal context that the Curtea de Apel Târgu Mureș (Court of Appeal, Târgu Mureș) decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:

'1. Are [the first paragraph of Article 47 of the Charter], read in conjunction with [the second subparagraph of Article 19(1) TEU], and Article 2(4) of the [Aarhus Convention], read in conjunction with Article 9(3) thereof, to be interpreted as meaning that the concept of "the public" includes a legal entity such as a law firm partnership, which does not rely on the infringement of any right or interest specific to that entity, but rather the infringement of the rights and interests of natural persons – namely the lawyers of which that partnership is comprised – [and] can such an entity be treated as a group of natural persons acting through an association or organisation for the purposes of Article 2(4) of the Convention?

2. If the first question is answered in the affirmative, having regard [both] to the objectives of Article 9(3) of the Convention and to the objective of effective judicial protection of the rights conferred by EU law, must Article 9(3) of the Convention and [the first and second paragraphs of Article 47 of the Charter], read in conjunction with [the second subparagraph of Article 19(1) TEU], be interpreted as precluding a provision of national law that makes access to justice for such a law firm partnership conditional on proof of an interest of its own or on the fact that, by bringing the action, it seeks to protect a legal situation directly connected with the specific purpose for which that type of organisation (in this case, a law firm partnership) was established?

3. If the first and second questions are answered in the affirmative, or regardless of the answers to those two questions as set out above, must Article 9(3), (4) [and] [(5)] of the Convention and [the first and second paragraphs of Article 47 of the Charter], read in conjunction with [the second subparagraph of Article 19(1) TEU], be interpreted as meaning that the expression that adequate and effective remedies, including the adoption of a judicial decision, should not be "prohibitively expensive", presupposes rules and/or criteria to limit the costs that may be incurred by the unsuccessful party to the proceedings, in the sense that a national court or tribunal must ensure that the requirement that the cost not be prohibitively expensive is met, taking into account [both] the interest of the person who wishes to defend his or her rights and the public interest in the protection of the environment?'

27. The Suceava County Council, Ireland, the Polish Government and the European Commission lodged written observations. The applicant in the main proceedings, the Suceava County Council, Ireland and the Commission presented oral arguments at the hearing on 4 May 2023.

III. Assessment

Preliminary observations

The rights the applicant derives from EU law

28. In its written observations, the Commission pointed out that the case in the main proceedings falls within the scope of EU environmental law. In that regard, it observes that the reference for a preliminary ruling mentions Directive 1999/31 as well as Directive 2011/92/EU[7] and that the contested administrative acts come within the scope of EU law.

29. However, the Commission expressed some doubts as to the clarity of the reference for a preliminary ruling. More specifically, it submitted that the referring court did not explain which rights the applicant derives from EU law nor how the 'significant impact' – which, in the applicant's contention, the landfill had on its members – could be relevant from the point of view of EU law.[8] That being said, the Commission, by relying on settled case-law according to which questions relating to EU law enjoy a presumption of relevance,[9] concludes that the questions are admissible.

30. I concur with the Commission that the case in the main proceedings falls within the scope of EU law. First of all, it should be borne in mind that the Court has jurisdiction to give preliminary rulings concerning the interpretation of the Aarhus Convention, which was signed by the Community and subsequently approved by Decision 2005/370, and the provisions of which therefore form an integral part of the EU legal order.[10] Next, it follows from the reference for a preliminary ruling that the landfill concerned was constructed according to the requirements set out in Directive 1999/31 and that it was the object of an environmental impact assessment according to Directive 2011/92.

31. It is true that the referring court did not explain which rights the applicants derive from EU law. When questioned on this point at the hearing, the applicant submitted that it derives procedural rights from EU law stemming from Directive 1999/31, Directive 2001/42/EC[11] and Directive 2011/92. With regard to Directive 2001/42, the applicant stated that the adoption of the zoning plan in relation to the landfill had not been preceded by an environmental impact assessment and that the right of the public to be informed was infringed. With regard to Directive 2011/92, the applicant stated that an environmental impact assessment was carried out but that the procedure followed was flawed and that the right of the public to be informed according to Article 11 of Directive 2011/92 was infringed. The applicant did not elaborate on Directive 1999/31.

7 Directive 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 (OJ 2012 L 26, p. 1).

8 The Commission cites, to that effect, judgment of 8 March 2011, *Lesoochranárske zoskupenie* (C-240/09, EU:C:2011:125, paragraph 47).

9 The Commission cites judgment of 7 July 2022, *Coca-Cola European Partners Deutschland* (C-257/21 and C-258/21, EU:C:2022:529, paragraph 35).

10 See, to that effect, judgment of 8 November 2022, *Deutsche Umwelthilfe (Approval of motor vehicles)* (C-873/19, EU:C:2022:857, paragraph 48).

11 Directive 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 (OJ 2001 L 197, p. 30).

32. In that regard, it must be pointed out that the questions referred for a preliminary ruling relate only to Article 9(3) and (4) of the Aarhus Convention. Next, it follows from the reference for a preliminary ruling that on the merits of the case, the applicant put forward several arguments as to the unlawfulness of the contested administrative measures, while the defendants submitted that the landfill respected all the technical requirements under Directive 1999/31.

33. In that regard, it must be recalled that in accordance with Article 8 of Directive 1999/31, the competent authorities do not grant a landfill permit unless they are satisfied that all necessary requirements are met. To the extent that the action concerns possible infringements of the obligations imposed by that directive,[12] I agree with the Polish Government's submission that the answer to the reference for a preliminary ruling can be based on the assumption that the applicant seeks, inter alia, to rely on the breach of obligations following from Directive 1999/31. This should be sufficient for the Court to respond to the questions referred without having to investigate further the relevance of other EU law environmental directives.

34. Consequently, the questions referred for a preliminary ruling are relevant from the perspective of EU law to the extent that the judicial review of the contested administrative acts concerns possible infringements of the obligations set out under Directive 1999/31. Those questions are reformulated accordingly.[13]

Article 19 TEU and Article 47 of the Charter

35. By its questions referred for a preliminary ruling, the referring Court asks for an interpretation of Article 2(4) and Article 9(3) and (4) of the Aarhus Convention in the light of Article 19 TEU and Article 47 of the Charter. However, as the Commission pointed out in its written observations, the obligation for Member States to provide remedies sufficient to ensure effective legal protection in the fields covered by EU law, laid down in Article 19(1) TFEU, stems also from Article 47 of the Charter. In those circumstances, the analysis of the second and third questions referred will be based only on Article 47 of the Charter as it does not appear necessary to conduct a separate analysis of the second subparagraph of Article 19(1) TEU for the purposes of answering the questions posed by the referring court and of disposing of the cases before it.[14] With regard to the first question referred, for the reasons that I will explain in the context of that question, there is no need to conduct an analysis in the light of either of those provisions.

First question

36. By its first question, the referring court asks, essentially, whether in proceedings involving the breach of EU environmental law, a law firm partnership can be considered as a member of 'the public', within the meaning of Article 2(4) of the Aarhus Convention, read in conjunction with Article 9(3) of that convention and in the light of Article 47 of the Charter, in circumstances in which that law firm partnership does not rely on the infringement of any right or interest specific to that entity, but rather on the infringement of the rights and interests of the members who

[12] See, to that effect, judgment of 20 December 2017, *Protect Natur-, Arten- und Landschaftsschutz Umweltorganisation* (C-664/15, EU:C:2017:987, paragraph 34).

[13] In that regard, it should be recalled that according to settled case-law, in the procedure laid down by Article 267 TFEU providing for cooperation between national courts and the Court of Justice, it is for the latter to provide the national court with an answer which will be of use to it and enable it to decide the case before it. To that end, the Court should, where necessary, reformulate the question referred to it (judgment of 17 November 2022, *Porr Bau*, C-238/21, EU:C:2022:885, paragraph 24 and the case-law cited).

[14] See, to that effect, judgment of 19 November 2019, *A. K. and Others (Independence of the Disciplinary Chamber of the Supreme Court)* (C-585/18, C-624/18 and C-625/18, EU:C:2019:982, paragraph 169).

comprise it. It also asks whether the natural persons comprising that law firm partnership, namely the lawyers, can be considered as forming a 'group' of natural persons, acting through an association or organisation, within the meaning of Article 2(4) of the Aarhus Convention.

Preliminary considerations on who may be a member of 'the public'

37. It must be recalled, in the first place, that the term 'the public' is defined under Article 2(4) of the Aarhus Convention as 'one or more natural persons or legal persons, and, in accordance with national legislation or practice their associations, organisations or groups'. The definition of that concept is worded in such broad terms as to include, as the Commission and Ireland observed, essentially *everyone*, provided that the legal requirements are met. This interpretation is corroborated by the Aarhus Convention Implementation Guide which states that 'the public' should be interpreted as applying the '*any person*' principle. [15]

38. With regard, more specifically to the determination of the 'associations, organisations or groups' of natural or legal persons which form part of 'the public' under Article 2(4) of the Aarhus Convention, it must be pointed out that where those 'associations, organisations or groups' have legal personality they will fall, in any event, under the concept of a legal person. In the Aarhus Convention Implementation Guide, it is stated that 'the language can only be interpreted, therefore, to provide that associations, organisations or groups *without legal personality* may also be considered to be members of the public under the Convention'. [16] The inclusion of 'associations, organisations or groups' without legal personality within the definition of 'the public' is qualified, however, by reference to *national legislation or practice*. Thus, as stated in the Aarhus Convention Implementation Guide, 'ad hoc formations can only be considered to be members of the public where the requirements, if any, established by national legislation or practice are met' but 'such requirements, if any, must comply with the Convention's objective of securing broad access to its rights'. [17] Moreover, when implementing those requirements, account should be taken of Article 3(4) of the Aarhus Convention which sets out the obligation for each Party to 'provide for appropriate recognition of and support to associations, organizations or groups promoting environmental protection and ensure that its legal system is consistent with this obligation'.

39. It follows that an 'association, organisation or group' which meets the requirements set out by national law is a member of the public and has the capacity to exercise the rights conferred on the public by the Convention.

40. In the second place, it must be recalled that Article 9(3) of the Aarhus Convention confers on members of the public, where they meet the criteria, if any, laid down in national law, the right to challenge acts and omissions which contravene provisions of national law relating to the environment. Article 9(3) confers that right on the members of the public 'without expressly

[15] United Nations Economic Commission for Europe, *The Aarhus Convention: An Implementation Guide*, 2nd edition, 2014 ('the Aarhus Convention Implementation Guide'), p. 55. According to settled case-law of the Court, that guide may be regarded as an explanatory document, capable of being taken into consideration if appropriate among other relevant material for the purpose of interpreting that convention, even if the observations in the guide have no binding force and do not have the normative effect of the provisions of the convention (judgment of 8 November 2022, *Deutsche Umwelthilfe (Approval of motor vehicles)*, C-873/19, EU:C:2022:857, paragraph 55 and the case-law cited).

[16] Aarhus Convention Implementation Guide, p. 55 (emphasis added). See Jendroska, J., 'Access to Justice in the Aarhus Convention – Genesis, Legislative History and Overview of the Main Interpretation Dilemmas', *Journal for European Environmental & Planning Law*, 2020 (17), pp. 372-408, at p. 386, who observes that the 'compromise language' of Article 2(4) was meant to cover 'any form in which natural or legal persons may legally assemble in given legal framework, thus not necessarily requiring from NGOs to have legal personality'.

[17] Aarhus Convention Implementation Guide, p. 55.

adding any further qualifications on who of the public'[18] may enjoy that right. The personal scope of that provision covers therefore *all* 'members of the public' who meet 'the criteria, if any, laid down in … national law'.

41. To that extent, an association, organisation or group that meets the requirements set out by national law has the capacity to bring legal proceedings in the context of Article 9(3) to challenge the acts or omissions covered by that provision. Whether such a member of the public meets the criteria set out by national law in order to be entitled to exercise the right to access to justice is a matter relating to standing and will be discussed in the context of the second question.

42. Consequently, for the purpose of determining the capacity to bring legal proceedings as a member of the public, as the Polish Government submitted, the form or objective of the 'association, organisation or group' is not relevant for as long as it meets the requirements set out under national law. For the same purpose, as the Commission submitted, it is not relevant whether that member is defending its own interest, the interests of its members or the interests of the public.

A law firm partnership without legal personality as a member of 'the public'

43. In the circumstances in the main proceedings, AB&CD is a law firm partnership without legal personality. Despite the absence of legal personality, it follows from the reference for preliminary ruling that a law firm partnership has legal capacity to bring legal proceedings with regard to disputes arising from the performance of its professional activity, in accordance with Article 196(3) of the Statute of the profession of lawyer.

44. In view of the broad scope of the concept 'the public', as explained above, the limitation of the legal capacity of a law firm partnership to matters relating to the performance of its professional activity, is not capable of excluding its capacity as a member of 'the public' under Article 2(4). That limitation pertains, however, to the criteria established by national law with regard to the entitlement of such partnership to bring proceedings under Article 9(3). Moreover, the fact that that law partnership does not rely on the infringement of any right or interest specific to that entity but rather on the infringement of the rights and interests of the members who comprise it, is also not capable from precluding its capacity as a member of 'the public'.

The members of a law firm partnership as a 'group' of natural persons

45. With regard to the second aspect of the first question referred, my understanding is that the referring court seeks to ascertain, in essence, whether *irrespective of the form used*, the natural persons comprising a law firm partnership can be considered as forming a 'group' of natural persons acting through an association or organisation within the meaning of Article 2(4) of the Aarhus Convention. In light of the preliminary considerations set out above, those persons could be considered as a 'group' of natural persons acting through an association or organisation to the extent that the requirements set out by national law are met. This means that if those persons act as an ad hoc formation or group to defend the environment, it would be a matter for the national court to determine whether such a group meets the requirements set out by national law, if any, in order to qualify as member of 'the public'.

[18] Aarhus Convention Implementation Guide, p. 55.

Interpretation in the light of the objective of ensuring wide access to justice

46. The referring court has requested an interpretation of Article 2(4) of the Aarhus Convention in the light of Article 47 of the Charter. However, Article 47 of the Charter is relevant not for the definition of the public as such but for the assessment of the criteria set out by national law in order to bring an action under Article 9(3), which is the subject of the second question. That being said, the requirements set out by national legislation or practice with regard to the 'associations, organisations or groups' that can qualify as members of 'the public' must comply with the general objective of the Aarhus Convention of ensuring *wide access to justice*. Although the objective of 'wide access to justice' is only expressly mentioned in Article 9(2) and the corresponding provisions of the directives in connection with the establishment of a 'sufficient interest and the impairment of a right' as a condition for bringing an action, it is widely acknowledged that this consideration constitutes a 'general objective' of the Aarhus Convention, and is not limited to Article 9(2) thereof. [19]

47. In view of the above, I consider that in proceedings involving the breach of EU environmental law, a law firm partnership can be considered as a member of 'the public', within the meaning of Article 2(4) of the Aarhus Convention, read in conjunction with Article 9(3) thereof, in circumstances in which that law firm partnership does not rely on the infringement of any right or interest specific to that entity, but rather on the infringement of the rights and interests of the natural persons, namely the lawyers comprising that partnership. The natural persons comprising that law firm partnership may be considered as forming a 'group' of natural persons acting through an association or organisation within the meaning of the same provisions, provided that the requirements set out by national law or practice are met. Those requirements must ensure wide access to justice.

Second question

48. By its second question, the referring court asks, in essence, whether in proceedings involving the breach of EU environmental law, Article 9(3) of the Aarhus Convention, read in the light of Article 47 of the Charter, must be interpreted as precluding a provision of national law which makes the standing of a law firm partnership conditional on proof of an interest of its own or on the fact that, by bringing the action, it seeks to protect a legal situation directly connected with the specific purpose for which that type of organisation was established.

49. It is apparent from the order for reference that the question is justified by the fact that the applicable national legislation makes the admissibility of an action against an administrative act conditional upon the applicant showing that the contested act impairs a right or a legitimate interest of that applicant which the legislature refers to as 'legitimate private interest'. According to that legislation, it is only in the alternative, after having invoked a legitimate private interest, that a natural or legal person or an interested organisation may pursue an 'objective dispute' which consists in bringing an action to protect a legitimate public interest. In the field of environmental litigation, OUG No 195/2005 recognises the possibility of such an objective dispute. However, the category of persons who can primarily and directly rely on a legitimate public interest is limited to environmental NGOs. Other persons, including the applicant in the main proceedings, have to observe the general rules on standing. More specifically, the applicant,

[19] Opinion of Advocate General Kokott in *Edwards* (C-260/11, EU:C:2012:645, point 48). See also Sikora, A., *Constitutionalisation of Environmental Protection in EU law*, Europa Law Publishing, Zutphen, 2020, p. 281.

as a law firm partnership, can bring legal proceedings in order to defend a legal situation connected with the specific purpose of its creation. The referring court seeks to ascertain whether Article 9(3) precludes such conditions laid down by national law in order to establish standing.

Standing requirements and effective environmental protection under Article 9(3) of the Aarhus Convention

50. In that regard, it must be recalled, that Article 9(3) recognises the right of the members of the public to challenge acts and omissions by private persons and public authorities which contravene provisions of national law relating to the environment. It follows from that provision that in order to be entitled to the rights provided for therein, an applicant must, inter alia, be a 'member of the public' and meet 'the criteria, if any, laid down in … national law'. [20]

51. With regard to the 'criteria' to which the review procedures may be subject, the Court has ruled that Member States may, in the context of the discretion they have in that regard, establish procedural rules setting out conditions that must be satisfied in order for the members of the public to be entitled to pursue such review procedures. [21]

52. However, the Court has also held that even if Article 9(3) of the Aarhus Convention, in itself, has no direct effect in EU law, the fact remains that that provision, read in conjunction with Article 47 of the Charter, imposes on Member States an obligation to ensure effective judicial protection of the rights conferred by EU law, in particular the provisions of environmental law. [22]

53. The right to bring proceedings set out in Article 9(3) of the Aarhus Convention, which is intended to ensure effective environmental protection, would be deprived of all useful effect, and even of its very substance, if it had to be conceded that, by imposing criteria laid down by national law, certain categories of 'members of the public' – a fortiori 'the public concerned', such as environmental associations that satisfy the requirements laid down in Article 2(5) of the Aarhus Convention – were to be denied of *any right* to bring proceedings against acts and omissions by private persons and public authorities which contravene certain categories of provisions of EU environmental law. [23]

54. The discretion as to the implementation of Article 9(3) does not allow Members States to impose criteria so strict, including on standing, that it would be effectively impossible for environmental associations to verify that the rules of EU environmental law are being complied with. [24] In that regard, it needs to be taken into account that such rules are usually in the public interest, rather than simply in the interests of certain individuals, and that the objective of those organisations is to defend the public interest. [25]

[20] Judgment of 8 November 2022, *Deutsche Umwelthilfe (Approval of motor vehicles)* (C-873/19, EU:C:2022:857, paragraph 59).

[21] See, to that effect, judgment of 8 November 2022, *Deutsche Umwelthilfe (Approval of motor vehicles)* (C-873/19, EU:C:2022:857, paragraph 63).

[22] See, to that effect, judgment of 8 November 2022, *Deutsche Umwelthilfe (Approval of motor vehicles)* (C-873/19, EU:C:2022:857, paragraph 66).

[23] See, to that effect, judgment of 8 November 2022, *Deutsche Umwelthilfe (Approval of motor vehicles)* (C-873/19, EU:C:2022:857, paragraph 67) (emphasis added).

[24] See, to that effect, judgment of 8 November 2022, *Deutsche Umwelthilfe (Approval of motor vehicles)* (C-873/19, EU:C:2022:857, paragraph 69).

[25] See, to that effect, judgment of 8 November 2022, *Deutsche Umwelthilfe (Approval of motor vehicles)* (C-873/19, EU:C:2022:857, paragraph 68).

55. Although the case-law of the Court concentrates on the requirements on standing for the environmental organisations that satisfy the requirements laid down in Article 2(5), Article 9(3) read in the light of Article 47 of the Charter, is intended to ensure effective judicial protection in environmental matters of all members of the public. That general principle is also applicable to other categories of the members of the public, including in particular, associations, organisations or groups genuinely promoting environmental protection even if they do not (yet) formally qualify as environmental organisations within the meaning of Article 2(5).

56. In that regard, it must be pointed out, in the first place, as has been aptly observed in the legal literature, that Article 9(3) 'does not indicate that NGOs should be privileged over individuals'.[26] The eighteenth recital of the Convention underlines that 'effective judicial mechanisms should be accessible to the public, including organisations, so that its legitimate interests are protected and the law is enforced'. Furthermore, Article 3(4) sets out an obligation for the Parties to provide for 'appropriate recognition of and support to associations, organisations or groups promoting environmental protection'.

57. In the second place, while Article 9(3), read in the light of the eighteenth recital, does not distinguish standing requirements depending on the category of the member of the public, the fact remains that that provision allows the Member States to introduce criteria. However, as already pointed out, those criteria should respect the right to effective judicial protection, according to Article 47 of the Charter. Furthermore, while laying down those criteria, Member States should not undermine the objective of ensuring wide access to justice.

58. In that regard, the Court has held that the objective of wide access to justice pertains 'more broadly, to the desire of the European Union legislature to preserve, protect and improve the quality of the environment and to ensure that, to that end, the public plays an active role'.[27] This is a recognition of the 'intrinsic link'[28] in environmental justice between the high level of protection of the environment under both Article 191(2) TFEU and Article 37 of the Charter, and access to justice for the public.[29]

59. In her Opinion in *Edwards*,[30] Advocate General Kokott has suggested that legal protection under the Aarhus Convention goes further than effective legal protection under Article 47 of the Charter. Indeed, while the latter provision 'expressly relates to the protection of *individual* rights', legal protection in environmental matters 'generally serves not only the individual interests of the claimants, but also, or even exclusively, the public'.[31] She also rightly pointed out that 'the recognition of the public interest in environmental protection is especially important since there may be many cases where the legally protected interests of particular individuals are not affected or are affected only peripherally'.[32] In such cases, 'as the environment cannot defend itself before a court [it] needs to be represented by active citizens or non-governmental organisations'.[33]

[26] Sobotta, C., 'New Cases on Article 9 of the Aarhus Convention', *Journal for European Environmental & Planning Law*, 2018, pp. 241-258, at p. 244. By contrast, Article 9(2), which governs access to justice by the 'public concerned', draws a distinction between environmental organisations and all other members of the 'public concerned'.

[27] Judgment of 11 April 2013, *Edwards and Pallikaropoulos* (C-260/11, EU:C:2013:221, paragraph 32).

[28] Sikora, A., *Constitutionalisation of Environmental Protection in EU law*, Europa Law Publishing, 2020, p. 280.

[29] Taking this idea a step further, it has been suggested in academic writings that wide access to justice could be considered as the '*procedural dimension*' of high environmental protection and be elevated to an 'overarching principle' in environmental litigation. Sikora, A., op. cit. footnote 29, p. 282.

[30] Opinion of Advocate General Kokott in *Edwards* (C-260/11, EU:C:2012:645).

[31] Opinion of Advocate General Kokott in *Edwards* (C-260/11, EU:C:2012:645, points 39 and 40).

[32] Ibid., point 42.

[33] Ibid.

60. Taking into account the objective of ensuring wide access to justice, the case-law of the Court remains open to respond to the *evolving dynamics* of environmental litigation. The Court recognises the role that active citizens can play to defend the environment, having held that 'members of the public and associations are naturally required to play an active role in defending the environment'.[34]

61. However, this does not imply an unqualified standing to anyone. The Compliance Committee has held, indeed, that 'the Parties are not obliged to establish a system of popular action (*actio popularis*) in their national laws with the effect that anyone can challenge any decision, act or omission relating to the environment'.[35] Member States retain the discretion to apply criteria in order to determine the conditions under which members of the public can act to defend the environment. As pointed out, essentially, by the Commission and Ireland, streamlining environmental litigation is a legitimate objective to avoid a situation that could prove difficult to manage for the courts. However, as it has already been pointed out above, if due to the criteria of standing certain categories of 'members of the public' would be denied of any right to bring proceedings under Article 9(3), that would be too strict to provide for access to justice in accordance with the Convention.

62. In order to assess whether standing requirements make it effectively impossible for certain categories of 'members of the public' from bringing an action, it is important to take into account the legal system as a whole and to assess to what extent national law has such 'blocking consequences'[36].

63. The national legislation in the main proceedings, according to the explanations provided by the referring court, gives standing in environmental litigation to environmental NGOs. Other members of the public have to comply with the standing requirements under the legislation in force. More specifically, they have to rely on a legitimate private interest, and only in the alternative, on a legitimate public interest. In view of the above considerations, the adoption of a model of litigation based on a subjective dispute is not as such incompatible with Article 9(3). However, taking into account the predominance of public interest in environmental litigation, it is for the national court to interpret, to the fullest extent possible, the procedural rules relating to the conditions to be met for bringing proceedings, in accordance with the objectives of Article 9(3) and of ensuring wide access to justice. Such rules should not make it effectively impossible for certain categories of 'members of the public', including, in particular, organisations, associations or groups genuinely promoting environmental protection and meeting any requirements under national law, from challenging a decision taken following an administrative procedure that may be contrary to EU environmental law. In that regard, the referring court might consider the relevance, for the interpretation of the rules on standing, of the recognition, in national law, of the right to every person to a 'safe and ecologically balanced environment'.

[34] Judgment of 11 April 2013, *Edwards and Pallikaropoulos* (C-260/11, EU:C:2013:221, paragraph 40).

[35] Aarhus Convention Implementation Guide, p. 198. As observed in academic writings, the issue of access to justice in environmental matters 'generally remained hotly debated almost until the end of negotiations', while the final text on that matter is a result of 'many compromise solutions between the very divergent views and objectives, and therefore reflects what was possible rather than what was needed or desired'. Jendroska, J., op. cit. footnote 16, pp. 398 and 407.

[36] Report by the Compliance Committee, ACCC/C/2006/18 (Denmark), point 30.

The standing of a law firm partnership to bring legal proceedings under Article 9(3)

64. With regard specifically to the standing of the applicant law firm partnership, it has to be recalled that the applicant claimed to bring an action on behalf of its members and in the public interest. It must be observed, however, that standing requirements are to be determined with regard to the applicant. As Ireland and, essentially, the Polish Government and the Commission considered, a national court should not be invited to look to the natural persons 'behind' an entity in order to establish standing. In general, the law may provide the conditions under which litigants are entitled to bring an action to defend the interests or rights of other persons or the public interest (associational standing or representative standing). [37] This does not appear to be the case, however, of the applicant in the main proceedings. Moreover, it does not appear from the file that the applicant has been empowered by its members or the residents of the affected region to bring an action in their name.

65. The national court also asks whether the members comprising that partnership can be recognised as having standing as a 'group' of persons. In that context, the applicant would seem to use the vehicle of a law firm partnership, in order to act as an ad hoc formation to promote the environment. If such persons wish to bring a claim as a 'group', then they would need to act in such capacity. Unless national law provides otherwise, it is only at the time of introducing an action as a 'group', that a court would be able to assess whether such a 'group' meets national requirements to be a member of the public and whether it can meet the criteria on standing in the light of the objective of ensuring wide access to justice.

66. In view of the above, I consider that in proceedings involving the breach of EU environmental law, Article 9(3) of the Aarhus Convention, read in the light of Article 47 of the Charter, does not preclude a provision of national law which makes the admissibility of an action of a law firm partnership conditional on proof of an interest of its own or on the fact that, by bringing the action, it seeks to protect a legal situation directly connected with the specific purpose for which that type of organisation was established. However, taking into account the predominance of public interest in environmental litigation, it is for the national court to interpret, to the fullest extent possible, the procedural rules relating to the conditions to be met for bringing proceedings, in accordance with the objectives of Article 9(3) and of ensuring wide access to justice. Such rules should not make it effectively impossible for certain categories of members of 'the public', including, in particular, organisations, associations or groups genuinely promoting environmental protection and meeting any requirements under national law, from challenging a decision taken following an administrative procedure that may be contrary to EU environmental law.

Third question

67. By its third question, the referring court asks, essentially, whether in proceedings involving the breach of EU environmental law, Article 9(3), (4) and (5) of the Aarhus Convention, read in the light of Article 47 of the Charter, must be interpreted as meaning that the requirement that certain judicial procedures provide 'adequate and effective remedies' and are 'not prohibitively expensive', presupposes specific rules and/or criteria to limit the costs that may be incurred by the unsuccessful party to the proceedings, in the sense that a national court or tribunal must

[37] See, in general, Cane, P., *Administrative law*, Oxford University Press, Oxford, 2011, p. 285 et seq., and Cadiet, L., Normand, J., and Amrani Mekki, S., *Théorie générale du procès*, PUF, 3rd edition, 2020, point 171 et seq.

ensure that the requirement that the not prohibitively expensive condition is met, taking into account both the interest of the person who wishes to defend his or her rights and the public interest in the protection of the environment.

68. In that regard, it follows from the reference for a preliminary ruling that the Romanian legislation, namely Articles 451 to 453 of the Code of Civil Procedure, provides a detailed breakdown of the costs of the proceedings and the various criteria that the court may use to reduce, on a reasoned basis, the lawyers' fees. However, the referring court expresses doubts as to whether the general criteria set out in national law contain sufficiently specific rules and conditions making it possible to assess and foresee the significant costs of disputes in environmental litigation. That is all the more so, the referring court states, in circumstances in which the action might be rejected as inadmissible due to absence of capacity to bring legal proceedings or a failure to meet the requirements of legal standing and legal interest. The referring court seeks, finally, to clarify whether the case-law of the Court regarding Article 11(4) of Directive 2011/92 on public participation, in the judgment in *North East Pylon Pressure Campaign and Sheehy*,[38] is applicable to Article 9(4) of the Aarhus Convention.

69. With regard, first of all, to the question regarding the application of the case-law on the interpretation of the not prohibitively expensive rule ('the NPE rule') laid down in Article 9(4) of the Aarhus Convention, the judgment in *North East Pylon Pressure Campaign and Sheehy* already provides the answer. In that judgment the Court held that Article 9(4), which specifies the characteristics that the procedures in question must have, in particular that they should not be prohibitively expensive, applies expressly both to the procedures referred to in paragraph 3 and to those referred, inter alia, in paragraph 2.[39]

70. Consequently, the NPE rule must be regarded as applicable to a procedure such as that at issue in the main proceedings which involves the application of Article 9(3).

71. Second, with regard to the criteria for the assessment of the costs and the consideration of the private interest as well as of the general interest to defend the environment, it should be stated, at the outset, that Article 3(8) of the Aarhus Convention expressly permits reasonable costs. Article 9(4) does not preclude an order for costs unless the amount is prohibitive.[40] As that provision does not contain any specific criteria, the assessment of the costs is not predetermined but depends on the circumstances of the individual case and of the national legal system.[41]

72. In its judgment in *Edwards and Pallikaropoulos*,[42] the Court identified relevant criteria for the assessment of the interpretation of the NPE rule. Those criteria point to a *global* and comprehensive assessment of the issue of excessive cost. More specifically, it follows from that judgment that the national court must take into account all the relevant provisions of national law, that it must consider both the interest of the person wishing to defend his or her rights and the public interest in the protection of the environment, and that the cost of proceedings must neither exceed the financial resources of the person concerned nor appear, in any event, to be

38 Judgment of 15 March 2018 (C-470/16, EU:C:2018:185).

39 Judgment of 15 March 2018, *North East Pylon Pressure Campaign and Sheehy* (C-470/16, EU:C:2018:185, paragraph 48).

40 Judgment of 16 July 2009, *Commission* v *Ireland* (C-427/07, EU:C:2009:457, paragraph 92), and Opinion of Advocate General Kokott in *Edwards* (C-260/11, EU:C:2012:645, point 34).

41 See, to that effect, Opinion of Advocate General Kokott in *Edwards* (C-260/11, EU:C:2012:645, point 36) with reference to various findings and recommendations of the Compliance Committee.

42 Judgment of 11 April 2013, *Edwards and Pallikaropoulos* (C-260/11, EU:C:2013:221).

objectively unreasonable.[43] With regard to the analysis of the financial situation of the person concerned, the national court may also take into account the situation of the parties concerned, whether the claimant has a reasonable prospect of success, the importance of what is at stake for the claimant and for the protection of the environment, the complexity of the relevant law and procedure and the potentially frivolous nature of the claim at its various stages.[44]

73. Moreover, the Court has held that the NPE rule pertains, in environmental matters, to the observance of the right to an effective remedy enshrined in Article 47 of the Charter, and to the principle of effectiveness, in accordance with which detailed procedural rules governing actions for safeguarding an individual's rights under EU law must not make it in practice impossible or excessively difficult to exercise rights conferred by EU law.[45]

74. Taking into account Article 47 of the Charter, the cost of bringing a challenge under the Aarhus Convention or to enforce EU environmental law should not be so expensive as to prevent the public from seeking review in appropriate cases.[46]

75. In the circumstances in the main proceedings, the national legislation does not provide for precise criteria applicable specifically to environmental litigation. Given the wide discretion Member States enjoy in the context of Article 9(4), the absence of a detailed determination of costs in environmental litigation cannot be considered as such incompatible with the NPE rule.

76. However, it follows from Article 3(1) of the Aarhus Convention that the Parties to that convention have to establish and maintain a 'clear, transparent and consistent framework' to implement the provisions of that convention. Moreover, it follows from Article 9(5) that the Parties are to consider the establishment of appropriate assistance mechanisms to remove or reduce financial and other barriers to access to justice. It is for the national court to verify whether the existing mechanisms in national law comply with those requirements and to give an interpretation of its national procedural law, which to the fullest extent possible, is consistent with the objectives laid down in Article 9(3) and (4) so that judicial procedures as a whole are not prohibitively expensive, taking into account the criteria set out in the case-law of the Court.[47]

77. It must also be pointed out that in the light of the global and comprehensive assessment the national court needs to carry out, in view of the criteria set out in the judgment in *Edwards and Pallikaropoulos*, the possible lack of standing of the applicant does not preclude as such the application of the NPE rule.

78. In view of the above, I consider that in proceedings involving the breach of EU environmental law, Article 9(3), (4) and (5) of the Aarhus Convention, read in the light of the first and second paragraphs of Article 47 of the Charter, must be interpreted as meaning that the requirement that certain judicial procedures provide 'adequate and effective remedies' and are 'not prohibitively expensive', does not presuppose specific rules and/or criteria to limit the costs that may be incurred by the unsuccessful party to the proceedings. However, it is for the national

[43] See, to that effect, judgment of 11 April 2013, *Edwards and Pallikaropoulos* (C-260/11, EU:C:2013:221, paragraphs 38 to 40).

[44] Ibid., paragraphs 41 and 42.

[45] Judgment of 11 April 2013, *Edwards and Pallikaropoulos* (C-260/11, EU:C:2013:221, paragraph 33).

[46] See, to that effect, judgment of 11 April 2013, *Edwards and Pallikaropoulos* (C-260/11, EU:C:2013:221, paragraph 34).

[47] See, to that effect, judgment of 15 March 2018, *North East Pylon Pressure Campaign and Sheehy* (C-470/16, EU:C:2018:185, paragraph 57).

court to give an interpretation of its national procedural law, which to the fullest extent possible is consistent with the objectives laid down in Article 9(3) and (4) of the Aarhus Convention, so that judicial procedures as a whole are not prohibitively expensive.

IV. Conclusion

79. In the light of all the foregoing considerations, I propose that the Court should answer the questions referred as follows:

(1) In proceedings involving the breach of EU environmental law, a law firm partnership can be considered as a member of 'the public', within the meaning of Article 2(4) of the Aarhus Convention, read in conjunction with Article 9(3) of that convention, in circumstances in which that law firm partnership does not rely on the infringement of any right or interest specific to that entity, but rather on the infringement of the rights and interests of the natural persons, namely the lawyers comprising that partnership. The natural persons comprising that law firm partnership may be considered as forming a 'group' of natural persons acting through an association or organisation within the meaning of those provisions, provided that the requirements set out by national law or practice are met. However, those requirements must ensure wide access to justice.

(2) In proceedings involving the breach of EU environmental law, Article 9(3) of the Aarhus Convention, read in the light of Article 47 of the Charter, does not preclude a provision of national law which makes the admissibility of an action of a law firm partnership conditional on proof of an interest of its own or on the fact that, by bringing the action, it seeks to protect a legal situation directly connected with the specific purpose for which that type of organisation was established. However, taking into account the predominance of public interest in environmental litigation, it is for the national court to interpret, to the fullest extent possible, the procedural rules relating to the conditions to be met for bringing proceedings, in accordance with the objectives of Article 9(3) and of ensuring wide access to justice. Such rules should not make it effectively impossible for certain categories of 'members of the public', including, in particular, organisations, associations or groups genuinely promoting environmental protection and meeting any requirements under national law, from challenging a decision taken following an administrative procedure that may be contrary to EU environmental law.

(3) In proceedings involving the breach of EU environmental law, Article 9(3), (4) and (5) of the Aarhus Convention, read in the light of the first and second paragraphs of Article 47 of the Charter, must be interpreted as meaning that the requirement that certain judicial procedures provide 'adequate and effective remedies' and are 'not prohibitively expensive', does not presuppose specific rules and/or criteria to limit the costs that may be incurred by the unsuccessful party to the proceedings. However, it is for the national court to give an interpretation of its national procedural law, which to the fullest extent possible is consistent with the objectives laid down in Article 9(3) and (4) of the Aarhus Convention, so that judicial procedures as a whole are not prohibitively expensive.