SHORT BROCHURE FOR GOOD PRACTICES FOR ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS

SHORT BROCHURE FOR GOOD PRACTICES FOR ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS

February, 2020
Center for Environmental Democracy FLOROZON
Project: Equal Access for Effective Justice

"The legal state is the air we breathe"

Gustav Radbruch

CONTENTS

1. Introduction

This publication aims to provide a brief review of the worldwide situation as well as the region, concerning access to justice in the envrionemntal area. It provides directions for strengthening the influence of the civil society in the effective reforms within the judicial sector, in accordance to the international standards, and the standards of the European Union, with a goal to rate the efficacy of the legal sector via collaboration with the civil society organizations.

The document is prepared by a team of experts, engaged within the project "Equal Access for Effective Justice", implemented by the Citizens' Association Center for Environmental Democracy FLOROZON from Skopje, in partnership with Environmental Law and Management Association EMLA from Hungary. The project is financed by the European Union through the grant scheme within CFCD, Ministry of Finance – Strengthening the impact of the civil society in effective justice sector reforms EuropeAid/159467/ID/ ACT/MK, number of contract 12-6208/1.

The project is in accordance to Priority 2 of the aforementioned call, and the action is based upon the conclusions of the new strategy for judicial sector reform (the Strategy) with the Action plan 2017-2022, adopted by the Government of the Republic of North Macedonia, which corresponds with the last reports by the European Comission, concerning the country's progress. More specifically, the project deals with strengthening the capacities of the local and national organizations, relevant state institutions in the area of justice and protection of the basic human rights in participative and democratic manner, via promotion of the mechanism of free legal aid.

The right to a clean environment is guaranteed by more than 100 consitutions throughout the world according to the United Nation's Program for environment as "each proclamation of the environment with a certain quality as a human right". According to the Program's definition, the rights from the environmental area can be essential and procedural. While the essential rights relate to the possibility of protection from the consequences which the environment's degradation has over the civil and political rights, the right of life and freedom of expression, the cultural and social rights, such as the right of health, water, food and culture, the procedural rights are a crucial precondition for exercising the firstmentioned type of rights. They represent a key point of intersection of the rights from the area of environment and the area of human rights - they foresee formal steps in the process of defending the human rights.

The right of seeking previous, informed consent by the citizens, access to information, participation in decision-making processes and access to justice are all procedural rights.

2. Access to justice (Aarhus Convention) and free legal aid

The effective access to justice is a key determinant for sustainable development, citizens' wellbeing and stable public administration. According to the Organization for Economic Cooperation and Development1, the rule of law, legal security and access to effective justice, all have an impact on the economic performances of the states, measured via the increased gross domestic product.

The connectivity of the access to justice, exercise of the human rights and development is also emphasized in the UN's Sustainable Development Goals adopted in 2016. As a result of the needs and commitments of the UN members, a special development goal was introduced, goal number 16: Peace, justice and stable institutions, namely no. 16.3: Promotion of rule of law on national and international level and ensure equal access to justice for all.

The access to justice is exceptionally important and represents an essential component of rule of law. The access to justice is also exceptionally important in cases of ineffective or inaccessible justice, injustice with negative impact over individuals and society, but it is also important for

1 Organization for Economic Cooperation and Development (OECD): www.oecd.org

the economic development. Unfulfilling the legal needs of the citizens can have negative effects in the other areas of their life, especially within the vulnerable groups.

The access to justice concerning environmental affairs means that people can go to court, seek judicial protection if the public institutions don't respect the rights and don't fulfill the obligations deriving from international documents, the Constitution and the national legislation concerning environmental protection. The public authorities must meet certain requirements for access to information connected to the environment, public consultation, condition check, preparation of plans for environmental protection and limiting the potentially harmful activities. The unresolved legal disputes in this area can lead to further legal, social and health problems and costs.

The access to justice represents a tool which enables the public to dispute the decisions adopted by the authorities. The right of access to justice in the area of environment gets greater importance on international level.

The Convention for access to information, public participation in decision-making and access to justice for questions connected to the environment, known as the Aarhus Convention, was signed on June 25th 1998 in the Danish city Aarhus and came into force in 2001. The Aarhus Convention is a multilateral treaty for environment protection, where the citizens' possibilities increase, namely it emphasizes the public interactions and the government for affairs that regulate the environment. This Convention enables strengthening of the position of the public and participation in the decision-making process, which leads to more ecologically responsible societies. Each side of the Convention has an obligation to promote the principles and develop a national report with consultative and transparent procedure. The Convention enables access of the public starting from the right for everyone to live in a healthy environment. The Aarhus Convention is based on three pillars:

The first pillar Access to information, guarantees the right of every citizen to get all-encompassing and easily accessible access to environmental information. The public authorities must provide all necessary information, to timely and transparently collect them and distribute them. The authorities may reject to do this in certain situations, for example in case of national defense.

The second pillar, participation of the public in adopting decisions, foresees that the public must be familiarized with all relevant projects and should be able to participate in the process of decision-making. This also strengthens the capacities of the decision-makers, it improves the quality of the ecological decisions, but also the procedural legitimacy of the procedures in the adoption.

The third pillar concerns the access to justice. Namely the public has the right to judicial and administrative procedures in cases when the state violates or does not act in accordance to the law of environment and the Convention's principles.

The Aarhus Convention foresaw the novelties in the international environmental law: connection of the ecological rights with the human rights, confirmation of the obligation towards the future generations, and determined that the sustainable development may only be reached through inclusion of all stakeholders, connection of the responsibility of the states and the environmental protection and interaction between the public and the public authorities.

The free legal aid is providing help for persons that are not able to afford legal representation and access to the judicial system, and is considered as central in providing access to justice through equality before the law, right of an attorney and fair trial.

3. Universal Declaration of human rights

On December 10th, 1948, the General Assembly of the UN adopted and proclaimed the Universal Declaration of Human Rights and called upon all parties to publish the text for all peoples and nations. Although with no obligatory character, the Declaration is directly or indirectly encompassed within countries' constitutions, thriving towards protection and guaranteeing of human rights.

The Declaration determines numerous rights which guarantee access to justice, with two conditions in which the individual could utilize the right to legal aid in the International pact for civil and political rights: firstly, in case of lack of financial means for providing legal representation and secondly, when the fulfillment of this right is in the interest of justice. Namely, in Article 7 the principles of equality before the law are proclaimed, as well as equal protection by law and equality in its implementation. With this interpretation of equality as a principle, the active role of the state and the affirmative action is understood.

4. International covenant on civil and political rights and International covenant for economic, social and cultural rights

Unlike the Universal declaration of human rights, the UN international legal instruments are binding. The broadest protection is provided with the International covenant for civil and political rights (1966) and the International covenant for economic, social and cultural rights (1966).

The international covenant for civil and political rights contains several rights: right to life (as the most basic human right), right of freedom and security, right of a fair trial etc. This document again emphasizes the principle of equality and the right to an effective legal remedy in case of violation of rights. Article 6 foresees that nobody can be arbitrary deprived of their life and that this right is protected by law. This represents an obligation for the states to respect and guarantee the right to life, via legislative and other measures, as well as providing efficient legal remedies and protection of this right. The general remark in relation of Article 6 to other articles of the Covenant, points out that: the degradation of the environment, climate change and the unsustainable development are several of the most serious threats to enjoying the right of life of present and future generations. It is a duty of member states to respect and provide the right to life to all according to this legislation. There is a duty for states to consult with other states, to provide notification to the other concerned states for natural disasters and emergency cases in which case mutual cooperation is necessary. Moreover, they provide appropriate access to information for dangers to the environment and pay due attention to the principle of precaution[2].

2 https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf (accessed on 05.06.2019)

5. UN Principles and guidelines on access to legal aid

In 2012, the General Assembly of the UN adopted the first international document in relation to provision of free legal aid or Principles and guidelines on access to legal aid, whereby all global standards for FLA were encompassed, because of which the UN call upon all states to adopt, enforce and promote the effectiveness of the free legal aid. The first principle says:

"Recognizing that legal aid is an essential element of a functioning criminal justice system that is based on the rule of law, a foundation for the enjoyment of other rights, including the right to a fair trial and an important safeguard that ensures fundamental fairness and public trust in the criminal justice process, States should guarantee the right to legal aid in their national legal systems at the highest possible level, including, where applicable, in the constitution."

6. Convention on international access to justice

The Convention on international access to justice was signed in 1980 in Hague, by member states[3] of the Hague Conference on private international law[4]. The Convention is the first international instrument which encompasses the regulation of access to justice and its judicial and other protection on a world level in more details, whereby it is protected as a right of all citizens or persons with regulated stay in an appropriate country, party to the Convention, but also in any state party to the Convention where a judicial procedure will start or has been started. The goal is to ensure that the status of a foreigner of lack of place of residence or stay, will not be a basis for discrimination in access to justice.

A citizen of any state party to the Convention, as well as persons with permanent residence in any of the parties, has a right to legal aid in judicial procedure relating to civil and trade disputes in any of the parties, under identical conditions as the citizens of that state.[5]

7. Human rights, access to justice and environment

Climate change is one of the biggest threats for human rights and presents a serious risk to the right of life, health, food and appropriate life standard of individuals and communities.

According to the High commissioner in the United Nations for human rights and environment, there are three main dimensions of the mutual connectivity between the human rights and the protection of the environment.[6]

- The environment as a precondition for enjoyment of human rights (obligations of the state should include a level of protection of the environment, necessary to enable wholesome application of the protected rights);
- Certain human rights, such as the access to information, participation in decision-making and access to justice, concerning the environmental affairs (which means that human rights must be conducted with a goal to protect the environment); and
- The right to a safe, healthy and ecologically balanced environment as a human right on its own. The Stockholm Declaration and the Declaration of Rio show how the correlation between the human rights, dignity and environment was emphasized in the early phases of the UN efforts for resolving the environmental problems.

3 Hague conference on private international law has 68 states-parties from the whole world, including RNM

4 More details on Hague conference on private international law and the integral Convention text on the internet page: http://www.hcch.net/index_ en.php?act=conventions.listing

5 https://assets.hcch.net/docs/a311a685-d6e7-41d4-8210-7c2b8c30429e.pdf (accessed on 05.06.2019)

6 Webpage of UN Special Rapporteur on human rights and the environment https://www. ohchr.org/EN/Issues/Environment/SREnvironment/Pages/SRenvironmentIndex.aspx

8. Council of Europe and the protection of environment

The Council of Europe places sustainable development highly on the agenda. Economic progress must not compromise the quality of environment and the landscapes, human rights and social equality, cultural diversity and democracy. The Council considers climate change as a most serious ecologic problem, it recognizes the implications over human rights and is active on two fronts: conservation of natural resources and biological diversity, but also the protection of diversity and vitality of cultures worldwide.

The Committee of ministers of CE of the Governing Committee for human rights has a task to work on human rights and environment. Following the work of the Parliamentary Assembly of the CE and the judicial practice of ECHR, the devotion to environmental affairs can be clearly seen. This is not only a fundamental right, but also a societal and individual obligation to the future generations to have healthy and sustainable environment. It is emphasized that part of the resources are unrenewable and the environmental degradation is often irreversible.[7]

CE has adopted a significantly large number of conventions, directives, regulative, recommendations etc., among which some are: Convention on the Conservation of European Wildlife and Natural Habitats 1979 (Berne convention), Convention on Civil Liability for Damage resulting from Activities Dangerous to the Environment and Convention on the Protection of Environment through Criminal Law 1998.

The Parliamentary Assembly adopts the Recommendation 1614 (2003) for environment and human rights and Recommendation 1431 (1999) for future activities that Council of Europe should overtake in the area of environmental protection, which suggested adding the component of environment in the ECHR. This Recommendation suggested adding «healthy and sustainable development as a basic human right" to the ECHR. Similarly, the Recommendation 1614 (2003)[8] for environment and human rights, the Parliamentary Assembly advocated the necessity of "recognizing the human right to a healthy, sustainable and decent environment which includes objective responsibility for countries to protect the environment in the national laws, preferably on a constitutional level". The Parliamentary Assembly, also proposed preparation of a protocol to the ECHR for protection of the environment, including the procedural rights based on the Aarhus Convention. These suggestions were denied by the Committee of Ministers. The Recommendation 1883 (2009) for the challenges connected to climate change, again caused the debate for an additional protocol to the ECHR, concerning the right to a healthy environment.

The PA in the Recommendation 1885 (2009) notices the practice in the area of environment developed by the European Court of Human Rights, and welcomes the publication of the Handbook for human rights and ecologic principles deriving of judicial practice within the ECHR from 1980 to 2005, published by the EC in 2006.

Republic of North Macedonia became the 38th member of the Council of Europe in 1995.[9] Since then, it actively cooperates with all bodies of the Council (Committee for torture prevention, Venice Commission, Commissioner for human rights etc.). In the 18 year lasting active cooperation of RNM with the Council of Europe, representatives of the governing institutions regularly and actively participate in the work of the executive, ad hoc committees and the committees of experts of the Council of Europe.[10]

7 Ottavio Quirico and Mouloud Boumghar (eds.): Climate change and human rights: an international and comparative law perspective, page 303

8 http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17131&lang=en

9 https://www.coe.int/mk/web/skopje/the-council-of-europe

10 http://mfa.gov.mk/index.php?option=com_content&view=article&id=124&Itemid=403&lang=mk

9. European Union and Aarhus Convention

According to the decision from the Court of Justice of the European Union in the case Etang de Berre11 by accession to the Union, the Aarhus Convention, rights and obligations deriving from it, becomes a part of the acquis communittaire and they commit the Union's institutions and its member states. In 2006, EU adopted special Regulative of the European parliament and the Council for application of provisions of the Aarhus Convention concerning the three pillars of the institutions and bodies of the Union.

Novelty in this act is that it enables "every civil association which fulfills the criteria from article 11 to have a right to seek for an internal revision by an institution or body of the Union which has adopted an administrative act from the legislation of the environment".

The internal audit enables the competent authorities to reconsider whether they have made the right decision by adopting a certain legal act in case they receive opposing views from the civil society associations.

10. EU directives concerning environment

Unlike international agreements, whereby environmental law is regulated in a general way, within the European Union each segment is specifically processed and regulated. In this regard, the EU has adopted several Directives that can be divided into three major subgroups:

- Environment directives
- Directives for pollution and waste
- Directives for wildlife and protection of nature

The environmental law on EU level covers several relevant sectors and areas of the environment such as: regulation of air quality, water, biodiversity protection, noise protection, regulation of chemical use, genetic modification of organisms, organic production, transport, forests, energy, climate change and the like.

The provisions of environmental law directly or indirectly affect other socio-legal areas.

EU legislation on air quality protection and promotion is composed of over 20 normative acts. This legal norm, although extensive and complex, completely regulates the interactions between human activities and the air as an environmental medium.

Water is one of the first sectors covered by EU environmental policies. The Directive of the European Parliament and of the Council of 2000 established a framework for the Union's action in the field of water policy.

Waste in the European Union is regulated by a network of hierarchically related directives in order to reduce the negative impact on human and environment and to encourage an energetic and resource efficient economy. The most important role is played by the Waste Framework Directive and the Packaging and Packaging Waste Directive.[12]

11 Case C – 239/03, Commission v. French Republic.
12 The list of adopted Directives by areas are given in Attachment 1

11. Legal framework in the neighborhood

11.1. Croatia

The Constitution of Croatia contains several provisions which mention the protection of environment. The Aarhus Convention is indirectly introduced in the domestic legal system, through transpositioning of the relevant legislative of EU. The basic act which regulates protection of the environment is the Law of protection of the environment. In Croatia the right of access to information about the environment, along with appropriate right of access to courts, is regulated with the Law of protection of the environment and Law on the right of access to information.

Administrative decisions for protection of the environment from first instance are adopted by central or regional/state organs or other public bodies, depending on the question. There is a possibility for submitting a complaint to the higher administrative body, except if the complaint is excluded by law, or there isn't a higher body. The procedure for administrative complaint is regulated by the Law on administrative procedure. The administrative courts are examining cases against the public organs, which gives them an important role in the area of protection of the environment. The right of judicial revision against individual administrative decisions is guaranteed by the Croatian Constitution. Right of access to information possessed by public organs is guaranteed by Croatian Constitution. Access to information about the environment is regulated with a great number of laws.

The users of the right to information are excluded from payment of administrative expenses and fees in procedures before public organs, which also concern the complaint procedure.

A non-governmental organization has allowed legal interest in the procedures regulated by the Law for protection of the environment, which foresees participation of the public concerned, if the organization is registered in accordance to special regulations which control the work of associations and if the protection of the environment, the protection of the human health and protection or rational use of natural resources is confirmed as a goal within the Statute.

Individuals have a right to submit a complaint if they can prove a violation of their right because of their location and/or the nature and influence of the project and if they participated in the procedure as concerned public.

Administrative courts are responsible for treatment and trial of administrative disputes, they assess the legality of administrative decisions which the public authorities use to decide for the rights, obligations and legal interests of the party in administrative affairs and legality of other acts which violated the law, obligation or legal interest of the party.

According to the constitutional judicial practice of the Administrative court of Croatia, citizens which live or work in an area where it is possible or probable that there may be negative effects over the environment and whose interest for conserving the quality of the environment may be affected by a certain project, have a right to participate in the procedure for assessment of the impact over the environment, also individually or organized as registered associations, groups of individuals or populated areas.[13] They also have a right to initiate administrative dispute before the administrative court against the decision adopted in the assessment of the impact over the environment with a goal to protect their rights or direct personal interests based on the law.[14]

Any person that considers their rights or legal interest have been violated, has the right to dispute the administrative decision, based on the Law on administrative disputes.

The 2007 Environmental Protection Law limited the right to challenge the administrative decision only to those persons that participated in the procedure as affected public and that may prove a violation of their right due to location and/or nature and the impact of the project (both

13 Cases: Us1149 / 97, Us-89/01
14 Case: US-7555 / 2004-5

conditions must be met). Therefore, the general rules of the Law on Administrative Disputes are more favorable than the rules of the Law on Protection of the environment. The criteria for NGOs are the same as described for administrative review.

Court proceedings in cases related to environmental protection are urgent. However, urgency applies only to proceedings initiated in accordance with the Law on environment. For example, if the lawsuit is filed in accordance with the Law on Protection of nature, the principle of urgency does not apply, even when the lawsuit is filed for the purpose of Environmental Protection.

The law does not stipulate deadlines in which the court has to decide on the case, so interpretation of the term "urgent" in proceedings initiated in accordance with the Law on Protection of the environment, usually remains at the discretion of the court. The courts should have clear instructions regarding the importance of the principle of urgency. They would include setting up the deadlines for issuing a preliminary ban, scheduling hearings, as well as for court verdict.

11.2 Kosovo

The Law on Environment in Kosovo[15] is based on three sources: the Constitution, the laws adopted by the Assembly and the bylaws adopted on environmental issues. The 2008 constitution defines environmental protection as one of the fundamental values. The right to a healthy environment is not guaranteed, however Article 52 provides that the protection of nature and biodiversity, the environment and national heritage are the responsibility of all, which presupposes the public interest and entitles everyone to "be heard by the public institutions and consider their views on issues that affect the environment", which means that the principle of public participation by the Aarhus Convention is used.

Article 22 explicitly states the direct application of some key international human rights treaties, which prevail over domestic law. There are a number of important environmental laws in force.

Kosovo has not yet ratified the Aarhus Convention and that is why it does not apply directly. So far, only the Constitutional Court has made a recommendation for the Aarhus Convention in the case, Hoxha et.al vs. Municipal Assembly in Prizren, a case in which the Municipality did not consult the citizens in the revision of the Municipal urban plan.

Environmental disputes could be disputes in administrative or civil law, so they would have the opportunity to be cases that would be referred to under the Law on Mediation.

With regard to environmental issues and administrative review, sectorial environmental laws do not guarantee the public the right to challenge the substantive and/or procedural legality of environmental administrative decisions. The Law on Environmental Protection gives only the right to submit a request to the competent court or public body requesting appropriate implementation of a law or bylaw. It is a precondition for all natural and legal persons to suffer material damage or to be under serious threat of suffering for material damage that may be attributed to a certain activity or source of pollution in violation of the law or by a bylaw issued under the current law. However, the law does not provide a part for the protection of the right to health and healthy environment.

The public (individuals, groups of individuals, non-governmental organizations, other entities) has the right to challenge acts/omissions by private persons and public bodies in an administrative procedure, "which are contrary to the provisions of the law relating to the environment" (Article 9 paragraph 3 of the Aarhus Convention). Citizens are allowed to perform this role in a way that they may file an administrative complaint with the administrative body/agency.[16]

Environmental disputes are complex and may involve private individuals, the general public, several regulatory powers and special interests. In the case of a judicial review of an administrative

15 Region under the administration of the United Nations, Security Council Resolution 1244 (1999)

16 http://www.unece.org/fileadmin/DAM/env/pp/a.to.j/AnalyticalStudies/SEE_Access2Justice_Study_Final_logos.pdf

act related to the environment, the jurisdiction belongs to the Administrative Department of the Basic Court in Pristina.

There are three types of court proceedings that can be initiated when an appeal is submitted against the environment, i.e.: (1) The administrative court procedure before the Basic Court in Pristina; (2) The civil court procedure before the Basic Court; (3) The procedure of the Constitutional Court based on the individual constitutional lawsuit for the right of access to information concerning the environment or alleged violation of the right to public participation.

Judges are not sufficiently familiar and experienced with environmental legislation. There are no advisory opinions of the Supreme Court on environmental issues, and it is not possible to involve experts in court proceedings in cases that concern the environment. The courts have no responsibility to investigate details of the case, the burden of proof falls upon the parties.

The Basic Law on Access to Official Documents guarantees the right of every natural and legal person to have access upon prior request, to official documents retained, prepared or received by public institutions, without discrimination on any grounds. The law applies to all institutions at central and local levels, including the courts. The right of access to information is also provided by the Law on Environmental Protection.

The Law itself in Article 54 stipulates that all natural and legal persons should be informed about the state of the environment and participate in the decision-making process. According to the Law, information on environment is all information in written, visual, electronic or other form, about the state of the elements of the environment, measures, reports, analysis of costs and benefits and the state of human health.

The Law on Access to Information does not provide rules regarding available legal remedies in the event that a request for environmental information is rejected. According to the Law on Administrative Procedure, "any interested party has the right to appeal against an administrative act or against an illegal refusal to issue an administrative act."

Lack of legal awareness of administrative or judicial audit may be the main reason for rejecting requests for access to environmental information. Other reasons include a lack of legal skills to formulate administrative grievances, a lack of financial resources to hire a legal representative, and inadequate or insufficient free legal aid to appropriate centers to help those willing to challenge the decisions of administrative bodies in regards to access to environmental information.

As for the costs of the procedure, there are no financial implications/costs associated with the administrative complaint on environmental issues. Tariffs for legal advice have been set by the Kosovo's Chamber of Lawyers. Legal representation in the administrative appeal procedure is not mandatory. The cost of litigation has a significant impact on the decisions of potential parties on whether to sue and how to resolve the dispute.

It can be concluded that the main practical challenges associated with processing cases related to the environment are:

Lack of legal awareness among individuals and NGOs about the possibility of appeal on administrative decisions;

Lack of FLA mechanisms to support individuals or NGOs to submit administrative appeals in accordance with applicable law;

Lack of competent lawyers/legal specialists to deal with administrative environmental complaints;

Lack of specialized courses in the field of environmental law at the level of higher education to develop students' legal skills in referring to environmental issues in administrative or judicial bodies.

It should be noted that there are a small number of cases when a non-governmental organization acting as a plaintiff filed a lawsuit before the court on behalf of the public interest. Some of the

challenges include the risk of recurrence of environmental damage when a court ruling cannot be performed.

11.3 Bosnia and Herzegovina

Higher and lower government levels in Bosnia and Herzegovina operate interdependently. At the state level are the legislature, the executive and the judiciary, while the lower levels of government operate within separate administrative units - the two entities in the Federation of Bosnia and Herzegovina and Republic of Srpska, as well as in the Brcko district of Bosnia and Herzegovina. The country remains administratively divided into ten cantons, unlike Republic of Srpska.

Environmental protection is made possible through a variety of legal protections, including administrative law, in particular the Aarhus Convention and the Law on Environmental Protection, as well as criminal law, the Law on Misdemeanors and Civil Law. The implementation of the Aarhus Convention and the freedom of information acts are mandatory since the date of ratification.

The right of free access to information allows any person to have access to information controlled by public authorities, in accordance with the public interest, given that they represent the public good and that public access to information promotes greater transparency and accountability of these authorities in relation to the Aarhus Convention and the laws of the environment, i.e. information concerning the environment.

The greatest attention in environmental protection regulations is focused on the right of access to information and due to almost all collected verdicts of the courts in Bosnia in 2012 (Judicial and District Courts in RS, 31 and the Court of Appeals and the Basic Court in BD) refer to the implementation of the Law on free access to information. It is necessary to discuss the use of legal remedies for accessing decisions to inform the competent authorities.

Finally, the Aarhus Convention in its third pillar provides for the right of access to justice through proceedings, to challenge actions and omissions by private individuals and public bodies that are contrary to the provisions. The legal instruments related to this provision are given in the civil procedure laws adopted in Bosnia, as well as in the Law on contractual relations. It is also important to note that the Law on civil procedure of Republic of Srpska in its amendments from 2013 introduced the idea of a lawsuit for protection of the common/public interest. Thus associations, bodies, institutions or others organizations established with the law that protects the legally prescribed collective of the interests and rights of the citizens, as part of their register of legally prescribed activities, may, when the body explicitly prescribes with a special law and under conditions determined by that law, submit a lawsuit for protection of the joint/public interest and rights against a private person or legal entity which, with a certain activity and work in general, by action or omission, seriously violates or endangers such common interests and rights.

11.4 Albania

The Constitution of the Republic of Albania, as well as a number of laws, regulate issues related to environmental protection. Since signing the Convention by Albania in 1998 until its ratification in 2001, many measures have been taken to intensify the implementation of the envisaged requirements.

Individuals, groups and NGOs have the right to appeal directly to the Court only if so provided by law.

There is no fundamental difference between the conditions for the legal position of individuals and for non-governmental organizations. The public has the right to challenge the substantive

and procedural legality of decisions in administrative proceedings. There is no guaranteed actio popularis in national legislation.

The bodies for consideration in the administrative procedure can undertake the following activities: a) confirmation of the validity of the act and rejection of the appeal; b) revocation of the act and approval of the appeal; c) change of the administrative act.

There are a number of shortcomings in Albanian legislation that indirectly affect preventing the public from acting upon them. These include:

- Lack of adequate information for the public (individuals and NGOs) in regards to the right to appeal environmental decisions and limited popular knowledge of rights;
- Lack of free legal aid provided by the state (except in criminal cases);
- Lack of lawyers for representing cases of public interest;
- Lack of environmental training modules for students/young lawyers.

From a legal point of view, legal remedies in cases of challenging court decisions/acts and other bodies are appropriate. The main obstacles that limit the application of court bans on environmental issues are the discretion right of judges which do not have adequate knowledge of environmental law, there is a lack of judicial independence, improper enforcement of judicial bans and the like.

When it comes to the financial costs related to an administrative appeal (in relation to the cases covered by Article 9, paragraphs 1, 2 and 3), the Albanian legislation does not envisage any costs in relation to the administrative complaint on environmental issues. Legal representation in the administrative appeal procedure is not mandatory. Typical non-administrative and out-of-court costs (outside any procedure) for environmental cases in preparation for a better administrative appeal procedure are: representative, scientific expertise and evidence collection costs.

As for court fees and other costs related to the consideration of the case in court proceedings, the amount does not depend on whether the plaintiff is a natural person, a group of individuals, a non-governmental organization or another entity, does not depend on the type of case or the type of court procedure. It depends on the so-called case value.

The court costs related to the execution of various pieces of evidence, the participation of experts and witnesses during the review are up to the party requesting the evidence, the involvement of experts or witnesses.

There is no free legal aid in Albania. There is no such opportunity for individuals/NGOs to receive FLA on environmental issues. Environmental NGOs do not receive budget funds to use them in litigation.

The main obstacles to access to justice in the environment in Albania include:

- high court costs;
- high fees for plaintiffs;
- lack of funds to cover the costs for lawyers and experts;
- lack of free legal aid provided by the state (except in criminal cases);
- lack of awareness and knowledge of the Aarhus Convention among the judiciary;
- lack of lawyers which will represent the public interest;
- absence of sanction in the legislation in cases when information is not provided;
- absence of clear legal procedures (legal steps to be followed and institutions to be resolved) in case of administrative lawsuits;
- absence of qualified staff/employees in government institutions in the field of environment;

- absence of time limit for environmental permits.

11.5 Aarhus Convention within the region

Republic of North Macedonia, Albania, Bosnia and Herzegovina, Croatia, Montenegro and Serbia ratified the Aarhus Convention. State authorities do not directly apply it, partly due to the need of harmonizing national implementation law (Albania, Montenegro), partly for practical reasons, but also due to questionable interpretation of the constitutional provisions for the direct applicability of international conventions.

In Bosnia and Herzegovina and RNM, international law is considered superior to domestic law, as a result of which, the public authorities are in a position to apply the Convention directly. However, in practice there aren't many examples of this happening. In Serbia, international norms are also an integral part of the domestic legal system and are as such directly applicable.

11.6 Development of Macedonian policies and legislation

National norms should be in line with international and regional standards. International and regional mechanisms provide legal protection when all national remedies/opportunities are exhausted.

The Republic of North Macedonia, as a member state of the UN and the Council of Europe, has ratified the international documents and they, in accordance with Article 118 of the Constitution, are an integral part of the domestic legal system. With ratification, the state undertakes to respect, protect and guarantee human rights incorporated into domestic law.

Respect for the rule of law means that the state refrains from interfering in the enjoyment of rights. To protect the rights means that the state enacts and enforces laws that create mechanisms, institutions and procedures that prevent the violation of rights by state authorities or other entities. This protection should be equally provided to all. To guarantee the right means that the state takes active measures and provides resources (coordination, promotion and provision of all conditions for fulfillment) in order to enable people to enjoy their rights.

With a goal to provide the best practice from the neighborhood and the region, subject of analyses here will only be international mechanisms at disposal for RNM citizens, and not national.

11.7 Aarhus complaint mechanism

The possibility of filing appeals under the Aarhus Convention should also be mentioned. The Aarhus Convention Mechanism is one of the few international environmental instruments that allows members of the public to express their concerns directly to an independent panel of experts. The Compliance Committee has a mandate to investigate allegations in the case, may make recommendations, or meet the signatories directly to the affected party. The Committee may also consider reconciliation issues on its own initiative and make recommendations; prepare reports on compliance or implementation of the provisions of the Convention; provide advice or facilitate individual assistance.

Until this moment there are no cases before the Committee from our country.

11.8 Convention on Conservation of European Wildlife and Natural Habitat (Berne Convention)

Another international mechanism used in R N Macedonia is the Convention on Conservation of European Wildlife and Natural Habitat, ratified in 1997. The Balkan lynx (Lynx lynx balcanicus) is included in Appendix 2 of the Berne Convention, which is a major recognition and a step forward in protecting this critically endangered animal that is only present in the Balkans.

In 2013, an independent expert within the Appeals Mechanism within the European bank for reconstruction and development that financially supports this project, published findings confirming that the ecological study for Boshkov Most is not complete, because it lacks significant data. The expert confirmed that when deciding on financial support for the project, the bank violated its environmental procedures. The Standing Committee of the Berne Convention requested by the Government of the Republic of N. Macedonia to immediately suspend construction of small hydropower plants in the Mavrovo National Park, report environmental civil society organizations from the Republic of North Macedonia.

At the same time, there is an initiative for suspension of HPP Ribnichka, Jadovska and Zirovnichka I and II, for which concessions were approved in 2015, and construction of which has not yet begun. Until now, on the territory of NP Mavrovo from 2010 to 2017 four new small hydropower plants were built on the Tresonechka, Galichka, Kakachka and Belichica rivers.

11.9 Regional mechanisms for judicial protection available for RNM citizens

The European Court of Human Rights is a mechanism that can be used if all legal remedies in the home country have been exhausted, and if the state has ratified the Convention. Our country has ratified the Convention, the use of which requires a specific violation of a particular article.

The Convention distinguishes between two types of appeals: individual - filed by a person, a group of individuals, a company or a non-governmental organization, which lodges appeals for violation of rights, and an inter-state appeal - filed by one country against another. Since the establishment of the Court, almost all appeals have been lodged by individuals that have addressed their cases directly to the Court, being considered victims of one or more violations of the Convention.

Complaints can be filed directly by individuals. The help of a lawyer is not necessary at the beginning of the procedure. It is sufficient to send correctly completed application form to the Court, as well as the necessary documents concerning the appeal. However, the registration of an appeal by the Court does not guarantee that the appeal will be admissible or that the matter in question will be substantiated. The Convention system provides an “easy” access to the Court, allowing each individual to appeal, even if he or she lives in a remote region of the member state or if he or she does not have any financial resources.

Having in mind the aforementioned, there are no fees for a procedure before the Court.

Complaints must meet a number of criteria so that they can be declared admissible by the Court. Otherwise, the appeals will not be considered at all. The applicant must have been, personally and directly, a victim of the Convention’s violations and must have suffered significant damage. Of course, it should not be forgotten that appeals may be lodged only against one or more states - parties to the Convention, and not against any other State or individual.

Non-governmental organizations as well as states, have the right to appeal. In addition, they may be allowed by the President of the Court to intervene in the proceedings as a third party. The President of the Court may allow another person other than the applicant, as well as any state a party to the Convention, other than that to which the appeal is lodged, to intervene in the

proceedings. This situation is called third party intervention. The person or state in question has the right to deliver submissions and participate in public hearings.

When the Court receives a particular appeal, it may decide that the state against which it is lodged, shall take certain interim measures, and in the meantime the Court shall consider the case. These measures usually consist of a request to the state to refrain from carrying out certain actions.

Some complaints may be qualified as urgent and their resolution is a priority. This is the situation in cases where there are allegations by the applicant that he or she is in imminent danger of physical injury.

With regard to the case law of the European Court of Human Rights, where there is a connection between environmental protection with the right to life and other rights, such as the right to protection of private and family life, the right to an effective remedy, the following cases are interesting:

- L'Erabliere A.S.B.L. v.s. Belgium. Procedure of the non-governmental environmental organization that disputes the urban planning permit, rejected because it does not describe the facts of the case, but the court knew the facts from a previous court procedure.
- Locascia and Others v.s. Italy (no. 35648/10) launched by 19 applicants, living in the municipalities of Caserta and San Nicola La Strada under Article 2 and Article 8 of the Convention, which are complaining on the risk upon their health and obstruction of enjoyment in private life and home because activities from the factory LO Utaro and the failure of the authorities to provide cleaning after the factory closed. This case is ongoing.
- Cordella and Others v.s. Italy (no. 54414/13) (52 applicants) and Ambrogi Melle and Others v.s. Italy (no. 54264/15) (130 applicants). These applicants, which live near Taranto, claim that the authorities have failed to take appropriate measures to protect the environment and the health of individuals, and call upon violation of Articles 2, 8 and 13 of the Convention. This case is ongoing.

12. Judicial practice in europe with a focus on environment and free legal aid

12.1 Development of judicial practice

Under the UN, if a state violates the rights of its citizens, they can individually or collectively file complaints about violations of their rights protected by the optional protocols of some of the conventions: to the Human Rights Committee guaranteed by the International Covenant on Civil and Political Rights; to the Committee on the Elimination of All Forms of Racial Discrimination for the rights guaranteed by the Convention on Elimination of All Forms of Racial Discrimination; to the Committee on the Elimination of Discrimination against Women of the rights guaranteed by the he Convention on the Elimination of All Forms of Discrimination against Women; to the Committee against Torture on the rights guaranteed by the Convention against Torture; to the Committee on the Rights of the Child on the rights guaranteed by the Convention on the Rights of the Child; to the Committee on the Rights of Persons with Disabilities in accordance with the Convention on the Rights of Persons with Disabilities and the like. Under the Aarhus Convention it is the Coordinating Committee or the so-called Aarhus Appeals Committee. We can see these procedures as out-of-court mechanisms. On the other hand, there are two key regional judicial mechanisms that guarantee access to justice for citizens of European Union member states and Council of Europe member states.

12.2 European Court of Justice

The Court of Justice of the European Union[17] is competent to monitor whether EU law is equally interpreted and applied in each of the member states. In other words, if the EU laws are identical for all parties and in all circumstances. To this end, the Court examines the legal side of the actions of EU institutions, examines whether member states are fulfilling their obligations and interprets EU laws at the request of national courts.

The Court has the power to resolve legal disputes between member states, EU institutions, businesses and individuals. In order to deal with the thousands of cases it receives, the Court is divided into two main bodies: the Court of Rights, which deals with claims for preliminary judgments obtained by national courts, certain acts of annulment and appeals, and the General Court, which rules on all actions for annulment initiated by individuals and companies, as well as some similar proceedings initiated by member states. The tribunal, which is a special tribunal, is adjudicating in disputes between the EU and its officials.

12.3 Court of Justice and implementation of the Aarhus Convention

The analysis so far shows that even on European level, access to justice in environmental cases contains several major shortcomings, especially at the level of national courts[18] which are not always able to support the judicial protection system present at EU level for direct environmental activities.

Faced with the highly conservative approach of EU courts to admissibility requirements, a solution proposed by several European researchers would be an amendment to Article 263 (4) of the EU Treaty in order to provide better access to justice in cases of environment at EU level.[19] In fact, with the adoption of the Aarhus Convention, EU legislation in some ways bypasses the

17 „Description of European Union – How does European Union work", European Commission, 2012

18 According to Article 216 of EU Treaty, EU Courts are obliged to international contracts EU signs

19 Research Articles: Access to Justice in Environmental Cases after the Rulings of the Court of Justice of 13 January 2015: Kafka Revisited?, Hendrik Schoukens https://www.utrechtjournal.org/articles/10.5334/ujiel.di/

difficult procedure of changing articles of the EU Treaty, only to provide wider access to justice in environmental cases.

By refusing to use the Aarhus Convention as a reference criterion for review of the legality of the Aarhus regulation, ECJ annulled expectations from those who believed that EU judges would finally be ready to leave, according to expert public, the outdated Plaumanov approach in environmental cases.

According to the expert public, the ECJ has decided to ignore Article 9 (3)[20] of the Aarhus Convention, despite explicitly referring to the latest provision in the Aarhus Regulation. The indirect result of this is that it has limited the relevance of the Aarhus Regulation of decisions that are capable of influencing the interests of the recipients of those decisions, thereby the administrative audit for most of the EU acts in the field of environment.

Harsh critics argue that ECJ judgments should be classified as a significant step backwards for judicial protection in environmental issues at EU level.

12.4 European Court for Human Rights

The European Court of Human Rights was established in 1959 and regulates individual or state claims for alleged violations of civil and political rights set out in the European Convention on Human Rights. It has been working full time since 1998 and individuals can contact it directly. In almost fifty years, the Court has handed down more than 10,000 judgments. They are committed to the countries concerned and have forced governments to change their legislation and administrative practice. The Court's practice makes the Convention a powerful tool for meeting new challenges and strengthening the rule of law and democracy in Europe.

How to submit an application to the European Court of Human Rights[21].

The official languages of the European Court of Human Rights are English and French, but the party may apply in writing to the secretariat in the official language of one of the states that have ratified the Convention. The complaint form is completed and signed by the applicant and his/her representative is required to initiate proceedings. If the complaint is filed by e-mail or fax, the paper application form should be delivered by mail. But first it is important to exhaust domestic remedies. Below are some relevant cases from the Court.

12.5 Compliance Committee on the Aarhus Convention

The right of access to justice is a term that describes the third pillar of the Aarhus Convention and it also implies the right to a remedy. With regard to the third pillar of the AC, this right refers to a possible overview of the decisions taken by the relevant secondary authorities, through the use of remedies, in connection with the first two pillars of the Aarhus Convention - the right of access to information and the right of the public to participate decision making. This is also important when it comes to re-examination of procedures upon acts and omissions by private persons and public bodies contrary to the provisions from their national environmental legislation. The right of access to justice represents the right of access to available legal remedies before a court of law or another independent and impartial body established by law.

In 2002 at the first meeting of the signatory countries in Luke, Italy, a decision was adopted which established a mechanism for the implementation of the provisions of the Convention - the Aarhus compliance mechanism. The body is defined as "non-confrontational, non-judgmental and of consultative nature, in order to consider compliance with the provisions of this Convention".

20 Article 9, paragraph 3, of Aarhus Convention Each party will try, the subjects of the public (that satisfy the criteria posted in the national Law, if existant) to have access to administrative or court procedures for contesting the acts and ommissions by physical persons and public authorities, contrary to the procisions by national law of the party, concerning the environment.

21 https://www.echr.coe.int/Documents/Handbook_access_justice_ENG.pdf

This indicates that its goal is not to resolve disputes against certain states, but to help in identification of deficiencies in the transposition and implementation of the Convention and to make recommendations for their annulment.

The Convention has a single mechanism for verifying compliance, which may be activated in four ways:

1. The Party (the country signatory to the Convention) shall submit a request for its own compliance with the Convention;
2. The Party (the country signatory to the Convention) shall submit a request concerning compliance of the another party (country signatory to the Convention);
3. The Secretariat of the Convention shall refer to the Committee, i.e. submit report; or
4. A member of the public may file a complaint against a signatory country of the Convention

The Aarhus Compliance Committee has 3 main functions:

1. To review all complaints, reports or communications;
2. To prepare a report regarding transposing and implementing the Convention in certain signatory countries upon request of the Meeting of the Parties;
3. To observe, evaluate and enable the transposition and implementation of the Convention within the signatory countries.

The legal power of the Aarhus Compliance Committee is that after the report and the recommendations of the Committee, the Meeting of the parties may take appropriate measures to achieve this full compliance.

One of the ways in which proceedings can be instituted before the Aarhus Compliance Committee is submission of communication (complaint) by the public. This legal option is available for any natural or legal person, including civil society organizations.

The public can communicate on several grounds:

- General institutional shortcoming - the signatory country does not take the necessary steps in legislative, regulatory or other measures required for the implementation of Convention in accordance with Article 3, paragraph 1;
- Failure to meet the specific objectives of the Convention - the signatory country undertakes certain legislative, regulatory or other measures to implement the Convention which does not achieve its goals; and
- Specific violation of a right or obligation under the Convention - a signatory country takes specific action that violates a specific provision.

12.6 UNECE - UN Economic Commission for Europe

UNECE's concern for environmental issues dates back to 1971, when a group of senior UNECE government advisers has been formed on issues related to environment, which led to the establishment of the Committee on Environmental Policy, which now meets once a year.

Its main goal is to assess countries' efforts to reduce the burden from pollution and natural resource management, to integrate environmental and socio-economic policies, to harmonize the conditions and policies of the environment in the region and encourage public involvement in relation to the environment and decision making.

The committee is the overall governing body of UNECE's environmental activities. The work of the Committee is based on several strategic pillars:

- providing a secretariat for the "Environment for Europe" process and participation in the regional promotion of Agenda 21;
- development and implementation of the UNECE Environmental Assessment Guidelines in non-OECD UNECE countries;
- monitoring UNECE activities for monitoring, evaluation and reporting environment;
- increasing the overall effectiveness of multilateral UNECE environment contracts, and facilitate the exchange of experiences for the implementation of Multilateral Environmental Agreements: ESPO Convention, Aarhus Convention, Convention on Long-Range Transboundary Air Pollution, Convention on the Protection and Use of Transboundary Watercourses and International Lakes and the Convention on the Transboundary Consequences of Industrial Accidents.
- participation and/or facilitation of the exchange of experiences in a number of inter-sectorial activities undertaken under the auspices of UNECE (for example, education for sustainable development, transport, health and the environment, green construction) or in partnership with other organizations (e.g. security initiative, European protection process environment and health).

13. Judicial practice from national courts from worldwide and European countries

13.1 Judicial practice in Armenia

Teghout case October 30th 2009 и April 1st 2011
Resume number 1 (30 October 2009)

Three NGOs - Transparency International Anti-Corruption Center, Ecoera and the Helsinki Citizens' Assembly of Vanadzor - filed a case before the Administrative Court of Armenia to challenge the legality of administrative acts that allow extraction of copper-molybdenum in the Teghout region. The Administrative Court rejected the appeal, mentioning Articles 3 and 79 of the Law on Administrative Procedure of Armenia. The mentioned articles provided that legal entities and individuals were considered to have access to justice if the administrative actions, omissions and actions violate or may directly to violate their rights and legitimate interests. Rejecting the decision to the Cassation Court, Armenian court, Transparency International and Ecoera asked for the court to annul the decision pursuant to Article 9 of the Aarhus Convention, which has been drawn up part of the legal system of Armenia under Article 6 of the Constitution of Armenia. The Cassation court stated that the NGO Ecoera is an entity established in accordance with Armenian law for NGOs and meets the requirements of national legislation and promotes environmental protection based on the mission and objectives outlined in its statute. Thus, the Court found that the Ecoera NGO had the right to access justice before the courts on environmental issues. However, the Court also thus concludes that the NGO Transparency International Anti-Corruption Center, did not have enough interest in the case and therefore did not have access to justice in the interest of public environmental protection. Based on the above decision, the Administrative Court was obliged to consider the essential issues of the case.

Case resume number 2 (April 1st 2011)

With the verdict of March 24, 2010, the Administrative Court of Armenia upheld its own position on the situation of the NGO Ecoera, according to which individuals and legal entities cannot

seek protection of "any abstract right" in court. Once again, the request of the environmental NGO was rejected. Dissatisfied with this, NGO Ecoera re-appealed to the Court of Cassation of Armenia. However, the Court of Cassation in its Decision of 1 April 2011 stated: "... In Decision no. 906, Armenian Constitution the court examines the constitutionality of his/her word after the term has been violated". Article 3, paragraph 1, of the Economic Codex of Armenia, established that the provision is in accordance with the Armenian constitution. It follows from the logic of Armenian legislation that effective protection of Injured rights include, inter alia, the right to be tried in a court of law rights are directly violated. "Based on the conclusion of the Constitutional Court, and regarding relevant provisions of the Armenian Administrative Procedure Code, the Armenian Code of civil proceedings, the Court of Cassation rejected the appeal and upheld the verdict of the Administrative Court of Armenia of 24 March 2010.[22]

13.2 Court practice in Belgium

Lenaerts c.s. v.s. nv 's Heerenbosch, Nr. 70/2007

Context

The Act of 12 January 1993 "establishing the right to act upon protection of the environment "allows environmental organizations that meet certain requirements, to initiate a procedure for termination of actions that are obvious for violations of the law for the environment or are serious threats to such violations before the President of the first instance court (District Court). The law authorizes the president of the first instance court to determine and where appropriate, order the cessation of obvious offenses, or serious threats for such offenses or order precautionary measures for damage of the environment.

In addition to environmental protection organizations, administrative and municipal authorities may take measures for cessation. In addition, Article 271 of the new municipal law allows one or more residents of a municipality to act on behalf of the municipality if the mayor and the elders do not. Soon it was accepted in court practice that this provision may be combined with the Act of 12th January 1993, so that individual citizens will be able to bring such a procedure in on behalf of a municipal body that meets the conditions, by taking the place of the municipality which refuses to take such action. This case law was approved by the Supreme Court (Hof van Cassatie, February 14, 2002, RW 2001-2002, 1504), when from a joint reading of the above two Actions, found that if the mayor and the elders do not take actions in those circumstances, one or more residents may take legal action on behalf of the municipality to protect the environment. Interest should not be demonstrated because it is assumed that the municipality has an interest. The Supreme Court also held that the termination procedure does not depend on the state of speed or urgency (Hoff van Casati, 5 March 1998, TMR 1998, 161).

Case

Some residents of the municipality of Ostend in connection with the stay, on behalf of that municipality brought misdemeanor procedure on the basis of a construction permit from the same municipality that allegedly was illegally granted. The resident filed the lawsuit after the State Council (Supreme Administrative Court) rejected the request for suspension of the permit. The President of the Court of First Instance in Antwerp declared the act inadmissible, stating that Art. 271 of the new municipal the act cannot be applied when the permit was submitted by the municipality in whose benefit residents took action. Following an appeal, the Antwerp Court of Appeals ruled constitutional question of a preliminary decision to the Constitutional Court whether the abovementioned provisions violate Articles 10, 11 and 23 of the Constitution, if interpreted in such a way that the procedure for termination is excluded when the municipality has submitted the building or environmental permit.

22 http://www.unece.org/fileadmin/DAM/env/pp/a.to.j/Jurisprudence_prj/ARMENIA/Armenia_2009_2011_Teghout.pdf

Court Verdict

The Constitutional Court has ruled that if these rules are interpreted in such a way that the right to "Action substitution" may not be used by individual citizens in cases in which (by hypotheses illegal) the permit is submitted by the same local authorities for the critical activity that harms the environment. Such an interpretation would create a difference in treatment between citizens that cannot be justified. Such an interpretation violated the principle of equality and non-discrimination contained in Articles 10 and 11 of the Constitution. Only the interpretation that allows citizens to take such an action is in in accordance with the stated provisions of the Constitution. As a result, the action was supposed to be declared as permissible.[23]

VZW Milieufront Omer Wattez v. Deputatie Provincie Oost-Vlaanderen/ stad Geraadsbergen - Intervening party: VZW Vlaams Zweefvliegcentrum, Nr. 193.593

The environmental permit was issued by the provincial government of Ost-Vlaenanden for work on a sailboat airport in scenic and valuable agricultural area. The decision was made by VZW Milieufront, claiming it violated the planning sketches for such area. Regarding the issue of admissibility, the State Council stated that according to bylaws, "VZW Milieufront Omer Wattez" is an environmental NGO active in the region of the Flemish Ardennes, which includes the city of Gerardsbergen. The collective interest in the operation of NGOs is sufficiently specialized and refers to land use planning, environmental protection and conservation nature. This goal does not coincide with the general interest, nor with the individual interests of its members. Instead, it stems from the combined reading of Article 2, paragraph 5 and Article 9, paragraph 2 of the Aarhus Convention, which indicate that environmental NGO organizations such as the applicant, should have effective access to justice. In the Convention, NGOs should have access to the State Council. Thus, the decision of the provincial government of 2 February 2006 to grant such permission is revoked[24].

In the abovementioned case, when it comes to the decision to issue a disputed building permit for construction of a such an airport in an agricultural area, the State Council as competent authority allowed a non-governmental organization operating in the field of environment, to have an active legitimacy to challenge the decision, i.e. to appear as a party in appeal procedure against the first instance decision.

The legitimacy and legality of these NGOs, derives directly from Article 2, 5 and 105, and Article 9 of the Aarhus Convention, which explicitly states that environmental NGOs should have effective access to justice. In this case, they should have access to the State Council, which is competent to decide on the appeal. The outcome of the procedure is the annulment of the decision of the provincial government of 02.02.2006 on the granted permit.

Conclusion: The State Council recognized the legal interest of the environmental non-governmental organizations so that they can appear as parties in the proceedings, i.e. in the specific case in the administrative procedure. The direct application of Article 2. 5 and Article 9 of the Aarhus Convention provides access to justice for NGOs specializing in the field of the environment.

23 http://www.unece.org/fileadmin/DAM/env/pp/compliance/TFon_A_to_J/Belgium_2007_Lenaerts.pdf

24 http://www.unece.org/fileadmin/DAM/env/pp/a.to.j/Jurisprudence_prj/BELGIUM/ConseilEtatVZW_Milieufront/Belgium_2009_VZW_Milieufront.pdf

13.3 Hungarian case law

Case: Waste management in the village of Kaposmero

Material administrative decisions, e.g. permits, could have been a subject to appeals by those who had a legal position under the Administrative Procedure Act before 2017 in Hungary. Such appeals must have been submitted to the competent authority that made the first instance decision within 15 days from the submission of the decision to the party in the case. In case the deadline for submitting the appeal has expired, the party might have requested an extraordinary leave of appeal for an additional 8 days from the expiration of the regular 15 days. Residents of Kaposmero, a small village in Hungary, noticed one day that machines for heavy earthworks were arriving in their village. They soon discovered that it was a new waste management site for demolition, grinding of bricks and concrete on the outskirts of the village.

Residents also found that the building had the necessary permits issued by the competent authority, although they were not informed. As soon as they recognized the seriousness of the situation, the residents asked for a copy of the location permit. As soon as they received it, they filed an appeal within 15 days, the legal deadline for which the administrative legal remedy in Hungary was provided. The response from the National Environment Agency, the appellate forum in that case, was that the residents' complaint was reportedly submitted too late. The agency argued that the appeal deadline should be considered from the initial release of the permit despite the fact that it was not published online or publicly available in any other way. The agency claimed that the appellants had to request an extraordinary time for appeal for a period of eight days. Because they did not do so, their complaint was outdated and rejected as inadmissible without a thorough examination of the details. Residents have filed a lawsuit against the decision. In their verdict, the Administrative and Labor Courts in Pecs confirmed the validity of the citizens' arguments and ordered the Agency to decide on the merits of the case, taking into account the material complaints of the citizens. The Court reaffirmed that the time available for appeal could not begin before the citizens had been duly notified in an appropriate manner of the decision. No one may be deprived of the right to a remedy if they have not had a reasonable way of knowing about an administrative act. If the decision of the competent authority has never been made public, especially to those with legal interest in the case, then the right to a remedy becomes ineffective.[25]

Conclusion: The deadline for appeals starts from the moment the decision is submitted to the subjects, i.e. from the moment they found out or could have found out in an unmistakable way that such a decision has been made.

13.4 Concluding remarks:

It can be concluded that the main practical challenges related to processing cases related to the environment are:

- Lack of legal awareness between individuals and non-governmental organizations about the possibility of appealing administrative decisions;
- Lack of mechanisms for free legal aid to support interested individuals or NGOs in accordance with applicable law;
- Lack of competent lawyers/legal specialists to deal with administrative environmental complaints;
- Lack of specialized courses in the field of environmental law at the level of higher education, to develop students' legal skills in addressing environmental issues in administrative or judicial bodies.

It should be noted that there is a small number of cases when a non-governmental organization acting as a plaintiff has filed a lawsuit before the court on behalf of the public interest. Some

25 http://www.unece.org/fileadmin/DAM/env/pp/a.to.j/Jurisprudence_prj/HUNGARY/Hu_2018_Kaposmero_Summary.pdf

of the challenges include the risk of recurrence of environmental damage, when a court ruling cannot be enforced.

14. Good practices for human rights and environment

14.1 Actio popularis

Generally speaking, the right to a healthy environment is one of the basic human rights, and a healthy environment is in the public interest, and if this is taken into account, the legislator should provide for the possibility of actio popularis in proceedings and disputes in violation of the right to a healthy environment. Some of the states in which actio popularis is enabled, should be taken into account as positive examples and good practice. This is the case with Portugal, which is probably the country with the widest availability of administrative and judicial remedies. The Portuguese Constitution recognizes actio popularis in court proceedings, including procedures for public health, consumer rights, quality of life, preservation of the environment and cultural heritage, and so on.

- In the United Kingdom, Ireland and Latvia, the courts' broad interpretation of the concept of "interest" has led to the de facto recognition of actio popularis.

In some countries actio popularis is possible for specific cases:

- In Spain there is actio popularis for land use planning, coastal waters, national parks and criminal law;
- There is an actio popularis in Estonia for land use planning;
- In Slovenia for civil lawsuits, the Law on Environmental Protection also gives citizens access to civil courts that act as individuals or through societies, associations and organizations.[26]
- In RN Macedonia, the Constitution provides an opportunity to use actio popularis.

14.2 Good practices for access to justice in other areas

Because the new Law on Prevention and Protection against Discrimination[27] is part of the law framework for the protection of human rights, it is inevitable to look at it in terms of regulation. The purpose of this law is to ensure the principle of equality and non-discrimination in the exercise of human rights and freedoms.[28] Article 3. Paragraph 1 states that this law applies to all natural and legal persons.[29] Persons considered to be victims of discrimination may lodge a complaint with the Commission, in writing or orally, without obligation to pay a fee and other compensation.[30]

The legislator has left room for the person who thinks that it has been discriminated against, to be able to be represented by an association, foundation or trade union with a previously given consent, before the Commission.[31] Associations, foundations, or other civil society organizations and institutions that have a legitimate interest in protecting the interests of a particular group or within the scope of their activity they deal with protection against discrimination, they can submit a complaint, if they consider that by acting on a certain natural or legal person, a large

26 The Aarhus Convention: how are its access to justice provisions being implemented? (Belgium 2 June 2008)
27 Law on prevention and protection against discrimination, Official Gazette of RNM, no. 101 from 22.5.2019
28 Article 2 Law on prevention and protection against discrimination, Official Gazette of RNM, no. 101 from 22.5.2019
29 Article 3 paragraph 1 од Law on prevention and protection against discrimination, Official Gazette of RNM, no. 101 from 22.5.2019
30 Article 23 paragraph 1 of Law on prevention and protection against discrimination, Official Gazette of RNM, no. from 22.5.2019
31 Article 23 paragraph 2 од Law on prevention and protection against discrimination, Official Gazette of RNM, no. 101 from 22.5.2019

number of persons have been discriminated.[32] Persons that will initiate court proceedings for protection from discrimination are an exempt from paying court fees. Court costs fees for persons are borne by the Budget of the Republic of North Macedonia.[33]

The most interesting thing is that this is one of the basic human rights (as is the human right to a healthy environment), and this proposal law allows actio popularis, i.e. a lawsuit for protection against discrimination by public interest. We need to keep in mind that a healthy environment is also a public interest, so we feel the need to enable actio popularis is inevitable and under the law on free legal aid, given that according to the Aarhus Convention minimum costs are proposed in proceedings.

The provision should always be taken into account in environmental disputes from the Law on Civil Procedure which regulates the provision of previous measures, and it is subject to court costs. Namely, during the procedure, the court may propose to the party, to impose temporary measures to prevent violent acts or for the purpose of removing irreparable damage.[34] Temporary measures are important in environmental disputes, because according to their nature, for the most part in some cases, the application of such measures would lead to the prevention or elimination of irreparable damage.

Given the fact that these are human rights, guaranteed by the Constitution of the country, they must be regulated on an equal base, i.e. the right to prevention and protection against discrimination cannot be regulated in a much more favorable way, than it is done with the right to a healthy environment. We need to work to improve laws governing basic human rights to contain legally sustainable solutions, so that all persons can be legally and legitimately protected.

15. Recommendations for access to justice in the field of environment

The resulting recommendations are aimed at strengthening the institutions for action in cases related to violation of the right to life and the environment, as in previous, as well as in court proceedings.

First, to strengthen previous legal aid to facilitate the resolution of legal issues problems before litigation, i. out-of-court settlement of disputes as a “cheaper” form of free legal aid, i.e. mediation. For the purpose of the institute mediation to revive in Macedonian legislation, citizens should have easy access to relevant information in clear and understandable language.

Providing access to effective justice for all, i.e. reducing the judiciary costs under the Law on Court Fees, the Law on Administrative Taxes and the Law on Litigation Procedure where it is envisaged for vulnerable categories of citizens, as well as other parties in accordance with these laws, but also in accordance with Article 9, paragraph 4 of the Aarhus Convention which states “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. Decisions under this article shall be given or recorded in writing. Decisions of courts, and whenever possible of other bodies, shall be publicly accessible.“

Therefore, access to justice should be facilitated by reducing or completely abolishing administrative and court fees for cases in the area of environmental protection.

At the moment, citizens and civil society organizations have to provide expertise at their own expense. Another problem to address is the quality of the expertise and whether it can achieve

32 Article 23 paragraph 3 од Law on prevention and protection against discrimination, Official Gazette of RNM, no. 101 from 22.5.2019

33 Article 39 paragraph 1 and 2 from Law on prevention and protection against discrimination, Official Gazette of RNM, no. 101,from 22.5.2019

34 Article 407 paragraph 1 from Law on Litigation Procedure, Official Gazette of RM, no. 7, 20.01.2011

the goal for which it was made, i.e. the connection with the impact on human health and life in terms of overall capacity judicial system.

It is proposed to consider the idea of creating an Expertise Fund that for experts interested in participating in cases of public interest where the right to clean environment is endangered, with a preferential tariff or pro bono, whereby those experts would place their skills at disposal, would provide equipment and conditions for expertise at the lowest fees possible, in accordance with Article 9, paragraph 4 of the Aarhus Convention.

As for access to justice for environmental cases, procedures referred to in Article 9 of the Aarhus Convention are initiated, whereby the Convention is ratified and part of the domestic legal system, and they are still ongoing.

Taking into account the programs for continuous training of judges and public prosecutors, it is obvious that the judges attended trainings every year on the Law on Environment, and that special attention is paid to crimes in the field of environment. There are even so-called green prosecutors, which are part of the European Network/Association, for whose activities no information is available.[35] The Academy for Judges and Public Prosecutors is open to cooperation with external experts and civil society organizations, so there is room for more focused and specialized training related to the Aarhus Convention and the environmental rights, i.e. to study the case law of Committee for Compliance with the Aarhus Convention.

The state, i.e. the institutions, should pay attention to the promotion of the right to free legal aid and ensure public visibility of the work of institutions and the organizations responsible for implementing the LFLA. In this regard, it is recommended to improve public awareness of access to justice from the field of environment.

In addition, the State, i.e. the institutions, should ensure the realization of the right of access to information related to the environment, to ensure public participation and provide access to justice at a reduced cost, according to the Aarhus Convention.

Greater diligence of the judiciary is necessary in resolving cases in the area of the environment and greater commitment of the Public Prosecutor's Office to initiate proceedings in the same section.

Having in mind that the new Law on Free Legal Aid does not exclude the environment as an area in which free legal aid can be sought, encouraging individuals which meet the FLA criteria should be urged to use the mechanism. By promoting this opportunity, visibility will be provided for the citizens. At the same time, it will also strengthen the implementation of the Aarhus Convention as an existing mechanism for access to environmental justice.

The affected public should be informed about the possibilities of prior mediation in disputes in the field of environment, which may affect cost reduction and improving access to justice in environmental matters. The legal prescription of mandatory mediation in relation to certain disputes in the field of the environment, may contribute to the affirmation of the right to a healthy environment in RNM.

Greater application and familiarity of both the public and all the legal fella, with ratified international documents as well as the use of international courts as mechanisms when all legal remedies in the home country are exhausted.

The capacity of the Academy for Judges and Public Prosecutors needs to be strengthened concerning environmental law and the AC, to determine whether judges and public prosecutors acquire relevant knowledge of the subject. If it is determined that there is room for capacity improvement, to approach implementation of additional training and preparation, in order to improve access to justice in environmental matters.

It is recommended to provide information on the number of procedures initiated in relation to the right to a healthy environment and to calculate the success rate.

35 European Network of Prosecutors for the Environment was established in 2012

According to international standards, it is necessary to introduce the right to a healthy environment in multiple legal solutions, i.e. wherever possible, as separate category of rights and instructions and lessons for further action in cases where violation of the concerned occurs.

There is a need to start a discussion with involvement of the Ministry of Environment, The Ministry of Justice, the Prosecutor's Office and the judges that emphasize their role in implementing access to justice and reducing barriers. Awareness needs to be built for access to justice in accordance with the requirements of the Aarhus Convention and reduce financial and other barriers (for example, a request for exclusion of administrative court fees for environmental NGOs may be included in the provisions of the Law on Environmental Protection).

It is necessary to improve the system for informing the public about the rights and obligations arising from the Constitution, ratified international agreements, the Law on Environment, the Law on Waste Management, the Law on Nature Protection and other laws and by-laws. It is necessary to build capacities at all levels of state bodies, LSGUs and CSOs, for active participation in the public information system on rights and obligations related to the environment.

At the same time, easy access and legal assistance to citizens and companies should be provided, for obtaining information on environmental issues and legal protection in exercise of this right through free legal aid.

Finally, it is necessary to effectively and efficiently involve the general public in the creation of environmental policies and laws, and especially in the area of waste management.

16 REFERENCES

1. Case Summary posted by the Task Force on Access to Justice, http://www.unece.org/fileadmin/DAM/env/pp/a.to.j/Jurisprudence_prj/ARMENIA/Armenia_2009_2011_Teghout.pdf [accessed on 23.04.2019]
2. Commission v. French Republic, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62003CJ0239_SUM&from=FR [accessed on12.06.2019]
3. Council of Europe, Convention on Civil Liability for Damage resulting from Activities Dangerous to the Environment, Lugano, 21/06/1993 - Treaty open for signature by the member States, the non-member States which have participated in its elaboration and by the European Union, and for accession by other non-member States: https://www.coe.int/en/web/cm [accessed on 28.05.2019]
4. Concil of Europe, https://www.coe.int/en/web/about-us/structure [accessed on 07.05.2019]
5. European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL), Laws for environment of the European Union (IMPEL): https://www.impel.eu/about-impel/ [accessed on 09.05.2019]
6. http://www.adsdp.mk/adsdpmk/images/DRang/zakoni/ID_na_Zakonot_za_postapuvanje_po_pretstavki_i_predlozi_193_06112015.pdf. [accessed on 05.04.2019]„Official Gazette of RNM“ no.93 from 26.07.2007, [accessed on 29.05.2019]
7. Parliamentary Assembly, Future action to be taken by the Council of Europe in the field of environment protection https://assembly.coe.int/nw/xml/XRef/XrefDocDetails-en.asp?FileID=16731&lang=en [accessed on 22.4.2019]
8. Themis Network Europe, an Article published on themisnetwork.eu, published on themisnetwork.eu, http://www.themisnetwork.eu/about-themis.html [accessed on 17.04.2019]
9. United Nation, Climate Change, What is the Paris Agreeement, https://unfccc.int/process/the-paris-agreement/what-is-the-paris-agreement-0 [accessed on 06.05.2019]
10. Aarhus Convention: how is access to judicial provisions implemented? (Belgium June 2 2008), https://ec.europa.eu/environment/aarhus/pdf/conf/closing_speech.pdf [accessed on 13.05.2019]
11. Webpage Akademik.mk 17.01.2017, https://akademik.mk/alternativnitevonsudski-postapki-i-pristapot-do-pravda-evropskiot-parlament-i-sovetot-na-euza-medijatsijata-vo-graganskite-i-trgovskite-sporovi/ [accessed on 06.05.2019]
12. State environmental inspectorate: http://www.sei.gov.mk/projects_page_mk.asp?ID=5
13. Rules of Procedure of the Constitutional Court of RNM
14. Rules of Procedure of the Constitutional Court of RNM
15. Directive 2003/4/E3 of European Parliament and Council of 28 January 2003 for public access to information regarding the environment and abolition of the Directive 90/313/EE3 of the Council, https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:041:0026:0032:EN:PDF [accessed on 31.05.2019]
16. EU Treaty, EU courts are bound by international agreements that EU signed European Commission official web side, European Neighbourhood Policy and Enlargement Negotiations, European Commission - Enlargement - Europe agreement, https://ec.europa.eu/neighbourhood-enlargement/policy/glossary/terms/europe-agreement_en [accessed on 11.04.2019
17. European Comission, http://ec.europa.eu/environment/waste/legislation/a.htm

[accessed on 18.06.2019]

18. European Convention for Human Rights, https://www.echr.coe.int/Documents/Court_in_brief_ENG.pdf [accessed on 25.04.2019]
19. European Environmental Agency (EEA), https://www.eea.europa.eu/about-us [accessed on 23.04.2019]
20. Жан Клод Готрон, Јавноправни институти на римското право реципирани во денешните правни системи, Европско право, Скопје 2006, http://eprints.ugd.edu.mk/9927/1/Magisterska%20teza.pdf [accessed on: 21.06.2019]
21. Жан Клод Готрон, Придонес во меѓународното регионално право, Европско право - Скопје 2006, pg. 33
22. Law on free legal aid, «Official Gazette of RNM» no.101 from 22.05.2019 http://www.pravda.gov.mk/Upload/Documents/Zakon%20za%20besplatna%20pravna%20pomos.pdf [accessed on 19.06.2019]
23. Law on free legal aid, «Official Gazette of RNM» no.101 from 22.05.2019, http://www.pravda.gov.mk/Upload/Documents/Zakon%20za%20besplatna%20pravna%20pomos.pdf [accessed on 13.06.2019]
24. Law on protection of nature („Official Gazette of RNM“ no.67/2004, 14/2006; 84/2007; 35/2010; 47/2011; 148/2011, 59/2012 and 13/2013), http://www.slvesnik.com.mk/Issues/04b3bc15a4f14b3392180ebc7b584768.pdf [accessed on 12.06.2019]
25. Law on quality of ambient air, "Official Gazette of RNM" no.47/2011 from 31.07.2011, http://www.moepp.gov.mk/wpcontent/uploads/2014/09/Zakon%20za%20kvalitet%20na%20Vozduh%20-%20precisten%20tekst%20za%20informativni%20celi.pdf [accessed on 02.04.2019]
26. Law on acting upon complaints and proposals (Official Gazette of RNM no. 82/2008...193/2015)
27. Law on ratification on 4th of December 1997 "Official Gazette of RNM " no. 61/97, came into force on April 28, 1999, http://www.zeleni.org.mk/fileadmin/user_upload/publications/Odrzliviot_Razvoj_i_Zivotnata_sredina_niz_dokumentite_na_UN.pdf [accessed on 04.06.2019]
28. Law on prevention and protection against discrimination Official Gazette of RNM, no. 101 from 22.5.2019, http://www.mtsp.gov.mk/content/pdf/zakoni/2019/27,5Zakon%20za%20zastita%20od%20diskriminacija.pdf [accessed on 20.06.2019]
29. Law on prevention and protection against discrimination Official Gazette of RNM, no. 101 from 22.5.2019,
30. Law on prevention and protection against discrimination ("Official Gazette of RNM“ no.50/10)
31. Law on construction http://pravo.org.mk/documentDetail.php?id=4694 [accessed on 22.04.2019]
32. Law on environment, Official Gazette no. 147/2008 and 45/2011,
33. Law on alteration and supplementation of the Law for prevention and protection against discrimination („Official Gazette of RNM“ no.150/15), http://www.mtsp.gov.mk/content/pdf/zakoni/2019/27,5Zakon%20za%20zastita%20od%20diskriminacija.pdf [accessed on 20.06.2019]
34. Law on alteration of the Law for prevention and protection against discrimination („Official Gazette of RNM“ бр.44/14)
35. Law on mineral resources, (Official Gazette no. 136/12, 25/13, 93/13,44/14,160/14, 195/15,192/15,39/16,53/16,120/16,189/16), Article 55, paragraph.2.4 http://www.economy.gov.mk/Upload/Documents/Zakon%20za%20mineralni%20surovini%20

-%20Precisten%20tekst%20(Rabotna%20verzija).pdf [accessed on 13.06.2019]
36. Law on obligations („Official Gazette of RNM“ no. 18 from 03/2001, 09/2001, 25/2001, 17/2002, 01/2003, 07/2008, 06/2009, 12/2009, http://pravo.org.mk/documentDetail.php?id=33 [accessed on 29.05.2019]
37. Law on litigation procedure (Official Gazette of RNM, бр. 7 from 20.01.2011), https://www.pravdiko.mk/wp-content/uploads/2013/11/Zakonza-parnichnata-postapka-20-01-2011-prechisten-tekst.pdf [accessed on 09.09.2019]
38. What does Paris Climate Change Agreement bring? Published on DW on 13.12.2015, https://p.dw.com/p/1HMg4 [accessed on 22.04.2019]
39. Convention on Civil Liability for Damage resulting from Activities Dangerous to the Environment, Details for the contract no.150, Council of Europe, https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/150 [accessed on 22.04.2019]
40. Convention for the Protection of Human Rights and Fundamental Freedoms, Rome, November 4th, 1950, Article 14, https://www.echr.coe.int/Documents/Convention_MKD.pdf [accessed on 13.05.2019]
41. Convention on International Access to Justice 1, https://assets.hcch.net/docs/a311a685-d6e7-41d4-8210-7c2b8c30429e.pdf [accessed on 05.06.2019]
42. Configuration of the Council for environment (ENVI), https://www.consilium.europa.eu/en/council-eu/configurations/env/ [accessed on 17.06.2019]
43. Маргарита М. Матлиевска, Одржлив развој нова глобална парадигма, Скопје 2011, Функциите на Комисијата се поставени во резолуцијата на Генералното собрание бр. A/RES/47/191 од 22 декември 1992, стр.33, https://www.academia.edu/2925222/ [accessed on 04.06.2019]
44. International Covenant on Civil and Political Rights, UN, 1976, available at: http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx [accessed on April 18th 2017]
45. Ministry of Foreign Affairs of RNM, http://mfa.gov.mk/index.php?option=com_content&view=article&id=124&Itemid=403&lang=mk
46. National report for implementation of the Aarhus Convention, 2017, Cases: Us1149 / 97, Us-89/01 https://apps.unece.org/ehlm/pp/NIR/listnr.asp?YearID=2017&wf_Countries=MK&wf_Q=QA&Quer_ID=&LngIDg=EN&YearIDg=2017 [accessed on 08.05.2019]
47. Одржливиот развој и заштита на животната средина низ документите на Обединетите нации, издавач Македонски зелен центар, 2008, pg. 4, https://civil.org.mk/wp-content/uploads/2013/05/djeklarazia.pdf [accessed on 16.6.2019]
48. Description of the European Union – How does the European Union work, European Comission, 2012, European Commission official web side, European Neighbourhood Policy And Enlargement Negotiations, European Commission - Enlargement - Europe agreement, https://ec.europa.eu/neighbourhoodenlargement/policy/glossary/terms/europe-agreement_en [accessed on 14.05.2019]
49. General comment no. 36 (2018) for Article 6 of the International Covenant on Civil and Political Rights, for the right to life, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf [accessed on 05.06.2019]
50. Organization for Economic Cooperation and Development (OECD), https://www.oecd.org/gov/access-to-justice.htm, [accessed on 26.05.2019]
51. Ottavio Quirico and Mouloud Boumghar, Climate change and human rights: an international and comparative law perspective, pg. 303
52. Paris Climate Change Agreement, into force since November 4th 2016, https://

unfccc.int/files/meetings/paris_nov_2015/application/pdf/paris_agreement_english_.pdf [accessed on 13.05.2019]

53. Право на чиста животна средина обврска на секој граѓанин и компанија, издавач Центар за правни истражувања и анализи – ЦПИА, 2014, pg.3, https://cpia.mk/ [accessed on 12.06.2019]
54. Recommendation 1614 (2003), Parliamentary Assembly of the Council of Europe, http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17131&lang=en [accessed on 22.04.2019]
55. Recommendation 1885 (2009), Parliamentary Assembly of the Council of Europe, http://assembly.coe.int/nw/xml/XRef/Xref-DocDetailsEN.asp?fileid=24830&lang=EN&search=cmNvbW1lbmRhdGlvbiAxODg1 [accessed on 11.04.2019]
56. Handbook on European law relating to access to justice, Agency of the European Union for fundamental rights and Council of Europe, 2016, https://www.echr.coe.int/Documents/Handbook_access_justice_ENG.pdf [accessed on 23.04.2019]
57. Access to justice in environmental matters: standing, costs and available remedies in relation to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental matters in South-Eastern Europe, Csaba Kiss, http://www.unece.org/fileadmin/DAM/env/pp/a.to.j/AnalyticalStudies/SEE_Access2Justice_Study_Final_logos.pdf [accessed on 08.05.2019]
58. Protocol number 12 to Convention for the Protection of Human Rights and Fundamental Freedoms, Rome, November 4th 2000, Article 1, https://www.echr.coe.int/Documents/Convention_MKD.pdf [accessed on 14.05.2019]
59. Protocol to Convention for the Protection of Human Rights and Fundamental Freedoms Paris, March 20th 1952, Article 1, https://www.echr.coe.int/Documents/Convention_MKD.pdf [accessed on 06.05.2019]
60. Resolution 2152 (2017), Januart 27th 2017, Parliamentary Assembly of the Council of Europe http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN asp?fileid=23489&lang=en [accessed on 09.05.2019]
61. UN Reporter for human rights and environment https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/SRenvironmentIndex.aspx [downloaded on 10.04.2019]
62. Снежана Мишиќ, Водич за спроведување на Архуската конвенција, Економската комисија на Обединетите нации за Европа 2000, pg.149, http://documents.rec.org/publications/PPTtoolkitMAC.pdf [accessed on 07.06.2019]
63. Council of Europe, https://www.coe.int/mk/web/skopje/the-council-of-europe
64. [accessed on 08.04.2019]
65. Decree on public participation during the preparation of regulations and other acts, as well as environmental plans and programs (Official Gazette no. 147/2008 and 45/2011
66. Hague Conference on Private International Law and integral text of the Conference on https://www.hcch.net/ [accessed on 12.06.2019]
67. Hendrick Shukens, Access to justice in environmental cases after the verdicts of Court of Justice, January 13th 2015.