

STUDY ON STANDING FOR INDIVIDUALS, GROUPS AND
ENVIRONMENTAL NON-GOVERNMENTAL
ORGANIZATIONS BEFORE COURTS IN CASES IN
ENVIRONMENTAL MATTERS

Preliminary findings

Eastern Europe, the Caucasus and Central Asia

Selected countries:

Armenia, Azerbaijan, Belarus, Kazakhstan, Republic of Moldova and Tajikistan

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Purpose and methodology of the study

- The purpose of this study is to identify **criteria for standing** for individuals, groups and environmental non-governmental organizations before courts or other review bodies competent to decide cases in environmental matters.
- In order to gather the necessary information for the study, a questionnaire was developed and distributed to the national experts in Russian.
- Information on the countries was provided by the national experts: Matanat Asgerova (Azerbaijan), Gore Movsisyan (Armenia), Elena Laevskaya (Belarus), Svetlana Kovlyagina (Kazakhstan), Natalia Zamfir (Republic of Moldova) and Tatyana Khatiukhina (Tajikistan).
- Consultations and comments

Key issues and trends

- no specific standing rules for environmental cases;
- “narrow” treatment of the legal standing ;
- legislation in all participating countries provides the right of individuals to address the court for the protection of their infringed rights, freedoms and legitimate interests / interests protected by law;
- legitimate interests / interests protected by law;
- ENGOs can apply to court in the case of infringement of the rights or legitimate interests of the organization and / or its members;
- conflict of norms of environmental legislation and civil procedural legislation (and/or administrative or economic procedural legislation)

Specific issues of standing for individuals, their groups and environmental NGOs

- Challenging the refusal of access to environmental information
- Challenging the legality of decisions, acts or omissions with regard to the certain activities
- Challenging acts and omissions by private persons “which contravene provisions of its national law”
- Challenging acts and omissions by public authorities “which contravene provisions of its national law”
- Claim for pause/stop of the activity
- Actio popularis
- Claiming for damage

Standing	Azerbaijan	Armenia	Belarus	Kazakhstan	Moldova	Tajikistan
ENGO						
infringement of the rights of the organization and / or its members	+	+	+	+	+	+
infringement of the interests of the organization and / or its members	+	+	+	+	+	+
violation of the law	-	-	(+)	-	-	(+)
on behalf of an indefinite number of persons (actio popularis)	+	-	-	+	+	+
INDIVIDUALS						
infringement of the rights	+	+	+	+	+	+
infringement of the interests	+	+	+	+	+	+
violation of the law	-	-	-	-	-	(+)
on behalf of an indefinite number of persons (actio popularis)	-	-	-	-	-	+

* (+) - Not fully, or requires further research

Recommendations

1. While applying or interpreting of legitimate interests / interests protected by law for individuals or ENGO in cases related to the environment wide access to justice in environmental matters should be considered and as a minimum the requirements of article 9 of the Aarhus Convention should be taken into account.
2. It is recommended to consider improvement of the legislation in order to address the existing conflicts between environmental legislation and civil procedural legislation (economic procedural or administrative procedural legislation) as appropriate and insure possibility to challenge actions / omissions of private persons or public authorities violating the laws relating to the environment.
3. The concept of lawsuits on behalf of an indefinite number of persons that exists in the legislation of all participating countries in relation to the consumers' rights could be extended to the cases relating to the environment by improving and amending legislation and practices.
4. Awareness of judges, prosecutors, lawyers and NGOs in the field of legislation and case law relating to the environment, especially regarding application of international agreements, including the Aarhus Convention, should be raised. These issues should be reflected in the programs and courses for trainings of judges, prosecutors, judicial workers, in the lists of questions for the qualifying examinations, as well as in the teaching materials used for these purposes.