

**Ministry of Environmental Protection of the  
Republic of Serbia**

**THE ROLE OF PUBLIC INTEREST  
LITIGATION IN ENVIRONMENTAL  
MATTERS IN SERBIA**

**Geneva, October 2020.**

# Legal Framework implementing third pillar of the AC in Serbia

- ▶ Law on Environmental Protection (LEP) (“OG of RS”, No. 135/04, 36/09, 72/09, 43/11, 14/16 and 76/18)
- ▶ Law on Environmental Impact Assessment (OG of RS No. 36/09) (LEIA)
- ▶ Law on Strategic Environmental Impact Assessment (OG of RS No. 135/04 and 88/10) (LSEIA)
- ▶ Law on Integrated Environmental Pollution Prevention and Control (OG of RS No. 135/04 and 25/15) (LIPPC)
- ▶ Law on General Administrative Procedure (OG of RS No. 30/10 18/16 and 95/18) (LGAP)
- ▶ Law on Contract and Torts (OG of RS No. 18/20)



- ▶ Law on Free Access to Information of Public Importance (OG of RS No. 120/04, 54/07, 104/09 and 36/10) (LFAIPI)
- ▶ Law on Administrative Disputes (OG of RS No. 111/09) (LAD)
- ▶ Civil Procedure Code (OG of RS No. 125/04, 72/11, 49/13, 74/13, 55/14, 87/18 and 18/20) (CPC)
- ▶ Law on Enforcement and Security (OG of RS No. 31/11, 99/11 and 106/15)
- ▶ Law on the Protector of Citizens (OG of RS No. 79/05, 54/07) (LPC)
- ▶ Criminal Procedure Code (OG of RS No. 72/11, 101/11, 121/12, 32/13, 45/13, 55/14 and 35/19)
- ▶ Criminal Code (OG of RS No. 85/05, 88/5, 107/05, 72/09, 111/09, 121/12, 104/13, 108/14, 94/16 and 35/19)
- ▶ Law on the Liability of Legal Entities for Criminal Offences (OG of RS No. 97/08)
- ▶ Law on Misdemeanours (OG of RS No. 65/13, 13/16, 98/16, 91/19 and 91/19)
- ▶ Law on Economic Offences (OG of RS No. 101/05)

# Legal standing and the NGOs

## (1)

- ▶ “Public concerned” is the public which is influenced or likely to be influenced by the decision made by the competent authority or have an interest in their outcome, including non-governmental organizations dealing with environmental protection which are registered with the responsible authority. (Art.3 LEP)
- ▶ Citizen or groups of citizens, their associations, professional and other organizations are entitled to exercise their right to healthy environment before the competent authority or the court in accordance with the law. (Art.9, LEP). Public concerned are entitled to exercise their right to healthy environment by initiating the decision review procedure before the competent authority or the court in accordance with the law. (Art. 81a, LEP)



# Legal standing and the NGOs

## (2)

- ▶ Representatives of collective interests and representatives of the wider interests of the public, who are organized in accordance with the regulations, may have the status of a party in the administrative procedure if the outcome of the administrative procedure may affect the interests they represent. (Art.44. LGAP)
- ▶ LEIA, LSEIA, LIPPC, LFAIPI
- ▶ Law on Administrative Disputes (Art. 11)
- ▶ Law on the Protector of Citizens
- ▶ According to Art. 74 of the Civil Procedure Code, any natural person or legal entity may be a party to the proceedings
- ▶ Law on Contract and Torts (Art. 156)

# Review bodies for information cases in environmental matters



Republic of Serbia  
Commissioner for Information of Public  
Importance and Personal Data Protection

- ▶ Commissioner for Information of Public Importance and Protection of personal data
- ▶ Administrative Court
- ▶ An applicant may file a complaint with the Commissioner if a public authority rejects or denies an applicant's request and in the other cases prescribed by law.
- ▶ An applicant may file a complaint to the Commissioner as an autonomous state body, independent in fulfilling its authority, within 15 days upon receipt of the public authority decision.
- ▶ Administrative dispute may be instituted against a decision of the Commissioner before the Administrative Court.



# Review bodies for challenging decisions, acts and omissions in environmental matters. (1)

- ▶ Ministry of Environmental Protection
- ▶ National, provincial and local authorities responsible for environmental protection
- ▶ Administrative Court
- ▶ Developer of the project and the public concerned are entitled to file a complaint against the decision of the competent authority on the application for a decision on the need for an impact assessment and against the decision of the competent authority on the application for a decision on the scope and content of the environmental impact assessment study. (Art. 11 and 15, LEIA).
- ▶ The complaint should be submitted to the competent authority of the second instance in accordance with the law regulating environmental protection. The competent authority of the second instance shall decide on the complaint within 20 days from the date of receipt of the complaint.



# Review bodies for challenging decisions, acts and omissions in environmental matters. (2)

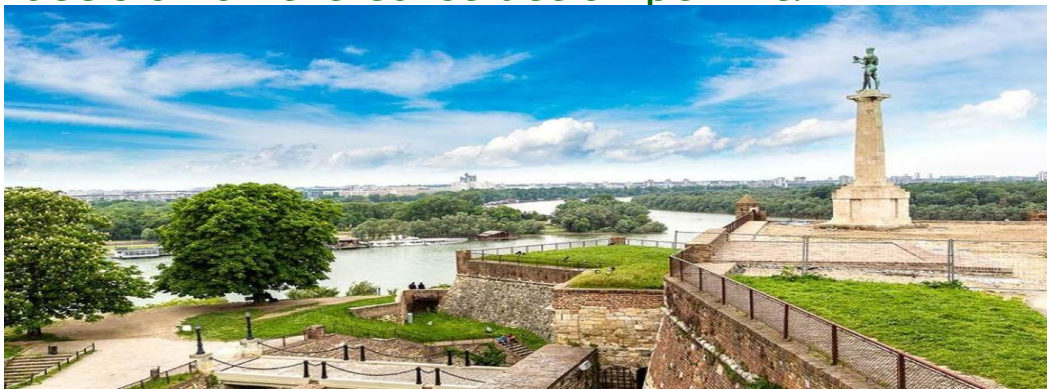
- ▶ Applicant and the public concerned are entitled to initiate the administrative court procedure against the decision related to the application for approval of the EIA study or refusal of the application. (Article 26, LEIA)
- ▶ Article 15 of the LIPPC specifies that no complaints can be filed, while administrative court procedure can be instigated against the decision of the competent authority on permit granting, or refusing of the permit granting application.
- ▶ If the Protector of Citizens finds omissions in the work of public authorities he will make a recommendation to the authority how to observe omissions should be remedied.





# Cable Car Construction case at Kalemegdan Fortress

- ▶ The Ministry of Construction, Transport and Infrastructure issued a permit for preparatory construction works at „Kalemegdan fortress”.
- ▶ Environmental NGO „RERI” filed a lawsuit before the Administrative Court for annulment of the issued decision on the construction permit for preparatory works for the construction of the cable car station at „Kalemegdan fortress” with a request to suspend the execution of the disputed decision (injunctive relief) until the final decision.
- ▶ The Administrative Court in Belgrade issued a decision approving the request of RERI to suspend the execution of the decision on the construction permit.



# Case: Construction of hydropower plants Brodarevo 1 and Brodarevo 2 on the river Lim



# Major barriers and needs in implementation

- ▶ Lack of specialized environmental units within judiciary.
- ▶ In the RS exist a small number of cases related to environmental protection
- ▶ Adoption of legal grounds for appropriate assistance mechanisms to remove or reduce financial and other barriers to access to justice.
- ▶ Raising knowledge of environmental legislation among judiciary



**THANK YOU FOR ATTENTION!**

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