



Republic of Serbia
Ministry of Environmental Protection

Access to justice to challenge violations of laws relating to the environment

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Legal Framework in the Republic of Serbia (1)

- Citizens or groups of citizens, their associations, professionals and other organizations are entitled to exercise their right to a healthy environment before the competent authority or the court under the law. (Art.9, LEP). The public concerned are entitled to exercise their right to a healthy environment by initiating the decision review procedure before the competent authority or the court under the law. (Art. 81a, LEP)
- Criminal offenses against environmental protection are defined in Chapter XXIV of the Criminal Code. Criminal sanctions prescribed for these offenses are imprisonment and a monetary fine.
- Natural and legal persons can file criminal charges regarding criminal offenses against environmental protection.
- According to the Criminal Procedure Code, criminal proceedings shall be initiated and conducted at the request of an authorized prosecutor or authorized officials from the police, if there is a suspicion that a criminal offense is committed. All criminal offenses regarding environmental crimes are prosecutable ex officio.



Legal Framework in the Republic of Serbia (3)

- Article 26 of the LEIA states that the 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.
- According to Article 74 of the Civil Procedure Code, any natural person or legal entity may be a party to the proceedings, while Article 191 states that civil action is initiated by filing a complaint.
- Article 156 of the Law on Contractual Relations states that everyone can demand from everyone else to remove the source of danger that may cause considerable damage to them or to an unspecified number of individuals and to refrain from an activity that causes harassment or potential damage if the cause of harassment or damage cannot be prevented by applying appropriate measures.
- Law on Infractions stipulates that the injured party has the right to instigate offense proceedings through his/her legal representative or an authorized person. The competent authority also has the right to instigate offense proceedings.

Case on depositing and stockpiling of hazardous waste

- The case regarding Article 266 paragraph 1 of the Criminal Code of the Republic of Serbia “Bringing Dangerous Substances into Serbia and Unlawful Processing, Depositing and Stockpiling of Dangerous Substances” was initiated with filing criminal charges by an environmental NGO.
- The judgment of the Basic Court in Kikinda which was given in 2020, convicts the accused responsible person in the legal entity to one year in prison, a fine of 4,000 euros, and a security measure of call barring in two years counting from the day the enforceably of the judgment.
- The Court had sentenced the legal entity by the same judgment to a fine of about 25,000 euros based on the Law on Liability of Legal Entities for Criminal Offences and imposed a security measure of call barring and confiscated the proceeds of crime in the amount of about 21,000 euros, thanks to a good prosecutorial investigation (financial expertise of documentation concerning the movement of waste).



Renewables and Environmental Regulatory Institute vs. the Public Company Electric Power Industry of Serbia

- We have an example of a lawsuit for eliminating hazards from damage occurrence submitted to the High Court in Belgrade in early 2021.
- The plaintiff is the Renewables and Environmental Regulatory Institute, a CSO and the defendant is the Public Company Electric Power Industry of Serbia.
- For the first time in Serbian case law, a decision was recently made on actio popularis claim, as a result of a need to review the role of protectors of collective and wider interests of the public and their status in access to environmental justice in the judicial practice of Serbia.



- In the lawsuit, the plaintiff refers to Article 9, paragraph 3 of the Aarhus Convention and states that this lawsuit is *actio popularis* based on Article 156 of the Law of Contract and Torts -Law on Obligations.
- The judgement became final in August 2023. (Judgment of the Higher Court, no. 181/21 of September 22, 2022).
- In this case, an environmental non-governmental organization was granted *locus standi* and a claim was adopted to prohibit an energy company from emitting the polluting substance of sulfur dioxide (SO₂) in a concentration higher than its annual emission limit value.
- The Higher court approved the claim and ordered the defendant to “coordinate his operating activities with the normative framework and operate his activities in a way that does not endanger lives and health of people”.

- In 2021, in cooperation with the OSCE, the Ministry of Environmental Protection developed a Guide for dealing with improper management of hazardous waste and Guidelines for Hazardous Waste Management.
- The creation of the Guidelines for Hazardous Waste Management aimed to establish better-coordinated cooperation between environmental protection inspections, police officers, and judicial authorities in cases of improper hazardous waste management.
- A guide for dealing with improper management of hazardous waste is available on the website:
<https://www.ekologija.gov.rs/saopstenja/nekategorizovano/vodic-za-postupanje-u-slucaju-nepropisnog-upravljanja-opasnim-otpadom>
- The guide foresees that it is necessary to establish a mechanism to work on raising the level of awareness of risks and dangers to human life and health and the environment, both to the public and to all entities involved in the implementation of hazardous waste management measures, including CSOs.

- In 2022, in cooperation with the OSCE, the Ministry of Environmental Protection also produced a Guide for improving access to justice in protected areas. This Guide aims to be an auxiliary tool to the competent authorities for more effective management of protected areas, especially regarding inspection supervision, misdemeanor, and criminal proceedings due to illegal activities in these areas.
- The guide stipulates that when managers of protected areas, which can be environmental non-governmental organizations, learn about illegal activity in a protected area that may constitute a criminal offense, they will immediately notify the competent public prosecutor, who is responsible for assessing whether criminal prosecution is warranted.
- In 2022 and 2023, the Ministry of Environmental Protection, in cooperation with the OSCE and the Judicial Academy, held 10 seminars to improve coordination among key actors with the aim of better implementation of the law and processing of environmental crime cases, with the participation of inspectors for environmental protection, prosecutors, judges and police officers.

Major challenges and needs in implementation (1)

- It is necessary to strengthen the capacity of inspection supervision in the field of environmental protection at all levels.
- The establishment of mechanisms of efficient and permanent cooperation between representatives of all institutions and CSOs will contribute to the improvement of cooperation between competent inspections, police, judicial authorities and CSOs in the implementation of prescribed environmental protection measures in the Republic of Serbia.
- The acts against the environment most often qualify as economic offenses or misdemeanors.
- Establishment of a special prosecution department that would deal with environmental crimes.



Major challenges and needs in implementation (2)

- Joint training of public prosecutors, judges, police officers, environmental protection inspectors and CSOs based on examples from practice and barriers encountered in the implementation of environmental regulations.
- Specialization of public prosecutors and judges for dealing with criminal acts, economic offenses, and misdemeanors in the field of environmental protection.
- When punishing perpetrators of criminal acts, economic offenses, or misdemeanors, increase the amounts of the fines awarded.
- Amend and tighten the penal policy regarding violations of environmental rights.

**THANK YOU FOR YOUR ATTENTION!
QUESTIONS/DISCUSSION?**

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