

## Constitutional Foundations

### Judiciary

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## I. Constitutional Foundations

According to the Constitution, in Slovenia everyone has the right to a healthy living environment, while the state has the duty to promote such healthy living environment. Everyone is obliged to protect natural sites of special interest and rarities and the state and local communities care for their preservation. Furthermore, acquiring and using property should be fulfilling its environmental function. All the above-mentioned rights are implemented in accordance with the law. There is a free access to justice and everyone can protect their constitutional rights before the Constitutional Court, if they can prove legal interest according to the law and if all other legal remedies have been exhausted. Citizens may also invoke the constitutional right to a healthy environment directly in administrative or judicial proceedings. Administrative bodies and courts of law could also directly apply the Aarhus Convention, since the Constitution stipulates that ratified international treaties should be used directly.

## II. Judiciary

Slovenian judiciary is organized in three instances:

First instance: **County Courts** ("Okrajna sodišča") and **District Courts** ("Okrožna sodišča")

Second instance: **Higher Courts** ("Višja sodišča")

Third instance: the **Supreme Court** ("Vrhovno sodišče")

At the first instance, less important cases are heard before County Courts and cases of greater importance before District Courts. If an appeal against a decision of a County or a District Court is lodged, a Higher Court will rule on the matter as the second instance court. In some cases decisions of a Higher Court may also be appealed, in which case the Supreme Court has the jurisdiction to rule on the matter in the third instance. Additionally, a specialized court for administrative matters is constituted, called the Administrative Court ("Upravno sodišče"). Before this court a proceeding may be initiated in order to challenge a final negative decision issued in an administrative procedure. If the Administrative Court issues a negative decision, an appeal to the Supreme Court is allowed. In Slovenia, there are no specialized courts for environmental matters, so there are several different departments and courts where proceedings may be conducted, depending on the type of proceedings. Criminal and civil proceedings are conducted at criminal or civil departments of County, District and Higher Courts. Procedures against negative administrative decisions are conducted at the Administrative Court. In Slovenia, strict rules determine which court has territorial jurisdiction over each case, so parties generally cannot choose the location for initiating the court proceedings. However, it also needs to be said that in Slovenia there are no significant differences between rulings of different courts around the country.

A party may lodge an appeal within 15 days of receipt of an unfavorable judicial decision. Upon receipt of the appeal, the court shall send it to the counterparty. The Administrative Court proceedings do not always allow an appeal. Filing an appeal is possible only if the court amended the administrative act, on the grounds of determining different circumstances of the case than the administrative authority. It is also not possible to appeal against decisions on legality of the elections. Therefore, the Administrative Court does not merely have cassational, but also reformatory jurisdiction. The court itself makes a new decision if it has enough information on the case, especially when the new administrative procedure could cause greater damage to the appellant or the administrative body made a new decision in contravention with the court's instructions. Slovenian law also allows extraordinary legal remedies against Higher Court judgments. These are revision, request for protection of legality, action for annulling compromise in court and reopening of a case. Typical and most common is revision, which can be brought to action against Higher Court decisions before the Supreme Court and require an attorney on the side of the party. Revision is possible within 30 days of receiving the Higher Court judgment and only on the grounds of procedural mistakes or violation of substantive law. A request for protection of legality can be filed within three months, to the Supreme Court, only by a public prosecutor. Action for annulling compromise in court can be filed in three months after reasons for annulling are known, but after the expiry of 3 years after reasons for annulling are known, bringing an action is no longer possible. Reasons for annulling are incompetence of a judge or parties or when the compromise was reached under mistake, force or trick. More common are requests for reopening a case. This is objectively possible within five years after formal finality of a decision, but subjectively only within 30 days after circumstances, which give reason for reopening occurred or the party is informed about them. The reasons are mostly procedural or regarding false evidence or the party is informed about new evidence. Against the decisions of the Administrative Court, the only extraordinary legal remedies allowed are revision and reopening the case.

There are almost no specificities of judicial procedures in environmental matters. Regarding the procedure before the Administrative Court, according to the Environmental Protection Act, the court should decide on matters about environmental consent or environmental permits within three months. Other rules are the same as the rules applicable for other cases. In addition, there are no special provisions in environmental matters for judicial actions from own motion i.e. actions that the court can do without having been asked by any of the parties. The Environmental Protection Act defines a broad right for citizens as individuals or their associations to demand before the court that someone stop doing something that is causing or would cause larger environmental impact or danger to life or health of people. However, there are no special procedural rules for such cases. It is also important to note that there has yet been no cases based on this norm.

### III. Cases on Access to Information

In accordance with the Act on the Access to Information of Public Character, the authorities in Slovenia are legally obliged to provide any information relating to their work. An application for obtaining information of public character does not need to include an explanation about why the information is needed or how it is going to be used. There are only a few types of information, which the authorities may refuse to provide. Some examples of such "protected" information include:

information which, pursuant to the Act governing classified data, is defined as classified

personal data the disclosure of which would represent an infringement of one's right to privacy

information acquired or drawn up for the purposes of administrative or court procedure and the disclosure of which would prejudice the implementation of such procedure.

However, the authorities need to disclose such protected information if the public interest for disclosure is sufficiently important. Regarding the environmental information, public interest prevails over other interests. The environmental information is especially important and the Environmental Protection Act provides for its availability. There are no restrictions for accessing environmental information. There is only free access to the information that administrative authorities obtain and collect. One may request the information from a Slovenian public authority with an informal letter or even an email (no electronic signature is needed). It is advisable that requested information is specified as precisely as possible and that it is indicated in what form the information should be forwarded (electronic version, photocopy, etc.). The authorities have to respond within 20 days. If they do not provide the requested information, they are obliged to issue a negative decision in writing. The decision needs to contain an explanation on why the request was refused and how the decision may be appealed. If the authorities do not issue a negative decision or if they do not respond within 20 days, an appeal may be filed to the **Information Commissioner** which is an autonomous and independent body ("Informacijski pooblaščenec") - <https://www.ip-rs.si/en/>. In case of a negative decision, an appeal needs to be filed to the Information Commissioner within 15 days. In case the authorities do not respond, there is also an appeal possible which is not subjected to any deadline. The Information Commissioner can order the public authority to provide the requested information. If also the decision of the Information Commissioner is negative, a court procedure may be initiated against it before the Administrative Court in Ljubljana. All writings presented in this section: request for information, appeal to the Information Commissioner and lawsuit to the Administrative Court, have to be in Slovenian language. In the border regions of Slovenia, where Italian and Hungarian minorities live, Italian or Hungarian language may also be used.

### IV. Access to Justice in Public Participation

According to the Environmental Protection Act there are three major administrative procedures as follows:

**1. Strategic Environmental Assessment (SEA):** prior to carrying out the SEA, an originator of a plan shall provide definition, description and evaluation of impacts of the implementation of the plan on the environment and possible alternatives in the environmental report. If the plan refers to the protected area, the report should also take into consideration nature conservation regulations according to the Nature Conservation Act. The authority will prepare the plan and send the plan and the draft environmental report to the Ministry of the Environment that will forward it to bodies responsible for individual areas of environmental protection. The authorities have 21 days to send comments about the acceptability of the environmental report – but if they do not respond, it is assumed that they agree with it. If there are some demands regarding improvement of the environmental report, they should be made within 45 days after receiving both, or receiving the changed environmental report. During the process, the general public also has to be informed about the plan and the environmental report in open public discussion that lasts at least 30 days. If there could be some environmental impacts across state border, the neighboring state is invited to the process. The final decision is the decision of the Ministry of the Environment about the acceptability of the impacts of the proposed plan on the environment. The decision may be positive or negative. Against this decision, it is possible to appeal. If the plan maker is the State, then the Government decides about the appeal. If the plan maker is a local community, then there is no appeal, but it is possible to go directly to the Administrative Court (some legal experts consider that this is possible only for local communities although the Environmental Protection Act does not directly say so). Most probably going to the Administrative Court against an SEA is possible for others after they have proved legal interest but there is no case law yet on this matter. Such regulation is a special kind of administrative regulation procedure. For some plans, an SEA is always mandatory, for others, which could have a significant impact on the environment, the Ministry of the Environment decides about this obligation.

In case of spatial planning, the procedure is the same (appeal or court action), but there is limited access to legal remedies. In the hierarchy of legal acts, spatial plans are general acts, not individual. Therefore, it is not possible to go to the Administrative Court or another court to challenge them. The Constitutional Court can review a general act only in terms of compliance with the Constitution and other acts. The review is allowed only if the interested party can prove his legal interest. This was applicable until 2007, when the Constitutional Court decided that in spatial planning cases legal interest exists only if all legal remedies have been exhausted (Decision U-I-275/07). Since then, there are no legal remedies in the procedures for spatial planning. It is only possible to get involved in the process by participating in the process of issuing a building permit, use legal remedies there and then go to the Constitutional Court.

**2. Environmental Impact Assessment (EIA):** the Government passed the Decree on categories of EIA of activities for which EIA is obligatory. The EIA is obligatory for the activities affecting the environment only above a certain threshold of the impact. For activities not affecting the environment this way only the report, containing a single analysis and a partial study will suffice. EIA is the basis for environmental approval ("okoljevarstveno soglasje") – this is an administrative decision provided by the Slovenian Environmental Agency. The investor should first seek from the Ministry of the Environment the information about the obligatory content of the environmental report, submitting the project idea at the same time. The Ministry sends the project to other bodies responsible for individual fields of environmental protection – they should respond within 15 days. If not, it is assumed that they do not have special requests. The Ministry should send the suitable information to the investor within 30 days after receiving the request (in the further procedure it can have some further demands). The investor applies for an EIA decision with a project application and an environmental report. In the process, the public also has to be informed about the investment, environmental report, and the draft EIA decision in open public discussion, which lasts at least 30 days. The same documents are also sent to the bodies responsible for individual fields of the environmental protection concerned; the latter need to respond within 21 days. If they do not, it is assumed they have no comments. If there could be some environmental impacts across state border, the neighboring state (member of the EU) is invited to the process. The administrative organ competent for deciding about environmental consent is the Slovenian Environmental Agency. There is an appeal possible against this decision – the deciding organ (body) is the Ministry of the Environment. Against the decision of the Ministry, it is possible to initiate the court procedure before the Administrative Court. However, this procedure is possible only against the final EIA decision. It is possible to challenge both the

environmental consent and the environment report, which is the basis for the consent, in judicial proceedings. The procedural legality of the consent can also be challenged. There are no special rules for such cases, besides ordinary rules that apply to all cases before the Administrative Court (regarding evidence, hearings, etc.). It needs to be pointed out that there have not been many cases yet in such matters. However, according to the Environmental Protection Act, the court should decide within three months. In addition, in order to have standing before the national courts it is necessary to have been involved in the preceding administrative procedure. During the time for open public discussion about the decision, interested NGOs with status according to the Environmental Protection Act, or individuals that live, have property or are possessors of property in the field of the environmental impact, must announce their participation in the procedure.

**3. Environmental permit:** there are three kinds of environmental permits (“okoljevarstveno dovoljenje”) – IPPC, SEVESO and others. A Government Decree determines IPPC and SEVESO. The administrative organ for deciding about environmental permits is the Slovenian Environmental Agency. An application for permit must include description of the facility and measures for decreasing impact of its operation on the environment. The public should also be informed about the open process and should be given the opportunity to send comments within 30 days (but only for IPPC and SEVESO permit). An appeal is allowed against the decision on the environmental permit, which needs to be submitted to the Ministry of the Environment. Against the Ministry decision, it is possible to initiate a court proceeding before the Administrative Court. There is also an administrative procedure in cases of environmental damage (environmental liability or ELD regime). The competent authority for ELD regime is the Slovenian Environmental Agency of the Republic of Slovenia. The Agency can issue an administrative order to the polluter, with prevention measures when there is a threat of an environmental damage. Alternatively, when damage has already occurred, it can issue an administrative order with measures for remediation of the damaged area. Against this administrative decision, there is no appeal possible, but interested subjects can go directly to the Administrative Court. In the administrative procedure for remediation, NGOs with status of public interest in the environment protection (according to Environmental Protection Act) can also be parties in the proceedings. To go to court regarding administrative decisions in environmental matters, one has to exhaust all available legal remedies described above. Going directly to court is possible only in cases of “administrative silence” when the statutory time limit for issuing a decision has expired and the decision has not been issued. The Administrative Court can decide on the legality of administrative decisions and the legality of administrative decisions or acts that violate human rights, if there is no other legal protection. If the decision for the appealing party is favorable, the Administrative Court can repeal or remove the administrative decision and return decision-making back to the administrative organ or it can decide instead of the administrative organ. There are no special rules for IPPC decisions before the Administrative Court and there have not been many cases until today. According to the Environmental Protection Act, the court should decide in three months. In addition, in order to have standing before the national court, it is necessary to have been involved in the preceding administrative procedure. During the time for open public discussion about the decision, interested NGOs with status according to the Environmental Protection Act, or individuals who live, have a property in, or are possessors in the area of the environmental impact, must announce the participation in the procedure. When challenging an administrative decision in court, it means that the decision is not “final” and “in force” yet.

**V. Access to Justice against Acts or Omissions**

Anyone can report dangerous activities to competent authorities (to the police or to an environmental inspector). In addition, according to the Environmental Protection Act, citizens and/or their organizations can submit an action directly to court, when someone is causing or could cause (with certain doings) an environmental damage that could be dangerous to life or health of people. Although this regulation has been adopted in Slovenia more than 15 years ago, not a single case has been registered yet. Going to court directly against state bodies in environmental matters is not directly determined in law except in the administrative procedure with legal remedies. There are two administrative bodies with the power to issue administrative decisions in environmental matters: the Ministry responsible for the environment (at the moment this is the Ministry of Agriculture and the Environment (“Ministrstvo za kmetijstvo in okolje”), and the Slovenian Environmental Agency (“Agencija Republike Slovenije za okolje”) which is subordinated to the Ministry. The content of the request from such authorities is usually defined in the executive regulation of the Environmental Protection Act and there are also some helpful forms on the website of the Ministry. The conditions for court review are almost the same as for other cases: the interested party should have legal standing and consider the three main reasons for challenging the decision of the competent authority (administrative decision):

- incorrect estimation of circumstances and facts,
- procedural mistakes,
- inappropriate use of law.

The decisions other than those that are administrative can hardly be challenged, because Administrative Courts do not rule on the decisions that are results of political decision-making based on legal empowerment.

**VI. Other Means of Access to Justice**

There are some other means of access to justice in environmental matters. The Code of Obligations declares the right for someone to demand that some dangerous activities should be stopped (this is usually connected with a request for compensation). The new Criminal Code has incriminated a few acts against the environment that can be prosecuted by the public prosecutor. Private criminal prosecution is not possible. The Law of Property Code offers protection against emissions (all disturbances coming from certain property that affect usage of other properties and exceeds normal levels or is causing greater damage). Every property owner should use his property within certain limits not to influence usage of other properties – emissions beyond limits of usual use are not allowed. The owner of affected property can submit the action against them before a Civil Court. In Slovenia there is no special ombudsman for environmental cases, but according to the Environmental Protection Act, the Ombudsman (“varuh človekovih pravic”) (<http://www.varuh-rs.si/index.php?id=1&L=6>) has some competence in environmental matters. He is responsible for the protection of the constitutional right to a healthy environment. The Ombudsman deals with violating human (and environmental) rights by the state or local authorities and inappropriate administration actions, but his influence is informal. His opinions are not binding, but they are respected. Public prosecutors are responsible only for prosecuting criminal acts against the environment that are regulated in the Criminal Code. The Inspectorate of the Republic of Slovenia for Agriculture, Forestry, Food and the Environment („Inšpektorat Republike Slovenije za okolje”) is also of great importance, because it is the main authority for controlling /supervising implementation of relevant environmental laws.

**VII. Legal Standing**

Legal Standing	Administrative Procedure	Judicial Procedure
Individuals	Legal interest is usually recognized if an administrative decision is related to an individual or the matter is related to individual’s legal benefit (direct personal benefit based on legal regulation)	The same as for an administrative procedure, for the Administrative Court or direct personal interest/benefit based on legal regulation for civil court
NGOs	The same as individuals	The same as individuals
Other legal entities	The same as individuals	The same as individuals
Ad hoc groups	No rights	No rights
foreign NGOs	The same as individuals	The same as individuals

Any other	x	x
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In environmental matters there are some procedural exceptions according to the Environmental Protection Act and the Nature Conservation Act. In administrative procedures regarding EIA, IPPC and SEVESO permit the position of party in the administrative procedure automatically goes to: persons who live or are owners or other landowners in the area defined as the area of environmental impact (in the environmental report); non-governmental organizations with special status of public interest in environmental protection.

Nevertheless, to get legal standing, a person must submit a declaration for entering the procedure, during the time for open public discussion. If one gets legal standing in the administrative procedure one can use further remedies also at the Administrative court.

According to the Nature Conservation Act only the associations (referred to as a kind of nongovernmental organization) can get the status of public interest. This status allows them to attend all administrative or court procedures regarding environmental protection. In theory, according to the Environmental Protection Act, there is a possibility for *actio popularis*. In order to exercise the right to a healthy living environment, citizens may, as individuals or through societies, associations and organizations, file a request with the court, demanding that the holder of an activity affecting the environment, stop the activity, if it could cause or it causes an excessive environmental burden or if it could present or it presents a direct threat to human life or health, or requesting that the person responsible for the activity affecting the environment be prohibited from starting the activity, when there is a strong probability that the activity would result in such consequences. In other environmental cases, besides mentioned exceptions, regular rules apply. The major obstacle is usually proving legal interest in order to begin the case.

The ombudsman has some competence in environmental protection but only before the Constitutional Court, when the constitutional right for healthy environment is threatened. In regular court procedures there is also the possibility of an extraordinary appeal for protection of legality that can be submitted by the Supreme public prosecutor within 3 months. It can be filed based on a procedural violation or a violation of substantive law. Only a few such cases occur annually. Aforementioned appeal is not possible against decisions of the Administrative Court.

### VIII. Legal Representation

Lawyers are a part of the justice system. In environmental matters, legal representation is not mandatory, but legal representation may be mandatory, depending on the court that will conduct proceedings. In administrative procedures legal representation is not mandatory. The same applies for the Administrative Court, Country and District Courts and Higher Courts. Before the Supreme Court legal representation by a lawyer is always mandatory. In criminal procedures legal representation is mandatory for the accused. All lawyers are members of the Bar Association ("Odvetniška zbornica") (<http://www.odv-zb.si/en/about-the-bar>). The list of lawyers is published on the official webpage of the association, they are sorted by fields of specialization, but environmental law is not stated as a category. There are only a few lawyers dealing with environmental matters.

### IX. Evidence

In Slovenia, there are no special rules for provision of evidence in judicial cases in environmental matters. Standard court procedure rules apply. In civil procedures, parties have to submit all the evidence (documents, witnesses, experts) to the court by the end of the first court hearing. The Court shall reject all evidence proposed after this deadline, unless the party can prove he had not been able to do so earlier. In smaller cases (up to 2.000 EUR), all the evidence of the plaintiff has to be mentioned and submitted in the lawsuit. The court will make the decision based only on the evidence as presented by the parties and will not look for additional evidence on its own motion. Criminal procedures in environmental matters are handled by state prosecutors, who need to provide all the evidence. The person who filed a criminal complaint, upon which the procedure was initiated, is not expected to provide the evidence in the matter. In procedures before the Administrative Court (procedure against a negative administrative decision) parties cannot submit new evidence that they could have already submitted in the administrative procedure. This means that parties have to be careful to submit all the evidence they already have during the administrative procedure. However, the court will sometimes look for additional evidence on its own, in order to come to the correct conclusion on the matter. In environmental matters, to prove liability and to establish the connection between the cause and the effect, getting a useful and suitable expertise is the basic condition for suing. Facts can be reasoned only based on such expertise. However, there are no independent, non-governmental, expert bodies providing such expertise. The optimal way is to engage an expert who is also a registered as court expert ("sodni izvedenec") at the Ministry of Justice and Public Administration (on <https://spvt.mp.gov.si/izvedenci.html>). As suitable expert evidence, the court may consider only expertise made by such court expert, of course if the opposite party agrees with this proposition. If not, the court shall decide about the expert in agreement with the parties. The court experts can also be associated with an expert institution. Before defining the expert, parties can comment on the selection. There is a procedural rule that the court shall use a court expert, when some facts or circumstances need to be clarified, and the court does not have such expert knowledge. The expert's opinion is especially important because in environmental matters a party is trying to prove something different as stated in expert reports drawn up by state authorities and which are assumed true. Judges have the discretion in assessing the expertise, in comparison with other evidence. Parties can comment on the expertise and the expert can be called to explain it before the court. Under some circumstances (deficient expertise, not consistent) the court can chose a new expert. However, if the expertise has no deficiencies, the court considers the expertise appropriate evidence.

### X. Injunctive Relief

When challenging an administrative decision, an appeal has suspensive effect on the challenged decision. A legal remedy against an administrative decision before the Administrative Court does not necessarily have a suspensive effect. Some cases are excluded and are determined by law, for instance, in cases of building permits for objects of importance recognized on the state level, when a lawsuit against such a permit is submitted to court, it does not have suspensive effect. An injunctive relief can be issued in environmental matters in the course of court proceedings but this is not applicable to all cases. The injunctive relief is regulated in the Enforcement and Securing of Civil Claims Act; it is allowed only in connection with some material or immaterial claims and directed against the property of the opposite party. The court is obliged (and does) decide about injunctive relief fast. Moreover, an appeal is possible against such court decision. The regulation of injunctive relief, however, is not specific to environmental cases. For most administrative decisions (except as in the process of building permits for objects of state importance), such system is put in place that decisions are not valid or "in force" until all regular legal remedies have been exhausted (supposing there are legal remedies available), therefore the institute of injunctive relief is actually not necessary.

### XI. Costs

Administrative procedure costs are regulated in the Administrative Fees Act and judicial fees are regulated in the Court Fees Act. Fees are not high, usually around 100 €. But if the procedure before court includes a claim for compensation, then fees are higher in correlation with the amount of the requested compensation. Administrative fees are lower. The majority of costs are costs for lawyers, experts and expert reports; worst case scenario is losing the case and covering all these costs for the opposite party – the costs can rise up to a few thousand €. At the end of the court procedure costs are covered according to the "principle of success". But this can be a problem for the winning party in cases where compensation is included. Costs are divided between parties as a ratio between the awarded amount of compensation for damages and the required amount of compensation. So even though the party succeeds in proving that the other party is responsible for environmental damage, wins the case and is awarded compensation, but the required amount is much higher than the awarded amount, the winning party still needs to cover his share of the costs which can be even higher than the awarded amount of compensation.

### XII. Financial Assistance Mechanisms

Environmental matters are not set as a special reason for providing exemptions for costs in court procedures. According to the Free Legal Aid Act in all cases an individual or an organization can be, under some conditions, exempt from procedural costs. For individuals the condition is their weak financial situation. This, however, does not apply to organizations. They can be exempt if they have a status of public interest. According to different laws, different non-governmental organizations in Slovenia can get status in public interest in different fields. In accordance with the Environmental Protection Act, they can get status of acting in the public interest of environmental protection and - in accordance with the Nature Conservation Act - they can get status of acting in the public interest of nature conservation. Such organizations can get free legal aid if they are going to court regarding the field of their public interest. The general condition for free legal aid is also that the case has good prospects. The free legal aid can cover lawyer fees, judicial fees, costs of witnesses, experts and other costs of the procedure. However, it does not cover the costs of the opposite party in case of losing the suit. An individual or an organization should apply for the free legal aid at the nearest District Court or Administrative Court. If the application is granted, the organization is assigned a lawyer. There are almost no pro bono practices by lawyers in Slovenia, although there are initial signs of some change in this field. There are some individual exceptions and there was also a project under the auspices of the Peace Institute (

<http://www.mirovni-institut.si/en/projects/building-capacity-for-pro-bono-work-of-lawyers-in-slovenia/>) - Building Capacity for Pro Bono Work of Lawyers in Slovenia. All lawyers were addressed to join, and some agreed, however, none of them was an environmental specialist. Although some efforts have been made in this direction, there is still no "legal clinic" dealing with environmental cases. In addition, there are no public interest environmental law organizations or lawyers. There is only one NGO trying to establish legal environmental protection with a center of competent lawyers specialized in environmental cases. There is also the Legal-Information Center for NGOs (Pravno-informacijski center nevladnih organizacij – PIC) <http://www.pic.si/>, which has status of NGO in public interest in environmental protection. There are also some other environmental NGOs with this status that have some legal support inside the organization and are involved in some cases (like DOPPS Bird life Slovenia (Društvo za opazovanje in preučevanje ptic Slovenia) <http://www.ptice.si/>).

### **XIII. Timeliness**

Administrative organs are supposed generally to make a decision within 30 days. In some cases, if an additional fact-finding procedure is needed, they should decide within 60 days. According to some special laws these terms may be different (usually longer). If administrative organs are not active or they decide with delay, there are no sanctions; applicants may take some legal actions after the time for decision has passed. When there is a higher administrative organ to appeal to, they can appeal as if the lower organ decided negative. If there is no higher administrative organ, the applicant should first remind the organ that the time has passed and that it should provide a decision in additional 7 days. After this time the applicant can begin the court procedure before the Administrative Court. Some general time limits are applied for issuing decisions in environmental matters and the Environmental Protection Act establishes different time limits for particular decisions. According to the EIA Decree, an administrative body should issue an environmental consent ("okoljevarstveno soglasje") within 3 months (but in this term 30 days for public participation is not included) and in 6 months an environmental permit ("okoljevarstveno dovoljenje") - IPPC, SEVESO and other (30 days for public participation is also not included). For court procedures the law generally does not provide any limits, but individual laws introduce some exceptions. Such law is the Environmental Protection Act which provides a 3 month term for the Administrative Court decision on environmental consents and environmental permits. In other environmental matters before Slovenian courts there are no statutory time limits for issuing decisions. If the proceeding starts with a long delay or it takes too long to reach a decision, according to the Protection of Right to Trial without Undue Delay Act, the parties of the case have the right to submit a supervisory appeal to the president of the competent court. Then the judge reports on the case and explains reasons for delaying, after which some measures for acceleration of the process are taken. If there are no reasons for delay, the party has a right to financial compensation under some conditions. Parties in court procedures are bound by strict time limits. Upon receiving the suit from the court, the defendant should respond within 30 days, otherwise the court could decide in favor of the plaintiff. In addition, evidence should be submitted or proposed to court at the first trial, at the latest; later, it is only possible, if parties could not do it within the prescribed deadline outside their own fault. There is no typical duration for environmental court cases, because there are only a few in motion, but Administrative Courts would probably decide within one year.

### **XIV. Other issues**

Environmental decisions are usually challenged in the administrative procedure through involvement in the procedure or with legal remedies against the issued administrative decisions. There are not many environmental cases challenged by the public; the main reason for this is a lack of environmental legal knowledge. The public does not have enough knowledge on the matter, to be competent for such procedures. On the other side, lawyers are not systematically educated for environmental matters. Therefore, there is a low number of environmental cases in Slovenia. In addition, there are around 1500 different laws and executive regulations on spatial planning, environmental and nature protection with specialized regulations referring to waters, forests, agriculture, etc., which are permanently changing, so it is hard to manage them. Spatial planning and environmental issues are closely intertwined, but decision-makers concerning the environment and spatial planning are strictly separated. All these issues are finalized in the building permit procedure, when it is already rather late to intervene. Consequently, there is no simple portal to inform and direct the public on how to access to justice according to the Aarhus Convention's demands. The Ministry of the Environment financially supported preparation of a brochure about legal remedies in environmental matters (in 2010), which is published (not in English) on the PIC website: [http://pic.si/wp-content/uploads/2014/01/Pravna\\_sredstva-prirocnik-V2-popravek.pdf](http://pic.si/wp-content/uploads/2014/01/Pravna_sredstva-prirocnik-V2-popravek.pdf)

Alternative Dispute Resolution as a potential way of resolving a problem or a conflict is possible in Slovenia. There are no special regulations, but plenty of specialized and educated mediators offer their services. When there already is a court case then the parties can go through Alternative Dispute Resolution process, according to the Act on Alternative Dispute Resolution in Judicial Matters, which has been valid since June 2010. The ADS procedure begins with a proposal of the court (the court is obliged to make such a proposal) or on the initiative of a judge or parties. However, ADR is not possible in cases under the jurisdiction of the Administrative Court.

### **XV. Being a Foreigner**

The Slovenian Constitution forbids discrimination based on country of origin and language. Lawsuits, appeals and all other writings submitted to the court have to be written in the Slovenian language. In the border regions of Slovenia, where the Italian and Hungarian minorities live, the Italian or Hungarian languages may be used. The judgment and other writings of the court are also issued in Slovenian (or Italian, or Hungarian). If one participates in a court hearing, he is allowed to use his own language and the court provides an interpreter to translate, free of charge.

### **XVI. Transboundary Cases**

Transboundary related environmental issues are regulated in the Environmental Protection Act. It regulates:

Cases of transboundary pollution cooperation of ministries of both countries in order to exchange information and to prepare plans towards improving the situation;

Cooperation within SEA and EIA: if a plan or an activity might have a transboundary impact, the ministry forwards to the competent body of the affected country the plan or project with the environmental report, submitting a request for a statement on the involvement of the affected country in the procedure. If the affected country wishes to get involved, then competent bodies of both countries decide on time limits, within which the affected country should prepare comments on the plan and the environmental report;

Cooperation of SEA and EIA with a Member State of the EU: if the ministry is introduced to a plan or a project and environmental report of another country and decides that it might have some impact on Slovenia, than the ministry forwards a statement to the competent body of the other country, about involving the Slovenian ministry into the procedure. If the country agrees, comments of Slovenian bodies responsible for protecting particular environmental areas in Slovenia should be obtained and the public needs to be involved, like in domestic plans or activities of the SEA or EIA. After obtaining comments, the ministry shall forward them to the competent body of the other country. If the ministry for environment obtains informal information on the preparation of plans or activities in other countries that could have an impact on Slovenia, then it demands the plan or project and the environmental report from the other country. The Environmental Protection Act contains rules only for domestic public participation, when the state decides to get involved into transboundary SEA or EIA. It states that the ministry should involve public, just like in domestic SEA and EIA cases. This means public announcement and 30 days of open public discussion. There are no rules about choosing the court in Slovenia or in other country. Before domestic courts, only decisions of Slovenian courts can be challenged.

#### **Related Links**

Something about court system and procedures in Slovenia on European Judicial Network in civil and commercial matters

[http://ec.europa.eu/civiljustice/jurisdiction\\_courts/jurisdiction\\_courts\\_sln\\_en.htm](http://ec.europa.eu/civiljustice/jurisdiction_courts/jurisdiction_courts_sln_en.htm)

there is no web page with national legislation on access to justice in environmental matters and also no web page with information on access to justice in environmental matters available to the public in a structured and accessible manner; but:

register of all legislation in Slovenia <http://www.pisrs.si/Pis.web/pravniRedRS>

Legal remedies in environmental matters manual (Pravna sredstva na področju varstva okolja) prepared by Legal-Information Center for NGOs - PIC (Pravno-informacijski center nevladnih organizacij – PIC) in 2010 [http://pic.si/wp-content/uploads/2014/01/Pravna\\_sredstva-prirocnik-V2-popravek.pdf](http://pic.si/wp-content/uploads/2014/01/Pravna_sredstva-prirocnik-V2-popravek.pdf)

Slovenian courts official website <http://www.sodisce.si/>

environmental experts are on the list of registered court experts at the Ministry of Justice and Public Administration <https://spvt.mp.gov.si/izvedenci.html> and court appraisers at <https://spvt.mp.gov.si/izvedenci.html>

there is no list of environmental lawyers and pro bono environmental law offices, therefore only the link to the Slovenian Bar Association (Odvetniška zbornica Slovenije) <http://www.odv-zb.si/en/about-the-bar>

Human Rights Ombudsman (Varuh človekovih pravic) <http://www.varuh-rs.si/index.php?id=1&L=6>

State prosecutors <http://www.dt-rs.si/en>

Information Commissioner ("Informacijski pooblaščenec") - <https://www.ip-rs.si/en/>

Relevant environmental NGO's – with status of public interest (status by Environmental Protection Act):

Umanotera, Slovenska fundacija za trajnostni razvoj (The Slovenian foundation for sustainable development) <http://www.umanotera.si/> – coordinator of the net of environmental NGOs Plan B za Slovenjo <http://www.planbz slovenija.si/english> and the members

IPOP, Inštitut za politike prostora (Institute for spatial policies) <http://ipop.si/> - coordinator of the net of NGO's dealing with spatial issues Mreža za prostor (Net for space) and the members

Focus, društvo za sonaraven razvoj (Focus Association for Sustainable Development) <http://focus.si/index.php?node=35>

DOPPS, društvo za opazovanje in preučevanje ptic Slovenije (Bird life Slovenia) <http://www.ptice.si/>

Slovenski E-forum, Društvo za energetska ekonomiko in ekologijo (Slovenian E-forum Association for energetic efficiency and ecology)

<http://www.se-f.si/home>

Pravno-informacijski center nevladnih organizacij – PIC (Legal-Information Center for NGOs)

[http://www.pic.si/index.php?option=com\\_content&task=view&id=208&Itemid=195](http://www.pic.si/index.php?option=com_content&task=view&id=208&Itemid=195)

Alpe Adria Green <http://alpeadriagreen.wordpress.com/>

Lutra, Inštitut za ohranjanje naravne dediščine (Lutra, Institute of preservation of natural heritage) <http://www.lutra.si/>

Inštitut za trajnostni razvoj (Institute for sustainable development) <http://www.itr.si/>

Eko krog, društvo za naravovarstvo in okoljevarstvo (Eco circle, Association for natural preservation and environmental protection) <http://www.ekokrog.org/>

Ekologi brez meja (Ecologists without borders) <http://ebm.si/oj/>

Brez izgovora Slovenija (No excuse Slovenia) <http://www.noexcuse.si/>

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