Access to justice in environmental matters

Slowakije

I. Constitutional Foundations

According to Article 44 paragraph 1 of the Constitution (*Ústava Slovenskej republiky)* „Everyone shall have the right to a favourable environment.“ According to Article 44 paragraph 1, 2 and 3 of the Constitution: “Everyone shall have a duty to protect and improve the environment and to foster cultural heritage, no one shall imperil or damage the environment, natural resources and cultural heritage beyond the limits laid down by a law and the State shall care for economical exploitation of natural resources, for ecological balance and on effective environmental policy, and shall secure protection of determined sorts of wild plants and wild animals.” According to Article 45 of the Constitution „Everyone shall have the right to full and timely information about the environmental situation and about the reasons and consequences thereof.“ According to Article 46 paragraph 1 of the Constitution „Everyone may claim his or her right by procedures laid down by a law at an independent and impartial court or, in cases provided by a law, at other public authority of the Slovak Republic.“ According to Article 46 paragraph 2 of the Constitution „Any person who claims his or her rights have been denied by a decision of a body of public administration may come to court to have the legality of the decision reviewed, save otherwise provided by a law. The review of decisions in matters regarding the fundamental rights and freedoms however shall not be excluded from the jurisdiction of courts.“ According to Article 44 paragraph 5 of the Constitution: “Details on the rights and duties according to Article 44 paragraphs 1 to 4 shall be laid down by a law. According to Article 51 paragraph 1 of the Constitution „The rights defined in Articles (...) 44 to 46 of this Constitution may be claimed only within the restrictions of the laws implementing these provisions.“

Citizens can invoke the constitutional right to favourable environment directly. Individual implementing acts specify this right. Therefore citizens in administrative or judicial procedures invoke rights set forth in the implementing acts. According to Article 7 paragraph 5 of the Constitution “International treaties on human rights and fundamental freedoms and international treaties for whose exercise a law is not necessary, and international treaties which directly confer rights or impose duties on natural persons or legal persons and which were ratified and promulgated in the way laid down by a law shall have precedence over laws.” Public authorities have to apply provisions of international treaties, if these are sufficiently concrete. Several court decisions exist in which courts have explained provisions of national law in conformity with the Aarhus Convention in order to reach the objective of the Aarhus Convention. Based on these decisions, the public authorities, afterwards, applied the Aarhus Convention in administrative proceedings.

II. Judiciary

The Slovak court system consists of district courts (*okresné súdy),* regional courts (*krajské súdy*), a Specialised Criminal Court (*Špecializovaný trestný súd*), a Supreme Court (*Najvyšší súd*) and a Constitutional Court (*Ústavný súd*). According to the Constitution “The judiciary in the Slovak Republic shall be administered by independent and impartial courts. The judiciary shall be independent of other state authorities at all levels.” The court agenda can be divided into civil matters, criminal matters and administrative matters. Constitutional Court also decides cases when constitutional rights of citizens could have been denied by decisions of other courts and it can thus revoke such decisions. In civil matters courts also decide cases concerning property rights and when another infringes these rights (these typically concerns emissions of noise, chemical substances etc.). In administrative matters, courts determine the legality of decisions of public authorities or they can order the public authority to issue a decision when the public authority remains inactive. There are no special courts or tribunals to decide environmental matters in Slovakia. Cases related to environmental matters are decided by administrative panels of regional courts or by the Supreme Court. According to the Civil Procedure Code (*Občiansky súdny poriadok)* if more than one court is competent, the proceedings can be held by any one of them. According to the Civil Procedure Code the competent court is the court that has jurisdiction over the place of residence of a citizen. A complaint can be sent also to other competent courts. For example, according to the Civil Procedure Code the competent courts shall also be the courts that have jurisdiction over the defendant's permanent place of work, over the place where a transaction or occurrences took place that gave rise to the damage claim or over the organisational unit of the defendant – legal person – if the dispute concerns this unit.

Parties to judicial procedure can appeal the decision of the first instance court. A court of second instance – appellate court – reviews the decision. In cases set forth by law, the decisions of appellate courts can also be challenged by a specific appeal (appeal on the points of law). Appeal on the points of law (*dovolanie)* can be filed in cases when serious procedural failures of the appellate court lead to unlawfulness of the decision or when the appellate court has been deciding a case of major legal significance. The right to file an appeal on the points of law in administrative matters is limited. The Prosecutor General (*generálny prokurátor)* can file an extraordinary appeal on the points of law (*mimoriadne dovolanie)* against court decisions under extraordinary circumstances. After the exhaustion of all legal remedies, the Constitutional Court can review the lower court’s decision – a party has to file a constitutional complaint invoking infringement of a specific constitutional right by the court decision. Administrative courts only have cassation rights. They can only revoke

a decision of public authority and send the case back to a new proceeding. However, in matters concerning access to information the courts can order public authorities to disclose the information requested. In environmental matters, specific expert knowledge from the environmental field is often needed. In civil matters, for example cases concerning infringement of property rights by emissions (*imisie)*, expert opinions are used, which often decide the whole case. Environmental NGOs are exempted from court fees. According to the Civil Procedure Code the court may commence proceedings on its own motion for example in cases involving custody of minors, permission to place or holding a person in a medical institution, legal capacity, guardianship, declaring a person dead or probate. In environmental matters the proceedings shall commence on a petition. The court may not commence proceedings in environmental matters from own motion.

III. Access to Information Cases

If the public authority fails to satisfy the request for information, even partially, it shall issue an administrative decision to that effect within the period of eight working days. Applicants requesting access to information may file an appeal against the public authority's decision refusing to disclose the requested information within 15 days from the delivery of such decision. According to the law if the public authority failed to provide information within the period set for disposition of the request, or to issue a decision, it shall be deemed that the public authority issued a decision denying the information. It is a so-called "fictive" decision. This fictive decision can also be challenged by an appeal. The court can examine the decision of the appellate body under the Civil Procedure Code (in a system of administrative judiciary). Administrative section of the office of the public prosecutor may upon the request of the applicant propose revocation of an unlawful decision refusing the request for information and file a ´protest´ (*protest)* against such decision. If the public authority does not accept his protest, the public prosecutor can file a complaint against the decision of public authority to the court within the administrative judiciary. Refusals of request for information must include information on remedies available. Every decision on refusal of request for information must include instructions on the possibility and time limit for an appeal and also on the possibility of judicial review of the decision. The request for information may be filed in writing, orally, by telephone, fax, e-mail or any other technically reasonable means. It must be clear from the request which public authority it is addressed to, who filed it, what information it concerns and the means of disclosure the applicant prefers. Applicants may file an appeal against the public authority's refusal to disclose requested information within 15 days from the delivery of such decision or lapse of the period for request disposition. The appeal shall be lodged with the public authority that issued or should have issued the decision. The court may review the decision rejecting the appeal under Civil Procedure Code. The legal action may be taken to the court within 2 months from the delivery of decision rejecting the appeal. The information requested should be part of the administrative file. In some cases, the court does not have the information requested at its disposal and therefore rules on its accessibility only in the abstract without the opportunity to get familiar with the information itself. The court can order the public authority to disclose the information. This is subject to judicial discretion.

IV. Access to Justice in Public Participation

The Administrative Procedure Code *(správny poriadok)* is the fundamental procedural act to lay down rules for the conduct of public authorities in administrative procedure in environmental matters. Administrative procedure in environmental matters commences upon a petition (e.g. request for a permit of conduct) or from own motion of the public authority (e.g. when the public authority finds violation of law by a certain person, it opens proceedings to impose sanctions against the person). Participants in administrative procedure are persons, whose rights or interests protected by the law are likely to be affected by the final administrative decision, or who claim they can be affected until the contrary is proven. Special acts/statutes can state, that other persons shall also be participants in administrative proceedings. Participants in administrative procedure are entitled to information from the (administrative) file, to move for additional evidence, express their position, and the public authority is obliged to deal with what was abducted by the participants. Administrative procedure is concluded when the decision on the matter of the case is issued. All participants must be notified of the decision. An appeal against the administrative decision can be lodged to a superior administrative authority. Administrative decisions can be taken to court only after exhaustion of all ordinary administrative remedies, so only after the appeal has been decided. Courts review both the procedural and the substantive legality of administrative decisions. If in administrative proceedings, the procedural rule has been infringed to such an extent that it could have affected legality of the final decision, the court has to revoke such decision. Verification of technical findings is limited. According to the Civil Procedure Code „In respect of a decision issued by an administrative authority on the basis of legally allowed discretion (*správne uváženie*), the court shall only review whether such decision goes beyond the scope and points of view set forth by the law." The court, however, reviews whether the public authority satisfactorily dealt with the objections of the participants on the correctness or sufficiency of material and technical findings and calculations.

Slovak laws do not explicitly provide for the court review of land use plans or other normative types of environmentally relevant decisions defining the use of space. The state prosecutor is entitled to file a petition to the court to abolish an unlawful land use plan.

A right to file a court petition within administrative judiciary is granted to a person, who claims his/her right has been denied by a decision of public authority. If a decision has been issued within administrative procedure, all its participants are entitled to file a court petition should the decision deny or infringe their rights. Current Slovak legislation in force does not explicitly set forth that courts can review EIA screening decisions on the basis of petition filed by the public. EIA screening decision is not being issued within administrative procedure and it is very questionable if the public can claim that its right has been denied by an EIA screening decision. Courts cannot review EIA scoping decisions. Courts cannot review the outcome of the EIA procedure (EIA final statement - *stanovisko*). But administrative permit decisions issued on the basis of the EIA final statement (EIA decisions or EIA permits) can be reviewed by courts. The right to file a complaint against the permit decision is given to the participants in the administrative proceedings in which the permit decision was issued. It has to be filed within two months after the permit decision has been notified to them. The regional court decides this complaint. The court should also review the lawfulness of the documents, on which the permit decision was based, therefore also legality of the EIA final statement. If the court finds the EIA final statement unlawful, it should also revoke the permit decision. Courts review both procedural and substantive legality of EIA decisions. Their review of material and technical findings and calculations and expert accuracy of the Environmental Impact Study is, however, limited. On the other hand, courts do review whether the permitting authority satisfactorily dealt with the objections of the participants on the correctness and accuracy of material and technical findings and calculations and expert accuracy of the Environmental Impact Study. Standing before the national courts is granted to NGOs and other persons, who submitted comments in the public consultation phase of the EIA procedure. These persons thus become participants in the administrative permit procedure and only the participants of the administrative permit procedure are granted legal standing according to the Slovak legislation. Standing before the court is also granted to persons, who did not make comments in the public consultation phase of the EIA procedure, but are participants in the administrative permit procedure. The court may grant a preliminary injunction (*predbežné opatrenie*), which means suspension of the enforcement of the permit decision. According to the Civil Procedure Code "Upon the request of a party to the proceedings, the presiding judge may suspend by a resolution the enforcement of the administrative decision, should there be a threat of a serious damage in case the administrative decision challenged was promptly enforced." There are no special rules applicable to EIA procedures besides the general provision stated above.

Courts can review IPPC decisions or authorizations. The right to file a complaint against IPPC permit decisions is given to the participants of the administrative proceedings within two months after the delivery of the IPPC permit decision. Regional courts decide the complaint. The court should also review the lawfulness of the documents, on which the IPPC permit decision was based. If it finds them unlawful, it should cancel the IPPC permit decision. Courts review both the procedural and the substantive legality of IPPC decisions. Their review of material and technical findings and calculations and expert

correctness of the IPPC documentation is, however, limited. On the other hand, courts do review whether the permitting authority satisfactorily dealt with the objections of the participants on the correctness and adequacy of material and technical findings and calculations and expert accuracy of IPPC Documentation. Standing before the court is granted to every participant of the permit proceedings, who claims that his/her rights have been infringed or denied by the IPPC permit decision. If the IPPC project is subject to Environmental Impact Assessment (EIA), environmental NGOs and persons who submit their comments in the public consultation phase of the EIA procedure are participants of the administrative proceedings, in which the permit is issued. There are also other persons who are participants without the need to participate in the public consultation phase of the IPPC procedure. This concerns e.g. owners of property that are likely to be affected by the IPPC permit decision. Participants in the proceedings are also persons who claim that their rights or legally protected interests are likely to be affected by the IPPC permit decision, until the contrary is proven. Eligible participants in the proceedings are also environmental non-governmental organisations or civic associations with at least 250 members (natural persons) older than 18 years (at least 150 of them must have permanent residence in the municipality, where the IPPC activity is to be permitted) if they submit their application to be participants in the IPPC permit proceedings in writing. Courts can issue a preliminary injunction, which means suspension of the enforcement of the IPPC permit decision. According to the Civil Procedure Code “Upon the request of a party to the proceedings, the presiding judge may suspend by a resolution the enforcement of the administrative decision, should there be a threat of a serious damage if the administrative decision was promptly enforced.” There are no special rules applicable to IPPC procedures besides the general provisions stated above.

V. Access to Justice against Acts or Omissions

Claims against private individuals or legal entities in environmental matters can be submitted to court directly. A person can submit a complaint to the court if the exercise of his/her property rights is unnecessarily bothered by emissions produced by another person. According to the Civil Code “the owner of a thing must omit all that unnecessarily bothers another person or that seriously denies the exercise of his rights.” According to the Civil Code (*Občiansky zákonník)* “the owner must in particular not jeopardise the neighbour's building or plot by arrangements of his plot or by arrangements of his building placed thereon without taking sufficient measures for stiffening of the building or plot; furthermore, the owner must not unnecessarily bother the neighbours with noise, dust, ashes, smoke, gases, vapour, smells, solid or liquid waste, light, shading and vibrations (emissions)”. An affected neighbour can ask the court to prohibit the person’s production of the emissions. A person can also claim damages for material loss that was suffered due to the unlawful conduct of another person. If a public authority during administrative proceedings remains inactive, a participant in the administrative proceedings may file a complaint against inactivity to the court. The court is entitled to order the public authority to issue a decision in a given time or to make another motion in a given time. A person can also submit a petition to the court against unlawful denial of his/her rights by the public authority in case its consequences are pending or in imminent threat of repetition of the unlawful action. The court is entitled to order the public authority to cease the unlawful action. According to the Act on prevention and restoration of environmental damage, competent authorities in environmental liability matters are the Ministry of the Environment, regional environmental offices (*krajské úrady životného prostredia),* district environmental offices (*obvodné úrady životného prostredia*) and Slovak Environmental Inspectorate (*Slovenská inšpekcia životného prostredia*). The owner or lessee of the property, who may be affected by environmental damage, a person whose rights or legally protected interests may be directly affected by the environmental damage or an environmental NGO may notify the competent authority that environmental damage has occurred. This notification must be filed in writing and must include the name of the operator of the harmful activity, and if it is known to the one notifying the authorities, s/he should also include the place where the damage occurred, a description of the matter, a set of evidence proving the content of the notice and information about the one notifying. If the competent authority finds out that the environmental damage has occurred, it may require the operator to take necessary restorative measures or it may take the necessary restorative measures and then recover the costs incurred. The competent authority informs the one notifying of the steps taken in writing. The owner or lessee of the affected property, municipality affected by the damage or a person whose rights or legally protected interest may be directly affected by the damage occurred are participants in the administrative proceedings on imposing the restorative measures. Environmental NGOs existing for more than a year, which filed a notification on the environmental damage, may become participants in the proceedings upon request. Every participant of administrative proceedings on preventive or restorative measures may bring legal action before the court to review lawfulness of the administrative decision on preventive or restorative measures. This complaint is dealt with within the administrative judiciary.

VI. Other Means of Access to Justice

Apart from an appeal (*odvolanie)* against the administrative decision and an administrative petition *(správna žaloba)* against the appeal decision to court, there are other means of remedies available. A person can open an extra appellate procedure (*mimoodvolacie konanie)* by filing an application for review of the administrative decision after the time limit for an ordinary appeal expired. Based on this application, a superior administrative authority may revoke an unlawful decision of a subordinate administrative authority. A person may also file a petition to the administrative section of the office of the public prosecutor asking the public prosecutor to lodge a so-called protest against an unlawful administrative decision. A complaint can also be filed against an unlawful conduct of public authorities. The head of the office of the public authority concerned usually handles this complaint. The Ombudsman reviews citizens´ petitions claiming infringement of their rights. If a claim concerns an enforceable administrative decision of public authority and the ombudsman finds it unlawful, he may advance the case to the public prosecutor, who can lodge a protest. There is no specific environmental ombudsman in Slovakia. A superior administrative authority may cancel an unlawful administrative decision of a subordinate body within a so-called extra appellate procedure. Public prosecutors may lodge a so-called protest against an unlawful administrative decision and may also propose the authority, which issued the decision, to revoke it. If neither this authority nor the superior authority satisfactorily handles the protest, the public prosecutor may file a court petition against unlawful administrative decision.

Criminal prosecution is executed only by public authorities represented by the public prosecutor.

VII. Legal Standing

Legal Standing	Administrative Procedure	Judicial Procedure
Individuals	A person, whose right is to be determined in the administrative procedure, a person, whose rights or legally protected interests, may be directly affected by the administrative decision (e.g. property rights) or a person claiming s/he may be adversely affected by the decision until the contrary is proven. In proceedings on permission of activities subject to EIA procedure, a natural person who submits comments to the intended activity in the EIA procedure and from this his/her interest in the final decision is evident, becomes participant to the proceedings.	The following rules are applicable for all actors: A right to file a court petition within administrative judiciary is granted to a person, who claims his/her right has been denied by a decision of public authority. If a decision has been issued within administrative procedure, all its participants are entitled to file a court petition should the decision deny or infringe their rights. A court petition can be filed also by the person who was not a participant in the administrative proceedings, but should have been.
NGOs	All NGOs whose right is being decided on, or which may be directly affected by the administrative decision.	

	Concerning the activities that are subject to EIA procedure, environmental NGOs, which submitted comments to the intended activity in writing within the EIA procedure, become participants in the consequent administrative permit proceeding. Environmental NGOs or civic associations with at least 250 members older than 18 years (at least 150 of them must have permanent residence in the municipality, where the IPPC activity is to be permitted), become participants in the IPPC permit procedure, if they submit their application for participation in writing. Environmental NGOs can also become participants of administrative permit procedure concerning the activities that fall within the scope of the Nature Conservation Act, if they exist for at least a year and notify the public authority of its interest to be a participant in the specific administrative proceeding.	
Other legal entities	All legal entities, whose rights are being determined or may be directly affected by the administrative decision. Legal persons may become participants of administrative permit procedure concerning the activities that are subject to EIA procedure, if they submit their comments within the EIA procedure, from which their interest in the final decision is evident. Municipalities, in which the concerned activity is to be held, can become participants of the administrative permit procedures according to the Building Act or IPPC Act.	
Ad hoc groups	In the permit procedures concerning the EIA activities, citizens´ groups with at least 250 members (natural persons older than 18 years), which submit collective comments to the intended activity within the EIA procedure and their interest in the final decision is evident.	
foreign NGOs	There are no specific rules for foreign NGOs explicitly stated.	

Different sectoral acts set forth different scopes of participants in administrative procedures. This includes the Building Act, Nature Conservation Act, EIA Act or IPPC Act. The general rules of participation in administrative procedure are included in the Administrative Procedure Code (Act Number 71/1976 Coll.).
There is no *actio popularis* in Slovakia. As already mentioned above, the public prosecutor may lodge a protest against an unlawful administrative decision and may ask the public authority that issued the decision to revoke it. If neither this authority nor the superior authority satisfactorily handles the protest, the public prosecutor may file a court petition against unlawful administrative decision. The public prosecutor may also lodge a protest against unlawful resolution or generally binding decree of a municipality or a region, and if these authorities do not satisfactorily handle it, the public prosecutor may file a court petition against an unlawful resolution or a generally binding decree. The public prosecutor may also file a court petition against inactivity of public authority if it remains inactive even after the prosecutor's notice. The Prosecutor General (*generálny prokurátor)* may lodge an extraordinary appeal on the points of law (*mimoriadne dovolanie)* against an enforceable court decision in civil proceedings. The Public prosecutor may also become a party to the pending judicial proceeding i.e. when one of the parties is the state, state enterprise, legal entity with state share, municipality or region (self-governing territorial units).
In environmental matters, in general, the following rule applies to legal standing: a participant in the administrative proceedings is a person whose right is being decided on, a person whose rights or legally protected interests may by directly affected by the decision, or a person who claims s/he may be affected until the contrary is proven. A right to file a court petition against an unlawful administrative decision is granted to a person, who claims his/her rights have been infringed/denied by the administrative decision. If the decision has been issued in administrative procedure, all participants have a right to file a court petition should they feel that the decision infringed their rights. A person who was not a participant although s/he should have been can also file a court petition.

VIII. Legal Representation

Lawyers can represent participants in administrative procedure and parties to judicial procedure. According to the Civil Procedure Code that also regulates judicial review of administrative decisions the plaintiff must be represented by a legal counsel/attorney (*advokát*), unless the plaintiff or his employee (member) acting on the plaintiff's behalf before the court has a legal education (this means a full university degree in law). This compulsory legal counsel only concerns administrative matters. In civil matters (i.e. cases concerning infringements of property rights, which include emissions) the plaintiff does not have to be represented by an attorney. However, in order to file an appeal on the points of law the applicant must be represented by an attorney unless s/he or his /her employee (member) acting on his/her behalf has a legal education. Likewise in proceedings before the Constitutional Court, the plaintiff has to be represented by an attorney. The number of lawyers specializing in environmental cases and matters is low in Slovakia. These lawyers often cooperate with environmental NGOs. There is no specific list of these lawyers available to the public, but if someone seeks their assistance, the contacts are distributed via environmental NGOs.

IX. Evidence

According to the Civil Procedure Code "Means of proof are any means that allow to establish the facts, in particular examination of witnesses, expert opinions, reports and statements of bodies and legal persons, documents, inspection and examination of the parties." Parties to judicial proceedings have the right to give comments on any adduced or admitted evidence. According to the Civil Procedure Code "The court evaluates evidence at its discretion, evaluating each item of evidence separately and in its entirety, while taking due account of everything that has transpired in the proceedings, including statements made by the parties." According to the Civil Procedure Code documents issued by courts of the Slovak Republic or other state bodies within the bounds of their authority, and documents declared as public deeds certify the truth of the facts they certify or confirm unless there is a proof to the contrary. According to the Civil Procedure Code, parties to judicial proceedings are obliged to adduce evidence to uphold their claims. The court may take evidence that has not been adduced by the parties, if this is necessary to decide the case on its merit. Parties to judicial proceedings may request an expert opinion through the court. According to the Civil Procedure Code "Where the establishment of the facts necessary for the decision requires expert knowledge, the court shall appoint an expert after the examination of the parties. The expert will be heard by the court which may also request the expert to present his opinion in writing." Parties to judicial proceedings may also provide expert opinion individually upon agreement with the expert. The expert opinion is not

binding on the judge. The rule of judicial discretion (that the court evaluates evidence at its discretion) is again applicable. Should the court not respect the expert opinion, it has to give due reasons for it.

X. Injunctive Relief

An appeal against an administrative decision lodged to the administrative superior does have a suspensive effect. A court petition against an administrative decision does not suspend the enforcement of the administrative decision it concerns. A public authority may expel the suspensive effect of an appeal. According to the Administrative Procedure Code “If a public interest is urgently requesting it or if an irreparable harm may occur to one of the participants in the case that the decision is not promptly enforced, the administrative authority may expel the suspensive effect. However, the urgency has to be duly reasoned. Together with the petition against the administrative decision, a plaintiff may also file an application for preliminary injunction at the court. Based on this and prior to the trial, a court may suspend execution of the administrative decision to be reviewed. In civil proceedings (e.g. proceedings concerning denial property rights by emissions) a court may order the other persons to do something, to abstain from doing something or to suffer something to be done. This is called a preliminary measure (*predbežné opatrenie)*. According to the Civil Procedure Code “Upon the request of a party to the proceedings, the presiding judge may suspend by a resolution the enforcement of the decision, should there be a threat of a serious damage if the decision challenged was promptly enforced.” According to the Civil Procedure Code “Preliminary measure shall be issued by the court on application. No application for preliminary measure shall be required in the proceedings that can be initiated on the court's own motion.” In principle, the court may issue a preliminary measure if the situation of the parties must be temporarily adjusted or if it fears that the execution of the judicial decision could be endangered. According to the Civil Procedure Code “The court may issue a preliminary measure mainly with a view to … ordering the party to do something, to abstain from doing something, or to suffer something to be done. A preliminary measure may be issued to impose an obligation on other than a party to the proceedings only where this represents a fair and just request.” Since the preliminary measure is at the plaintiff’s own disposal, there is no deadline set. There is an appeal against the decision on the preliminary measure. This appeal, however, does not have a suspensive effect – so it does not exclude enforcement of the preliminary measure.

XI. Costs

According to the Civil Procedure Code costs of the proceedings include primarily cash expenses of the parties and their representatives, court fees, lost earnings of the parties and their legal representatives, costs of taking evidence and legal counsel fees when the representatives are attorneys. A petition against the administrative decision costs EUR 66. For an appeal against the court decision within the administrative judiciary a fee of EUR 66 has to be paid. A petition to protect one’s property rights against emissions costs EUR 99.5 fee. A petition on damages costs 6 % from the sum that is being claimed, which is a minimum of EUR 16.5 and a maximum of EUR 16 596.50. A court fee to lodge an appeal on the points of law is twice the fee of a court petition. An attorney’s remuneration is based on a mutual agreement between him/her and the client (contractual fee). It is based on an individual agreement, therefore it cannot be estimated in general. If such an agreement does not exist, the attorney is entitled to remuneration laid down by law (tariff fee). In the case of success in judicial proceedings, the court awards the successful party the reimbursement of attorney costs only in the amount of tariff fees. However, the successful party has to pay the full costs (contractual fee) to the attorney. A tariff fee for one motion of legal assistance in administrative justice (i.e. filing a petition, consultations with the client, court representation, lodging an appeal) is approximately EUR 127. A tariff fee for one motion of legal assistance in matters concerning ownership rights is approximately EUR 58. A tariff fee for one motion of legal assistance in matters concerning damages is counted as a percentage of the damages claimed. Experts can agree with the client on a contractual remuneration. If such an agreement does not exist, he is also entitled to a tariff fee. The court reimburses the expert the tariff fee. Its amount is determined by the number of hours spent on the expert opinion (basic hourly fee is approximately EUR 13) or as a percentage of the value of the subject matter (if it concerns expert estimation of a price of property). An application to suspend enforcement of the administrative decision to be reviewed is not subject to any fee. An application for preliminary measure costs EUR 33. When filing an application for preliminary measure, no deposit is necessary.

According to the Civil Procedure Code the court shall award the successful party the reimbursement of the costs incurred by the party against the unsuccessful party. According to the Civil Procedure Code “Under specific circumstances, the court may exceptionally decide not to award the costs of the proceedings in whole or in part.” In administrative justice, the ´loser pays principle´ does not apply and the public authority is not entitled to reimbursement of the costs even when it was successful.

XII. Financial Assistance Mechanisms

According to the Act on court fees *(zákon o súdnych poplatkoch)*, ecological organisations or municipalities and regional self-governing units in proceedings on public and public-benefit matters are exempted from court fees. Ecological organisations shall prove their mission by submitting their statutes. According to the Act on court fees, proceedings in matters concerning inactivity of public authority, protection against unlawful conduct of public authority or claiming damages for unlawful decision or conduct of public authority are relieved of a court fee. According to the Civil Procedure Code „On a petition filed by a party, the presiding judge may exempt a party from all or part of court fees if the party is destitute and if the petition does not constitute an arbitrary or manifestly unfounded attempt of exercising or defending one's right.” Exemption from court fees is awarded to a person in material need. This person must prove to the court his/her weak material condition. In judicial proceedings on the review of legality of an administrative decision, the public authority is not entitled to reimbursed costs even when it is successful. No other information about financial mechanisms to provide financial assistance to applicants is available. Some NGOs provide pro bono legal aid in environmental matters, but their capacity is limited. Attorneys provide legal aid and ask for financial remuneration. Its amount is based on a mutual agreement between the attorney and the client. Conditions for natural persons and NGOs are in principle the same. Free legal aid in civil and administrative (including environmental) matters is provided by the state Legal Aid Centre. Free legal aid is available only to natural persons in material need or whose income is not higher than 1.4 multiple of living subsistence and they therefore cannot afford legal assistance. If a person’s income is higher than 1.4 multiple of living subsistence but it does not exceed 1.6 multiple of living subsistence, s/he pays 20 % of the costs of legal assistance and the Legal Aid Centre provides it. Environmental NGOs are not entitled to legal aid from the Legal Aid Centre. No information is available on the law firms´ regular pro bono legal assistance. If such assistance is provided, it concerns ad hoc pro bono legal assistance. There are no legal clinics dealing with environmental cases. There are a few lawyers dealing with public interest environmental law cases, but their capacities are limited. There are one or two NGOs, which also handle public interest environmental law cases, but their capacities are limited.

XIII. Timeliness

An administrative authority is obliged to decide in the merits of the case within 30 days and, if the matter is exceptionally complicated, within 60 days. An appellate body can adequately prolong the timeline if, due to the nature of the matter, it is not possible to decide even in the longer timeline. It is not possible to sanction the administrative authority for delivering a decision in delay. A person may, however, claim financial compensation for loss caused by delays of the administrative authority in administrative proceeding. A person must file a complaint against an unlawful decision of public authority within two months s /he has been notified. According to the Civil Code, a right to damages becomes time barred after two years from the day when the aggrieved party learned about the damage and who is to be held liable. At the latest, the damage claim is time-barred in 3 years (or in 10 years if the damage was caused deliberately) after it occurred. If it concerns personal harm or injury, the damage claim cannot become time-barred. A person has to file a damages claim in the time limits mentioned above, otherwise s/he will not be successful in the proceedings. Ownership rights cannot become time-barred therefore a court

action to protect them against unlawful denial or infringement can be filed any time in the course of denial or infringement. The court does not have a legally stipulated time limit to decide the case. In principle, a court decision has to be produced in writing and notified within 30 days after it was delivered. An appeal against the court decision must be lodged within 15 days from its notification to the court, which delivered it. The court does not have a legally stipulated time limit to decide on the appeal. In cases set forth by law, an appeal on the points of law against the decision of an appellate court can be lodged within one month after the decision entered in force. It has to be sent to the court, which decided the case in the first instance. A constitutional complaint has to be filed in two months after the final decision entered in force. In administrative judiciary, the usual duration of proceedings is half a year to a year. This concerns one court instance. There is no legal deadline set for the court to deliver its decision. Once the decision is delivered, it must be, in principle, produced in writing and notified within 30 days. There are no sanctions against courts delivering decisions in delay. A party to the judicial proceedings may file a complaint against court delay to the presiding judge and if the court continues to act in delay, s/he can file a constitutional complaint. Constitutional Court can order the court to act without unnecessary delay and award the party financial compensation for delay in court action.

XIV. Other Issues

In order to be effective, the public has to participate in administrative proceedings as its participants, and lodge an appeal against the first-instance administrative decision. Only when members of the public become participants in administrative procedure, are they entitled to file a court action against the administrative decision. In practice, members of the public often do not participate in the proceedings because they do not know them. Therefore they often challenge administrative decisions only after the administrative proceedings have been concluded, which is much more difficult. NGOs and public authorities provide relevant information to the public in a structured and accessible manner on their official websites according to the Act Number 211/2000 Coll. on free access to the information. All published decisions by public authorities have the charge/instruction of possibility how to appeal the decision (take access to justice). Mediation *(mediácia*) and arbitration (*rozhodcovské konanie*) exist in Slovakia. Arbitration means that the parties may agree by contract that property disputes that have arisen or may arise between them in respect of a given contractual or other legal relationship will be dealt with by arbitration. Since arbitration is applicable only in property disputes, its applicability in environmental matters is limited. There is no information available on the use of mediation in environmental matters.

XV. Being a Foreigner

According to the Article 47 paragraph 3 of the Constitution: All parties to any legal proceedings before courts, other public authorities or bodies of public administration shall be treated equally. The use of different languages is allowed in court proceedings. According to the Article 47 paragraph 4 of the Constitution: “A person who claims not to know the language used in the proceedings before courts, other public authorities or bodies of public administration shall have the right to an interpreter.” According to the Civil Procedure Code “The parties shall participate in civil proceedings on an equal footing. They have the right to use their mother tongue in the proceedings. The court shall have to guarantee the parties equal opportunities to exercise their rights.” Translation is provided and paid by the government in court procedures.

XVI. Transboundary Cases

According to the EIA Act, if another state notified the Ministry of the Environment of an intended activity, which may have a significantly negative impact within the territory of the Slovak Republic, the Ministry must declare its intention to participate in the EIA procedure to the other state. Upon request of another state, the Ministry shall provide accessible information on the possible impacts of the intended activity on the environment in Slovakia. After the EIA Documentation from another state is delivered to the Ministry, it shall be made public and the public may send its objections to it. The Ministry of the Environment shall also publish the decision of another state concerning permission of the activity. According to the EIA Act, the Ministry of the Environment shall provide information to and notify other states of intended activities that may have a significant impact on its environment. If the affected state declares its intention to participate in the EIA procedure, the Ministry will send it the EIA documentation. The EIA final statement has to deal with the objections of the affected state and of the public of the affected state. A decision concerning permission of the activity has to be notified also to the affected state. Participation in administrative proceedings of individuals and environmental NGOs is not limited to Slovak citizens or environmental NGOs founded in Slovakia. Foreign members of the public or environmental NGOs are given the same procedural rights as the Slovak citizens and NGOs. It is not possible to choose between courts of different countries in environmental matters.

Related Links

http://www.centrumpravnejpomoci.sk/legal-aid
http://www.justice.gov.sk/Stranky/default.aspx
http://www.minzp.sk/en/
http://enviroportal.sk/en/about-enviroportal
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