

EU Forum for Judges for the Environment 2017
Climate Change and Adjudication Questionnaire
Merton College, Oxford, 22 and 23 September 2017

Slovak Republic

Climate Change in Legislation

1. How (if at all) has climate change and issues related to it been incorporated into legislation in your jurisdiction?

1) **In general:**

Taking into account that climate changes pose a civilisational threat the Slovak Republic ratified the United Nations Framework Convention on Climate Change (thereinafter “UNFCCC”) in 1994, the Kyoto Protocol in 2002 and the Paris Agreement on 5 October 2016. It progressively submitted its national communication to UNFCCC in from 1995 till 2016 (last report from 3 March 2017). For the second Kyoto Protocol commitment period, the Slovak Republic has adopted the joint EU “20-20-20” targets of the “climate and energy package”. Within the EU joint commitment the Slovak Republic (see Government Declaration No. 821 from 19 December 2011 with the latest version No. 157/2014 from 9 April 2014) is required to limit the increase in its non-ETS GHG (Emissions Trading System – Greenhouse Gas) emissions to 13% by 2020 (base year 2005), to achieve a minimum share of 14% of gross final energy consumption from renewables by 2020, and reduce total final energy consumption by 11% by 2020 (base year 2005).

So far, meeting international commitments for emissions reductions has not been particularly challenging, as reflected in the National “Greenhouse gas” (thereinafter “GHG”) Inventory System data. Total GHG emissions, including sinks from “Land use, land use change, forestation” (thereinafter “LULUCF”), decreased by more than 38% over 1990-2011 thanks to structural economic changes and strict domestic environmental policies even before the country joined the EU in 2004, particularly on air quality.

.... Beyond the legislative level, many public and private initiatives exist, such as research activities (e.g. Water Research Institute, Forestry Research Institute Zvolen, Transportation Research Institute Zilina, Slovak Academy of Science), climate monitoring initiatives (e.g. Slovak Hydrometeorological Institute, Slovak Environmental Agency), and educational and public awareness-raising activities (academic curricula, conferences, festivals,

exhibitions, educational publications and training). Non-governmental organisations and private initiatives (e.g. the Slovak Innovation and Energy Agency, Friends of the Earth, Detox, SPIRIT, Ecosys) are also involved in the development and implementation of measures to mitigate climate change impacts.

2) Energy supply:

The key objectives of energy policy, following mostly from EU legislation, are detailed in the Energy Policy of the Slovak Republic (2000, 2006, 2013), the Energy Security Strategy of the Slovak Republic, the Action Plan for Energy Efficiency (2008-2010; 2011-2013), the National Action Plan for Biomass use (2008) and the National Renewable Energy Action Plan (2010). They aim to transform the still primarily fossil-fuel oriented and import-dependent energy production mix of the country (2011: natural gas 26%, coal 22%, nuclear fuel 22%, oil 21%, renewable sources 9%). The main objectives are: increasing efficiency in the power and end-use sectors, reducing energy intensity, reducing dependence on energy imports, expanding the use of nuclear power, and increasing the share of renewables in the heat, electricity and transport sectors to 14% of total energy use in 2020 (base year 2005). Because of high dependence on oil and gas imports (mainly from Russia), energy security is high on the policy agenda and the Government aims to expand storage capacities, enable reverse flows at the country's two western interconnectors and increase energy efficiency.

The Renewable Energy Act is the main instrument to support renewable electricity generation and fuel switching and led to an unanticipated "solar boom" in early 2011, due to its generous feed-in tariffs for solar energy. The tariffs were scaled back and further restricted in 2013, in an effort to tackle non-transparent practices in the context of financial support for large-scale PV installations. At the same time some administrative barriers to small rooftop PV facilities installations have been reduced: operators of these installations can now generate electricity for their own use without having to register as entrepreneurs.

3) Energy demand:

Slovakia has achieved impressive results in energy efficiency since 1990s (one of the steepest among OECD countries), mainly due to economic restructuring, but also energy efficiency improvements. Energy intensity decreased by 45% between 2001 and 2012, but it still remains higher than the European average and large energy saving potential exists in most sectors, especially in buildings and transport. The main targets, contributing to the 20% EU's energy efficiency target, include an indicative national energy efficiency target of 3.12 Mtoe for final energy savings for the period 2014-2020 and an absolute target of 16.2 Mtoe for the primary consumption and 10.4 Mtoe for the final consumption by 2020. The Energy Efficiency Act and the Act on energy performance of buildings are the main instruments for demand management by 2020. Additional financial support for energy efficiency measures is provided

by a number of programmes, such as the Operational Programme Competitiveness and Economic Growth launched in 2012.

4) Carbon pricing:

The EU ETS is Slovakia's main carbon pricing initiative. The revenues from AAUs trade constitute income for the Environmental Fund, which also contributes to climate change mitigation measures. Slovakia also implemented the EU directive on excise tax from electricity, coal and natural gas (2008). However, in 2012 Slovakia had the lowest implicit energy tax rate in the EU. The introduction of a carbon tax for the non-ETS sector is under consideration and support for electricity generation from domestic coal has been progressively lowered. While electricity consumers were obliged to pay a total sum of EUR70.6m (USD88.6m) in their final price of electricity in 2011 to support domestic coal, this fee decreased to EUR24m (USD30.1m) in 2013 and is expected to be EUR19m (USD23.8m) in 2014.

5) REDD+ and LULUCF :

A basic framework for the conservation of forests and retaining of carbon stocks in forests has been set up by the Act on Forest Management. It has contributed to the long term increase of forest land (41% of territory in 2012). The carbon stock in above-ground living biomass increased by 46.7m tons between 1990 and 2012. However, the carbon sinks in forest ecosystems fluctuate substantially depending on meteorological conditions and weather extremes (e.g. the 2004 windstorm in the Tatra Mountains destroyed more than 12,000 ha of forest). Another serious problem affecting the health of forests is the expansion of bark beetle (in particular after the 2004 windstorm), resulting in forest biomass waste and mortality in spruce stands.

6) Transportation :

GHG emissions from transport have been increasing and in 2012 they represented 15.4% of total emissions, despite measures such as new categorisation of vehicles, promotion of new vehicle technologies and advanced fuels. Revenues from taxation of transport (excluding fuels) are low in comparison to other EU member states. On the other hand, biofuels policy has been put in place to meet the targets required by EU legislation. There are two different biofuel targets for the transport sector: biofuel energy content share (calculated from the energy content of the total quantity of petrol and diesel fuels placed in the market) and minimum content of biofuels in each litre of a particular type of fuel (diesel and petrol). As of 2013, the mandatory biofuel content share is 4%, the minimum volume for biodiesel 5.4%, and the bioethanol component in petrol 3.3%.

7) Adaptation :

Slovakia is particularly vulnerable to variations in precipitation and the water cycle, as well as extreme weather events impacting the forest cover. Over the last 20 years, a significant increase in the occurrence of extreme daily precipitation has been observed compared to the

period 1975-1993. This trend has resulted in higher risk of local floods (higher frequency and severity – e.g. June 2013). On the other hand, local and regional droughts caused by long periods of relatively warm weather and low precipitation totals in the summer have been recorded (particularly strong in 2000, 2002, 2003, 2007, 2009, 2011 and 2012). In response to those challenges, Slovakia adopted its National Adaptation Strategy in March 2014. Adaptation measures have also been incorporated into several policies implemented within different sectors including the water, agriculture, forestry, biodiversity, and health sectors.

- **Do they feature in the constitution; legislation; delegated acts?**

There is no relevant text concerning phenomena of climate change in the Slovak Constitution. Under Article 44 of the Slovak Constitution every person shall have the right to favourable environment (1st paragraph). Every person shall have a duty to protect and improve the environment and foster cultural heritage (2nd paragraph). No person shall imperil or damage the environment, natural wealth and cultural heritage beyond the limits set by law (3rd paragraph). (4) The State shall be responsible for the economical use of natural resources, an ecological balance and an effective environmental policy (4th paragraph).

As regards main group of environmental acts they are as follows:

1) Act No. 250/2012 Coll. on regulation of network industries as amended (2012).

The Act gives new competences to the independent national energy regulator with regard to determining prices of energy for each supplier and licensing new market participants. This Act lays down provisions concerning functioning of network industries including electrical energy, gas industry, thermal energy and water management.

2) Act No. 251/2012 Coll. on Energy and on change of certain acts (2012).

The principle aim of the law is to implement the provisions of the EU Third Energy Package into national legislation. The Energy Act introduces the obligation to unbundle energy generation and supply from transmission services. The law strengthens consumer rights and gives new competences to the independent national energy regulator.

3) Act No. 314/2012 Coll. on regular inspection of heating systems and air conditioning systems (2012).

The Act mandates the regular audit of heating systems (nominal power > 20 kW) and air conditioning systems (nominal power > 12 kW) in order to provide better information to the system operator about the system performance as well as opportunities for system maintenance leading to better energy efficiency and thus contributing to the fight.

4) Act No. 373/2012 Coll. on emergency stocks of oil and oil products and amending the Act on the promotion of renewable energy sources and high efficiency cogeneration (2012).

This Act establishes provisions concerning creation of emergency stocks of oil and oil products and the management of these resources, which should contribute to greater energy security. The present Act also lays down obligations of entrepreneurs relating to mining, manufacturing, trade, storage and transportation of crude oil and oil products.

5) Act No. 414/2012 Coll. on Emission Trading (2012).

The Act establishes new allocation rules for CO₂ emission allowances for period 2013-2020 in compliance with the EU adopted rules. Distribution of allowances free of charge is for the industrial sources with risks of carbon leakage. In district heat supply sources free allowance distribution is going to be decreased from 80 to 20% in 2013-2020.

6) Renewable Energy Act (Act No. 309/2009 Coll. on Promotion of Renewable Energy Sources and High-efficiency Cogeneration and on amendments to certain acts) (2009).

The Act is the main instrument to support renewable electricity generation. It defines specific options for support for renewable electricity, including the timeframe of guaranteed price of purchase. It also originally mandated electricity producers with capacity of 50MW to produce electricity with minimum of 20% share of renewable resources.

7) Act No. 476/2008 Coll. on Energy Efficiency and on the amendment of Act 555/2005 on energy efficiency of buildings and on changes and amendments of certain acts (2008).

The Act lays down obligations in the use of energy and requirements for efficiency use of energy. The Act applies to all forms of commercially available energy with the exception of aviation fuel and heavy fuel oil for maritime transport. The Ministry of Economy is mandated to prepare the concept of efficient use of energy.

8) Act No. 609/2007 Coll. on Excise tax from electricity, coal and natural gas (2007).

The Act promotes energy efficiency by establishing an excise tax from electricity, coal and natural gas. However, there are several exemptions from the act, including among others: – electricity used for chemical reduction, electrolytic processes or metallurgic processes – electricity used for mineralogical processes – electricity used for production of goods that require more than

9) Act No. 555/2005 Coll. on Energy efficiency certification of buildings (2006).

The Act is the main instrument to reduce GHG emissions from buildings until 2020. It defines measures leading to improvement of energy efficiency in buildings with the aim to optimise indoor conditions in buildings and reduce CO₂ emissions emitted from maintenance of buildings. It also stipulates the respective competences of public authorities.

10) Act No. 587/2004 Coll. on Environmental Fund (2005).

The Act establishes the Environmental Fund to channel state support to the protection of the environment. The Fund is co-ordinated by the office of the Ministry of Environment. The Act defines fees, fines and penalties for environmental pollution as the main source of its income, along other sources, including revenues from the sold 'assigned amount.

- Which levels of government have been involved in these legislative processes?

The Slovak Republic is a parliamentary democracy established in 1993 as one of the successors to the former Czech and Slovak Federative Republic. The President (Head of State) and the Prime Minister (Head of Government) lead the executive branch; the National Council of the Slovak Republic (NC) forms the legislative branch. The Supreme Court is the highest judicial body and the Constitutional Court is tasked with protecting constitutionality.

The National Council has 150 members elected for 4-year terms in direct, proportional representation elections. The last parliamentary elections were held in February 2016, the next elections are expected in 2020. Legislative initiative belongs to members of the NC and the Government. In general, constitutional laws (require $\frac{3}{5}$ qualified majority) and Acts adopted by the NC constitute the primary legislation, which has precedence over secondary legislation, including government regulations and resolutions, as well as decrees, declarations and measures adopted by different Ministries.

Draft laws (bills) introduced in the NC are debated and approved through three readings. The adopted bill is sent to the President of the Republic, who has the right of veto and can refuse to sign the bill on the grounds of faulty content and send it back to the NC for further debate. Otherwise, the bill is signed by the President, the Speaker of the NC, and the Prime Minister, and published in the Collection of Legislative Acts, taking effect upon publication.

- What have been the catalysts for these legislative developments (i.e. EU law, international law, political agitation etc.)?

Combination of EU political commitments and strengthening worries of Slovak electorate over the consequences of tropical heats, high floods on the one side and decrease of drinking water reservoirs on the other side, soil erosions and landslides, long lasting periods of droughts with possible countryside burning are main reasons for political agitation of execution to be able to solve those problems. The public call on politicians to behave responsibly. Citizens were not favoured to idea to close coal mining industry in traditional Slovak places but nowadays they send petitions to the Office of Government to do.

Slovak climate policy is determined by the European Union framework and mutually agreed targets. Currently, most of the policies and measures to tackle climate change are guided by the EU regulation. The EU ETS is the central policy tool for mitigation of GHGs from stationary sources, complemented by policies and measures aiming to increase the share of renewable energy sources and improve energy efficiency. In addition, policies and measures

have been put in place to define more stringent quality standards for fuels and passenger vehicles, as well as GHG mitigation policy for industry, waste management and agriculture. The adaptation strategy was approved in 2013.

On the local level, municipalities play an important role, in particular through drafting and implementing local climate change action plans and local climate change adaptation strategies.

2. How do the structures of government affect legislation related to climate change?

- Is one or several institutions assigned to act on climate change within your legal system? To what extent do these overlap and diverge?
- The Climate Change Policy Department of the Ministry of Environment (thereinafter “**MoE**”) serves as the National Focal Point for the UNFCCC. The MoE adopted the ‘National Sustainable Development Strategy of the Slovak Republic’ (2001), which includes key climate change targets. The government also approved the preparation of the ‘Low-carbon Development Strategy of the Slovak Republic until 2030’ in 2014. The Ministry of Economy coordinates energy policy, including promotion of renewables and energy efficiency. Additionally, the High Level Committee for Co-ordination of Climate Change Policy (created in 2011) ensures an effective coordination of development, implementation, monitoring and evaluation of mitigation and adaptation policies. It also publishes the “Report on the Current State of Fulfilment of the International Climate Change Policy Commitments of the Slovak Republic”, annually submitted to the Government (so far 2012, 2013, 2014).

The main players in the field are central executive authority, especially Slovak Ministry of Environment, Slovak Ministry of Agriculture and Slovak Ministry of Industry.

A) National Adaptation Strategy, Resolution of the Slovak Government No. 148/2014 (2014/Adaptation Framework).

The National Adaptation Strategy contains several objectives, including: dissemination of information and knowledge on the issue of adaptation at all levels of management, as well as for the general public; strengthening of the institutional framework for adaptation processes in the Slovak Republic; developing a comprehensive risk assessment methodology in the context of climate change.

B) Decree of the Ministry of Environment No. 231/2013 Coll. on the National Emissions Inventory System and on technical-operational parameters (2013).

The National Emissions Inventory System (NEIS) was established in 2007 and updated in 2010 and 2013, with the latest update specifying the documents that have to be publicly

accessible on the website of the NEIS. The NEIS was established in compliance with UNFCCC rules, which give the definitions of all qualitative parameters for the national...read more

C) Introduction of smart meters and distribution networks, Decree of the Ministry of agriculture No. 358/2013 Coll. (2013).

The decree supports the introduction of smart distribution networks by establishing framework for smart meters installation, thus allowing for optimisation of use and efficient management of energy.

D) Creation of the High Level Committee for Co-ordination of Climate Change Policy (Coordination Committee), Resolution of the Slovak Government No. 821/2011 (2011).

It replaced the Resolution of Government No. 416/2008 of June 18 2008 establishing the High Level Committee on Climate-Energy Package. The new Committee is co-ordinated by the Ministry of Environment and consists of State Secretaries of selected ministries. The Co-ordination Committee regularly submits reports to the Government on the state of fulfilment of international commitments of

E) Establishment of sustainability criteria and targets to reduce greenhouse gas emissions from fuels, Decree of Ministry of Environment No. 271/2011 Coll. (2011).

There are principles for GHG emission savings during the life cycle for biofuel and bioliquid production, saving of conventional motor fuels. This Decree establishes sustainability criteria for biofuels and bioliquids and limit values for GHG emissions from cultivation of agricultural plants. It lays down sustainability criteria for biofuels and bioliquids, provides details on proving compliance with the

F) Energy Security Strategy of the Slovak Republic, Resolution of the Government No. 732/2008 Coll. (2008).

The Energy Security Strategy assesses the current energy situation of the Slovak Republic and proposes measures and legislation to be adopted to increase energy security of the country. The key objective of the Energy Security Strategy is to guarantee competitiveness of the energy sector, to provide secure, reliable and efficient supply of all forms of

G) National Sustainable Development Strategy of the Slovak Republic, Resolution of the National Council of the Slovak Republic No. 1989/2001 (2001).

The Strategy includes the National Environmental Strategy. Among the strategic targets, three are directly related to climate change and include reduced energy consumption, increase of share of renewable resources and alleviation of consequences of the global climate change.