EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

Questionnaire EUFJE annual conference 24-25 October 2022 - Climate law and litigation

Climate change litigation (or 'Climate litigation') is on the rise, both within the jurisdictions of EU member state countries and around the world. Climate litigation is a complex phenomenon that has been brought on many grounds, and courts play an important role in how the law can respond to climate change.

The purpose of this survey is to understand what developments are occurring in climate litigation at the EU Member State/European level, and how national courts are responding to these cases.

I. Qualitative questions

In this series of videos filmed for COP26, seven judges reflected on how the courts have addressed climate change, from both local and global perspectives.

We would appreciate if you could answer the following **questions**, providing your views on the overall opportunities and challenges regarding climate litigation in your country.

1. How has judicial decision-making on climate change issues evolved in your country over the last decade?

   Over the last decade there has been an increase of judicial decision-making on climate change in the Albanian judicial system. The awareness of the public and non-profit organizations regarding the damage caused to the environment and the risk that comes from this damage has increased the number of judicial cases on climate change issues.

2. Before which type of courts is this type of litigation brought and by which type of plaintiffs?

   Albanian judicial system is composed by civil, criminal and administrative courts.

   2.1 The cases where the conflict is with an administrative body or its object refers to challenging an administrative act the competent court to hear the case is the Administrative Court.

2.2 The cases where the conflict is with an individual or private entity the competent court to hear the case is the Civil Court.

2.3 The criminal cases related to crimes or other misdemeanors against the environment are heard by the Criminal Court.

3. What are the opportunities to this type of litigation in your country?

   In the recent years, the decision-making process on climate change issues has evolved significantly. Not only, there is an increase of the number of these cases in the Albanian judicial system, but Albanian courts even more are ruling in favor of environmental protection and climate change.

4. What are the challenges to this type of litigation in your country?

   There exist a lot of challenges in this type of litigation in Albanian judicial system. First of all, there is not a great public awareness of the need for environmental protection and the public rights in this regard, including access to justice, guaranteed by the Aarhus Convention.

   Difficulty is also encountered during the litigation. There is difficulty in finding forensic experts to evaluate and simultaneously measure the damage in the environment.

5. What is the average length of proceedings (including on appeal and cassation)?

   5.1 For the administrative litigations, the law provides a maximum length of 90 days, for the judgment in the first instance court, a maximum length of 30 days for the judgment in the Appeal Court and a maximum length of 90 days for the judgment in the Supreme Court.

   5.2 For the civil litigations, the Civil Procedure Code provides for the maximum length of the proceedings in order to be considered a reasonable judgment term. It provides that the civil judgment must finish in a maximum term of 2 years for each first instance, appeal and supreme court judgment.

   5.3 For the criminal litigations, the law provides a maximum term of 2 years for crimes and 1 year for misdemeanors in the first instance judgment. In the appeal judgment the process must finish within 1 year for crimes and 6 months for misdemeanors and in the Supreme Court judgment, for crimes within a time limit of 1 year for crimes and 6 months for misdemeanors.

   Although, the above terms are the maximum deadlines for the completion of the judgments. Taking into consideration the fast nature of the climate change judgments,

due to the need to minimize the damage caused, these trials must be completed much faster than the above-mentioned terms.

6. Which type of remedies are being ordered by the courts? What are the arguments for not ordering such remedies?

The courts order different remedies depending on the specific case, the damage caused or risked to be caused to the environment etc. However, some of the remedies ordered by the courts are:

- cancellation of the administrative act that may cause damage to the environment;
- The suspension of the activity that is being carried out in the environment;
- Reward of the damage caused etc.

7. Do the courts have powers to ensure and follow-up the enforcement of judgements in climate cases? Are there specific difficulties in this regard?

The enforcement of the judgment sometimes imposes different difficulties. For this reason, the law provides different remedies in this regard.
The law no. 49/2012 "On administrative proceedings in the Republic of Albania" provides the right of the judge or the president of the trial body of the case, that during the compulsory execution procedure, at the request of the parties or the bailiff, at the consulting room, without the presence of the parties, to order special actions and other necessary measures for the execution of the judgment, determining the deadlines and other technicalities.

In case of non-fulfillment of obligations, according to the decision or orders of the court, without justified reasons, the judge may impose a fine on the chief of the debtor public body.

8. What are the most useful norms, legal principles or practices available to judges to ensure effective climate action by governments and businesses?

The most common legal principles available to judges in climate change issues are:

8.1 The most important principle established by the Aarhus Convention; the participative democracy which includes a number of rights to the individuals and civil society organizations with regard to the environment; The Albanian courts have directly implemented the Aarhus Convention in order to legitimate the parties in the process *(some examples are in the session "Case identification and data collection")*

8.2 The principle of facilitation of public access on environment related cases,
8.3 Quick and effective judgment of climate litigation in order to minimize possible damage;

II. Case identification and data collection

There are two connected databases tracking climate litigation across the world:

- Climate Change Laws of the World maintained by the Grantham Research Institute at the London School of Economics - covers national-level climate legislation and policies globally, and climate litigation outside the US; and
- Climate Change Litigation, maintained by the Sabin Center at Columbia University - contains climate litigation in the US and outside the US.

In this survey, we would appreciate if you could *please identify climate litigation cases from your country that might be currently missing from these databases*.

To fall within the scope of the databases, cases must satisfy two key criteria:

(i) Cases must generally be brought before judicial bodies (though in some exemplary instances matters brought before administrative or investigatory bodies are also included)

(ii) Climate change law, policy, or science must be a material issue of law or fact in the case. Cases that make only a passing reference to climate change, but do not address climate-relevant laws, policies, or actions in a meaningful way are not included.

If there are any cases missing, please provide information following this general format:

I. Judgment no. 087/2021, dated 30.07.2021 of the Supreme Court of the Republic of Albania

The plaintiff: the residents of Laknas Administrative Unit in the Municipality of Kamza and the Organic Agriculture Association
The defendant: Kamza Municipality, National Environmental Agency
The case is decided
Jurisdiction : First Instance Administrative Court of Tirana
Summary:

1. This case relates to the lawsuit filed by the residents of Laknas Administrative Unit in the Municipality of Kamza and the Organic Agriculture Association against the Municipality and the National Environmental Agency. A limited liability company was provided by the defendants (Third party) with a preliminary environmental impact assessment and then with a development permit, that allowed it to develop the construction of a livestock complex with slaughterhouse, restaurant, in the area of Bruke Forest, in Kamza Municipality.

2. The plaintiff pretended that the construction of the facility seriously violated their rights and interests as residents of the area, as the permission was given to develop in a forest owned by the Municipality of Kamza and used by the residents as a green area of rest and residence. According to researchers, the construction of the facility presupposed cutting the trees over 35 years old. In these circumstances, the plaintiff has addressed with complaints several times to the local government and other public administrative authorities. Unable to protect their interests in

another way, the plaintiff filed the lawsuit to the Administrative First Instance Court of Tirana.

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3. The Administrative First Instance Court has accepted the lawsuit. In the hearing dated 30.10.2019, the Court has ruled that: *"It becomes clear that the area where the development permit extends, property of the municipality of Kamza, is in fact a forested area. The development of the permit includes the construction of the facilities listed from the cattle breeding complex, to the slaughterhouse and restaurant with auxiliary facilities, which practically together with other technical aspects, means the preparation of the construction site, fencing of the area, and potentially cutting trees etc. All these implications will have irreparable consequences for the future which are difficult to correct, such as damage of the trees, rivers, their shores or the rural environment in general."*

4. The court concluded that we are dealing with a development permit on a state property that is currently at least partially forested, and, lastly from the suspension of the administrative acts until the conclusion of the trial on the merits, the public interest is not violated.

5. The defendant appealed the decision. The Administrative Appeal Court, by judgment no. 83, dated 11.12.2020 accepted the appeal, changing the lower court decision. The Appeal Court ruled that the plaintiff does not have the right to access a court according to the law provisions but also to the Aarhus Convention. The court ruled that the plaintiff failed to prove before the court the direct legal interest in the case. On the other hand, associations are entitled to address the court to challenge a law or act that violates the public interest but they may not require the repeal of an individual administrative act in the case that the legitimate public interest is violated by an act or omission of the public administration, the same as in the case of individuals. The Appeal Court has assessed that the prevention of the international project which aims to increase the economic life of the area violates the public interest.

Decision of the Administrative Chamber – Supreme Court of Albania

6. The plaintiff filed recourse at the Supreme Court of Albania. The Chamber referred to the case-law of the European Court of Human Rights, the European Court of Justice and also to the Aarhus Convention and concluded that the Court of Appeal's decision not to legitimate the plaintiff had been taken against the law.

7. Regarding the active legitimacy *(locus standi)* of the requesting party, the College once again referred to the standards set out in the Aarhus Convention and also in the Albanian legislation and ruled that the right of access to justice on environmental issues differs from other cases of litigation, where the parties access the justice to reclaim a violated right.

The Chamber considered that based on the systematic interpretation of the standards of the Aarhus Convention, specifically its Article 9, as well as the provisions of Article 15, letter d) of Law no. 49/2012 "On administrative courts and administrative adjudication", access to court for associations and interest groups related to issues of environmental legislation, deserves special attention by guaranteeing the procedural rights of these entities in matters involving environmental protection. To conclude, the Chamber considered that the plaintiffs enjoy active legitimacy in filing lawsuits related to environmental issues, as long as a "sufficient interest" in the specific case is proven, as in the concrete dispute.

8. The College referred to the case-law of the European Court of Justice (hereinafter ECJ) regarding the active legitimation of environmental associations to address the court. In the case *Lesoochranarske zoskupenie VLK v. Slovakia (*known as the Slovak brown bear case), concerning the lack of provisions in the Aarhus Convention that would enable its direct application, the Grand Chamber stated that although Article 9/3 of the Convention is formulated in general terms, it aims the effective protection of the environment, so member states should issue internal norms for this purpose, providing procedural rules which guarantee the right of the individuals to address a court, a right that derives from EU legislation. The case-law is already consolidated, that the procedural rules for guaranteeing these rights cannot be less favorable than the rights guaranteed by domestic legislation (principle of equivalence) and cannot impose difficulties in practice to exercise these rights guaranteed by EU legislation (principle of effectiveness). In the case of Krizan v. Slovakia as well, it is sanctioned that the guarantee of an effective remedy provided for in Article 15/a of Directive 96/61 "On integrated pollution control and prevention" requires that the public concerned have the right to address the court or an independent and impartial authority to take interim measures which may prevent pollution, including, if necessary, the temporary suspension of the granted permit, which has become the subject of adjudication (see decision no. C-416/10, dated 15.01.2013, Josef Krizan v. Slovakia, *§*109.) In addition, in the case *Giacomelli vs Italy, 2006, §83*, it is emphasized the idea that "in the decision-making process regarding complex environmental and economic issues in the first place, appropriate investigations and studies on the preliminary effects that may have on the damage to the environment and the violation of individual rights should be included, in order to achieve a fair balance of rights in conflict. The ECtHR has assessed that interested parties should be able to challenge judicial decisions, actions/omissions when they considered that the courts have not given due weight to their interests or comments in the decision-making process."

9. As per the merits of the case, the Administrative Chamber has accepted the recourse ruling that the environment is an inter-territorial concept, which transcends the borders of a country. Environmental protection is a basic condition for ensuring the development of society and is a national priority in order to inherit it undamaged between generations. Interventions of this nature in the environment, in the eventual acceptance of the lawsuit, are almost impossible or very difficult and expensive to compensate and repair with other actions and projects.

10. The Chamber considered that the possibility of serious, immediate and almost irreversible damage to the interests defended by the plaintiffs is evident, as the materialization of all acts subject to trial has a direct impact, endangering damage to forests and the environment in general. The Chamber considered that the Administrative Court of Appeal should have analyzed the prevalence of a larger public interest, that of environmental protection, nature and biodiversity by not analyzing only the benefits in the economic-social aspect of the area. In this regard, the Chamber joins the analysis of the Administrative Court of First Instance Tirana, which has rightly assessed that the materialization of the development permit would bring irreparable consequences for the future or difficult to correct. In this regard, the Chamber considered that there are reasonable doubts that the damage to the community will eventually be irreversible and irreparable.

II. Judgment no. 322/2021, dated 21.07.2021of the Supreme Court of the Republic of Albania

The plaintiff: 27 residents of Margegaj village in the Municipality of Tropoja (city of Bajram Curri), in the north of Albania and the "Land" association
The defendant: Ministry of Energy (Ministry of Economy, Trade and Energetic, herein "METE"), the Ministry of Environment the National Environmental Agency and the companies that have obtained the permits
The case is decided
Jurisdiction : First Instance Administrative Court of Tirana
Summary:

1. In this case, the plaintiff is a community of 27 residents of Margegaj village in the Municipality of Tropoja (city of Bajram Curri), in the north of Albania and the "Land" association, which object is to promote and protect the environment. The plaintiff has sued among others the Ministry of Energy (Ministry of Economy, Trade and Energetic, herein "METE"), the Ministry of Environment the National Environmental Agency and the companies that have obtained the permits, claiming that the construction and operation of hydropower plants (project "HEC Dragobia") in the area of Valbona Valley may seriously and irreparably damage the environment of Valbona National Park. This Valley for the truly high importance is declared a protected area in Albania and a National Park.

2. In the assessment of the plaintiffs, these damages are a direct result of the administrative actions of the defendants for the approval of the concession project for the construction and operation of hydropower plants in the area of Valbona Valley by the two companies, administrative actions which include an administrative contract and several individual administrative acts. The defendants have obtained all the necessary permissions and licenses to develop the project, including the permission for use of water reserve for the hydropower production.

3. After obtaining the permits and completing the competition procedure as well as announcing the winning company, a concession contract was concluded between METE and one of the companies (in the capacity of concessionaire). Subsequently, between these two contractors and the other company that would implement the project, an additional concession contract was concluded, through which the essential technical parameters of the project "HEC Dragobia" were reduced, and the deadline for completion of works was extended.

4. In these conditions, the plaintiffs have filed a lawsuit at the First Instance Administrative Court of Tirana, claiming the declaration of absolute nullity of the administrative acts that allow the defendants to construct and operate this project in Valbona National Park and at the same time have requested the court to the claims *(interim measures)* and suspend the implementation of these acts. The plaintiff has claimed that this activity will have a quite negative impact on the environment, flora, fauna and the biodiversity of this area.

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5. The Administrative First Instance Court has rejected the lawsuit. The Court has ruled that: *"The plaintiff referred to facts known personally and not to those based on evidence or legal presumptions. The plaintiff did not present any evidence such as photographs, environmental damage assessment documents or any evidence allowed by the civil procedural legislation. The existence of the damage cannot be presumed nor assumed, but like any other fact relevant to the judicial investigation, it is important to be based on accurate, clear and consistent evidence."*

6. The court reiterated the fact that the damage must be clear, current and not probable. In the present case, at the moment of the trial the plaintiff did not prove that an actual and assessable damage was caused. In addition to this condition, the absence of violation of the public interest is envisaged as an essential condition.

On the other hand, the court concluded that "*from the claims submitted by the parties, it turned out that there is a significant and reasonable doubt that the suspension of this contract will harm the public interest by complicating further procedure and contractual relations between public bodies and private economic operators.*"

7. The plaintiff appealed the decision. The Administrative Appeal Court dismissed the appeal, affirming the lower court decision, with the same reasoning. The Appeal Court also added that "*both the environment and energy are undoubtedly aspects which fall into the category of public interest. In any case, the state bodies are also led by the former during the performance of their public activity. The protection of the environment has a special importance, but at the same time the issuance of acts that preceded the construction of these facilities have had, in the first place the assessment of the public interest, such as the construction of a hydropower plant, i.e. the creation of another source of production of electricity. Regarding the fact how much this construction harms the environment, biodiversity, fauna, etc. at this stage of the process the plaintiff did not present evidence as to what he claims.*" The plaintiff filed recourse at the Supreme Court of the Republic of Albania.

Decision of the Administrative Chamber – Supreme Court of Albania

8. The Administrative Chamber of the Supreme Court (herein "the Chamber") considered that there are legal grounds for the priority consideration of a certain category of cases, this case concerning a special recourse on interim decisions for securing the claims, in order to ensure the smooth running of court cases, efficiency, but also not to block the continuation of their review by the lower courts.

9. Regarding the legitimation of the plaintiff in the process, the Chamber has ruled that in this case the conditions for securing the claim *(interim measures)* do exist, as it is evident the reasonable doubt (based on the documents), for the possibility of causing a serious, irreversible and immediate damage to the plaintiff and the Court considers that taking the interim measure does not seriously affect the public interest. The stage in which the implementation of the concession contract is and the permits issued did not prevent the Chamber from this assessment.

10. Regarding the active legitimation *(locus standi)* of the requesting party, the Chamber referred to the Aarhus Convention, which represents an international legal instrument which has become an integral part of the domestic legislation of the Republic of Albania, after ratification by the law no. 8672, dated 26.10.2000. While interpreting the standards set out in the Aarhus Convention and in the Albanian legislation, the Chamber ruled that the right to access to justice in environmental issues differs from other cases of litigation, where the parties access justice to reclaim a violated right. Environmental issues are polycentric in nature, far from the formal contradictory aspect of a normal civil/administrative trial. Due to the nature of the claimed violated rights in environmental issues, is difficult to meet one of the essential procedural conditions for filing a lawsuit, the direct interest, considering that in these cases, rights of a general nature are protected.

11. The right to access justice is provided by the article 9 of the Convention. The College has underlined that the third pillar of the Aarhus Convention contains three important elements: **1.** The possibility of active legitimacy to address the court; **2.** Practical realization of the violated right, avoiding the high costs of the judicial process; **3.** The possibility for the court decision to restore the violated right. The Convention stipulates that in order to bring a case before a court, the person must have a sufficient interest in the case or a right that has been violated. The Convention refers to the national legislation in order to give the public more extended rights to address the court on matters relating to access to information or public participation in the decision-making process.

12. The Chamber estimates that in this case the plaintiff is a community of 27 residents of the Administrative Unit Margegaj, the Municipality of Tropoja and the "Land" association, which aims to protect and promote a healthy environment, preserving the area of Northern Albania, widely known as the Albanian Alps, focused not only on areas protected by law. The Chamber concluded that, based on the systematic interpretation of the provisions and standards of the Aarhus Convention, namely Article 9 thereof, as well as the provisions of Article 15 of Law no. 49/2012 "On administrative courts and administrative adjudication", associations and groups of interest, like in the case, enjoy active legitimacy in filing lawsuits related to environmental issues, as long as a "sufficient interest" in the concrete case is proven.

13. The Chamber finds that the Administrative Court of First Instance Tirana and the Administrative Court of Appeal have not correctly interpreted the provisions of the procedural law, regarding the conditions and criteria for taking the interim measure of securing the claims. Additionally, the Chamber also estimated that the lower courts erred in relation to the reasoning for fulfilling the other necessary condition related to (non) serious violation of the public interest, in the concrete case. *The Supreme Court considered that the request for taking the interim measures cannot be based only on hypothetical arguments*, but on the other hand, *the court should keep in mind that the assessment on the securement of claims is based on the existence of a reasonable doubt*, hereupon on *probability basis.* In considering this claim the Chamber emphasizes that it is not necessary for the court to be convinced beyond any reasonable or certain doubt of the existence or possibility of serious, irreversible and immediate damage. The suspicion of the occurrence of the consequence means that the legal criterion of justification of the security measure does not necessarily require a concrete consequence to have already occurred.

14. As per the merits of the case, the Administrative Chamber of the Albanian Supreme Court has ruled that there exist serious doubts that allowing the further continuation of the project and the implementation of administrative acts and actions, specifically the concession contract and its addendums, the development and construction permits, in order to build, operate and use the project "HEC Dragobia", fully justify securing the claims, in order to prevent further consequences. The Chamber considered that the damage that would be caused by the continuation and the implementation of the concession contract and also, the permits issued in its implementation, would be serious, irreversible and immediate, as the continuation of the project and its use could cause further potential damage to the environment, precisely in an area of high environmental, social and economic sensitivity, which is also an area preserved for its biodiversity and ecosystem.

15. With regards to the concept of "public interest", the Chamber considers that the courts should have also analyzed the prevalence of a larger public interest, the one of environmental

protection, nature and biodiversity. The environment is an inter-territorial concept, which crosses the borders of a country. Environmental protection is a basic condition for ensuring the development of society and is a national priority in order to inherit it undamaged between generations. Interventions of this nature in the environment, in the eventual acceptance of the lawsuit, are almost impossible or very difficult and costly to compensate and repair with other actions and projects.

III. Judgment no. 80-2021-1696 dated 28.05.2021 of the First Instance Administrative Court of Tirana

The plaintiff: "Ayen-Alb", a joint-stock company
The defendant: the Ministry of Energy, The Ministry of Environment, National Environment Agency
Third parties: The associations "Eco Albania", "EuroNatur" and "Riverwatch", as well as 39 residents of the Kalivac project area
The case is decided
Jurisdiction : First Instance Administrative Court of Tirana
Summary:

In the judgment no. 80-2021-1696 dated 28.05.2021, the plaintiff is "Ayen-Alb", a joint-stock company, also the concession company which has been declared the winner and has entered into a concession contract with the Ministry of Energy for the construction of the Kalivac hydropower plant on the Vjosa River. The concessionaire had the obligation to obtain the necessary permits and licenses, including the Environmental Statement, the administrative act issued by the Ministry of Environment which provides the environmental impact of the targeted project. The Ministry of Environment, based on the proposal of the National Environment Agency has issued a negative Environmental Statement for the construction of the Kalivac hydropower plant.

4. The negative environmental statement provided that the construction of the project on the Vjosa River would have quite negative impacts on the environment with long-term consequences, including: land floods, use of explosives during construction, serious threat to flora and fauna in the ecosystem, damage to the microclimate, decline water quality and its physico-chemical qualities, the damage to the biodiversity of the Vjosa river, one of the biggest in the Balkans, where live hundreds of living species, some of them unknown to science, etc.

5. This project has also been strongly opposed by the civil society, national and international organizations and many celebrities who have demanded the cancellation of the project on the Vjosa River, one of the largest, last wild rivers in Europe flowing 200 kilometers into Albanian territory.

6. The plaintiff filed an administrative appeal and subsequently filed a lawsuit claiming the annulment of the environmental statement as taken in violation with the law. The plaintiff claimed that the impact on the environment would not be negative and asked to continue with the project, as the winner of the concession contract.

7. The associations "Eco Albania", "EuroNatur" and "Riverwatch", as well as 39 residents of the Kalivac project area have intervened in this judgment. The Administrative Court ruled in their favor by arguing that they are interested parties in the environmental decision-making process and referring to domestic law and the Aarhus Convention are entitled to be parties in this

judgment, to be heard and present their claims.

8. As per the merits of the case, the First Instance Administrative Court of Tirana rejected the lawsuit, with the arguments that this statement is provided in accordance with the law. The court underlined that this administrative act provides with all the arguments that have led the competent authority to issue a negative environmental statement and there is no reason for this act to be declared invalid. It was also noted that at the time of the trial the Vjosa River was declared a managed national park / nature reserve with high importance.

IV. Judgment no. 49 dated 18.01.2021 of the First Instance Administrative Court of Tirana

The plaintiff: a community of 8 residents of Administrative Unit Derjan, in Mat
The defendant: the Energy Regulatory Entity (ERE) and "Seka Hidropower" ltd,
The case is decided
Jurisdiction : First Instance Administrative Court of Tirana
Summary:

1. In this case, the plaintiff is a community of 8 residents of Administrative Unit Derjan, in Mat. The plaintiff has sued the Energy Regulatory Entity (ERE) and "Seka Hidropower" ltd, which is the concession company of the contract for construction of "Seka" hydropower plant. This company is provided by ERE with the license to produce the electricity in "Seka" and "Zais" hydropower plants.

2. After filing an administrative complaint at ERE, the plaintiff has filed a lawsuit claiming the annulment of the license provided for the company to produce the electricity, pretending the license is issued against the law. The plaintiff pretended that the hydropower plants are constructed and a part of them lies within the protected area "Lure- Mali i Dejes". This activity is contrary to the status of the protected area and forces the competent authorities not to approve the licensing.

3. The Administrative Court has directly implemented the Aarhus Convention, in order to legitimate the plaintiff in the process. The Courts noticed that the right of the public to file lawsuits on environmental issues is provided by Article 9 of Law no. 8672/2000 which has ratified the Aarhus Convention. As per the Court, the plaintiff lives or have a life closely related to the area where the hydropower plants are built, therefore referring to domestic law and the Aarhus Convention they have the legitimacy to access the court filing lawsuits, as subjects of interest in environmental matters, to seek restoration of a violated right.

4. As per the merits of the case, the court accepted the lawsuit, annulling the administrative act issued by ERE, the license providing the "Seka Hydropower" company the right to produce electricity. The court concluded that the license provided to the defendant, is issued against the law, not respecting the provisions of the law "On protected areas", specially the article 16 which prohibits the building of hydropower plants in natural reserves and water resources.

5. The defendant appealed the decision in the Appeal Administrative Court. The Appeal Court rejected the appeal with the same reasoning. As per the legitimation, the Appeal Court referred to the Aarhus Convention. The Court underlined that the Aarhus Convention has principles and rules, regarding access to justice in environmental cases. The Appeal Court has noted that domestic legislation in the field of the environment provides for the same approach as

the Aarhus Convention regarding the access to justice of the public in matters related to the environment, not only for the right of information and consultation, but also the right to challenge acts and actions on environmental issues or related to them. As per the merits of the case, the Appeal Court affirmed the first instance court judgment, with the same reasoning.