

QUESTIONNAIRE

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

In Serbia, there are no specialized judges and prosecutors in the field of the decision-making on climate change issues. These issues are the closest to the area of environmental litigation, which litigations are also rare, named as such, namely courts in Serbia have few environmental cases, as well as poor environmental practices.

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

This type of litigation could be brought before any court in Republic of Serbia, depending on type of dispute. Namely, the Basic courts are established for the territory of a town, while higher courts are established for the territory of one or several basic courts. A comparison of the competences indicates that the Appellate Court is the immediately higher instance court for higher courts and basic courts. The Commercial Appellate Court is the immediately higher instance court for commercial courts, and the Higher misdemeanour Court is the immediately higher instance court for misdemeanour courts. The Supreme Court of Cassation is the court of the highest instance. It is the immediately higher instance court for the Commercial Appellate Court, the Higher misdemeanour Court, the Administrative Court and the Appellate Court.

The Constitutional Court is established by the Serbian Constitution to protect constitutionality, legality, and human and minority rights and freedoms as an independent body. Any legal or natural person has the right to institute proceedings for a review of constitutionality or assessment of legality. In addition, any person who believes that his or her human or minority rights and freedoms, as stipulated by the Constitution, have been violated or denied as a result of an action or act of the state authority or an organization with public authority may lodge a Constitutional appeal with this court.

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

Based on the Court Rules of Procedure, there is a possibility that in courts with a larger number of judges, formed special departments, like it is now in larger courts for family and labour disputes. With the increase in the number of environmental and climate change cases, this type of cases could also be processed. Such judges should have permanent training in environmental law and firstly they should be trained by the Judicial Academy of the Republic of Serbia according to the "Course on environmental legislation". For now, there are no training for decision-making on climate change issues, but the jurisdiction for this type of plaintiffs is not excluded that we have this type of litigation before any court in Republic of Serbia.

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

The Law on Climate Change was adopted in the Republic of Serbia in March 2021. The goal of this law is to establish a system to reduce GHG emissions in a cost-effective and economically efficient manner, which contributes to reaching the scientifically necessary levels of GHG emissions in order to avoid dangerous climate changes at the global level and adverse impacts of climate change, also to reduce GHG emissions and adapt to changed climate conditions by adopting and implementing public policy documents.

The aim of this law is to establish mechanisms for timely, transparent, accurate, consistent, comparable and complete reporting and verification of information on the fulfillment of obligations under the Law on the Ratification of the UN Framework

Convention on Climate Change, with annexes, the Law on the Ratification of the Kyoto Protocol, the Law on the Ratification of the Doha Amendments to the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the Law on the Ratification of the Paris Agreement, as well as for monitoring and reporting on GHG emissions caused by human activity from sources and removed through sinks and activities adaptations to changed climate conditions undertaken in a cost-effective and economically efficient manner.

In order to achieve the goals of this law, state authorities and organizations should adopt appropriate sector policies and measures within the scope of their competence, which in Serbia, has not yet reached its full potential.

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

It is very difficult to determine the average length of the any court procedure that was conducted before all instances, but in most cases the procedure is completed in 6-7 years.

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

If, for example, we have a climate change lawsuit before the High Court, after the judgment of the High Court, the parties have the right to appeal to the Appellate Court as regular legal remedy and the Supreme Court of Cassation may decide on an extraordinary legal remedy on the decision of the Appellate Court.

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?

Supervision over the implementation of the Law on Climate Change that has been adopted in the Republic of Serbia in March 2021 and the regulations adopted based on it, is carried out by the Ministry responsible for environmental protection, the Directorate and the Ministry responsible for trade.

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

The Law on Climate Change was adopted in the Republic of Serbia in March 2021, but there is still no case law regarding the application of this law.

This law regulates the system for the limitation of greenhouse gas emissions (hereinafter: GHG) and for adaptation to changed climate conditions, monitoring and reporting on the strategy of low-carbon development and its improvement, the program of adaptation to changed climate conditions, adoption of the strategy of low-carbon development and the program of adaptation to changed climate conditions, issuing permits for GHG emissions to the plant operator, issuing approval to the aircraft operator's monitoring plan, monitoring, reporting, verification and accreditation of verifiers, administrative fees, supervision and other issues of importance for the limitation of GHG emissions and adaptation to changed climatic conditions.

The provisions of the law apply to the procedure for issuing, revoking, amending and supplementing a GHG emission permit, the procedure for granting approval and approval for changes to the GHG emission monitoring plan, the procedure for granting approval for reports on improvements in the GHG emission methodology, and the procedure for keeping records and registers prescribed by this law regulates the general administrative procedure, unless otherwise prescribed by this law.