



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

## TRAINING AND SPECIALISATION OF MEMBERS OF THE JUDICIARY IN ENVIRONMENTAL LAW

In preparation of our first Annual Conference in The Hague, in December 2004, a questionnaire on these issues has been developed and our members have been invited to send in national reports. 19 such reports were received and the results were used to produce a general report, consisting of three parts, that you can find on our website:

<http://www.eufje.org/index.php/en/conferences/the-hague-2004>

Since 2004 much has happened and new member states have joined the EU. The time has come to take stock again and to assess the progress that has been made. The questionnaire has been modified only slightly in comparison with the 2004 questionnaire. Feel free to take the 2004 national report, if available, as a starting point and update it as appropriate. The candidate member states are also invited to submit a report.

You are invited to send in the national reports at the latest on **September 15<sup>th</sup>** to **eufje.bogos@gmail.com** so that we can prepare the general report that will be presented at the Sofia Conference.

### **I. INTRODUCTION**

What is the general nature of the system of law in your country (e.g. civil, common law, codified etc.)?

Romanian System of law includes :

- a constitutional protection of the environment

**Romanian Constitution Chapter II – art.35 – „The right to a Healthy Environment”**

- a general law protecting the environment

**- Environmental Protection Law no. nr.137/1995, republished in the Romanian Official Monitor, part one, no.70 on February 17 2000**

**- a significant number of other special laws.**

**No** code or compilation encompassing all or a substantial part of the laws relating to provisions on environmental protection?

## II. TRAINING AND INFORMATION

### A - Training

#### 1. *General training arrangements*

(a) Please describe the arrangements which exist in your country for training judges –

- for initial training before taking office?

**Initial training is provided by the The National Institute of Magistracy**

- for continued training?

**Continued training is provided by the The National Institute of Magistracy**

(b) How is *initial training* arranged?

Where and by whom is it conducted, for example –

- universities,
- other specialised training establishments

**The National Institute of Magistracy**

- organised by government or by judicial bodies?

**The National Institute of Magistracy is organised by The Superior Council of Magistracy which is a judicial body.**

Does it include *stages* or similar arrangements (e.g. internships, pupillages, apprenticeships) -

- with courts
- with lawyers
- with government departments
- with other agencies?

**Yes, it does.**

(c) How is *continuing training* organised? For example –

Where and by whom is it conducted?

Continued training is organized:

- **at central level by the National Institute of Magistracy at the venues established by this institution.**
- **Decentralised at the Courts of Appeal level but in cooperation with the National Institute of Magistracy which can provide tutors.**

Is it compulsory (for all or some categories of judges), or voluntary?

## **It is compulsory for all judges**

Is there a regular programme of continuing training? If so, how often? What is the average period in a year? Are there special requirements, for example on a change of office?

**Every judge must attend a training activity at least once in three years.**

Is it supervised? If so, by whom? Who determines the content of the courses (e.g. government, judicial bodies, individual judges)?

**The National Institute of Magistracy**

Are the training fees paid for? Are judges entitled to leave from work for the training?

**The courses are free of charge for judges. The judges are entitled to leave from work for the training.**

Is such training given weight in decisions on career choices or appointments to particular responsibilities?

Yes, it is a criteria when a judge is appointed in a specialised section of courts.

## *2 Training in environmental law*

Do the training arrangements for judges include special arrangements for training in environmental law –

**NO**

- for initial training
- for continuing training?

If so, please describe the arrangements, covering the same points as for general training.

In particular –

- is such training in environmental law given to all judges or only those with specific functions in that field?
- on average, how many judges receive such training in every year?
- what form does it take and for what periods?

Is there a mechanism for assessing the training needs of judges and periodically reviewing this?

**Yes, it is annually revised by The National Institute of Magistracy**

Have you already made use of training material prepared at EU level (e.g. within the framework of DG ENV programme for cooperation with national judges and prosecutors: <http://ec.europa.eu/environment/legal/law/judges.htm>). Do you have any suggestions for improvements?

**NO**

## **B – Availability of Information on environmental law**

- (a) Are there any specialised collections of national or EU case law relating to environmental law –

**NO**

- in paper form
- on the Internet?

(b) Are judges equipped with computers giving them free access to databases (with case law and literature) on environmental law, including

- national databases
- European databases
- international databases?

**YES**

### **C – Proposals for training or improving availability of information**

(a) In what areas would it be helpful to develop training materials and organise training sessions, for example -

General principles of law, e.g. –  
International environmental law  
European environmental law  
Comparative environmental law

Particular aspects of environmental law, e.g –  
Environmental Impact Assessment  
Sustainable Development  
Access to Justice and Standing (Aarhus Convention)  
Administrative and civil liability in environmental law  
Criminal Liability of Corporations  
The role of NGOs

Role of environmental inspectors, police officers and others on evidence collection  
Language training (e.g. judicial terminology)?

Technical issues, e.g. -  
Evaluation of ecological damage, including use of forensic methods  
Measures to restore the environment

Specific topics, e.g. -  
Freshwater Pollution,  
Protection of the Seas  
Nature Protection  
Landscape and Monuments – Natural Sites  
Air pollution  
International trade in protected species  
International transfer of waste  
Genetically modified organisms  
Polluting or Dangerous Industries

Environmental procedural requirements, in particular impact assessments relevant for spatial planning, energy and transport

Other topics?

**Due to the technical character and interdisciplinary and trans boundary impact or environmental matters I think all the above are opportune and necessary.**

### **III. ORGANISATION OF COURTS AND ENFORCEMENT AGENCIES**

#### **A – Courts or tribunals responsible for environmental law**

(a) Please describe the arrangements in your country for determining environmental law disputes, criminal, administrative and civil. In particular -

Are there separate courts or tribunals for civil and criminal matters?

**In Romanian judicial system there are no special courts but specialised sections within regular courts.**

Are there special constitutional or administrative courts or tribunals (for litigation involving government agencies or public bodies)?

**In Romanian judicial system there are no special administrative courts but specialised sections within tribunals, courts of appeal and High Court of Cassation and Justice.**

Are there specialised courts or tribunals for environmental law (or particular aspects of environmental law, including town and country planning, energy, or transportation)?

**NO, not even specialised sections or panels.**

What powers are available to the different types of court, for example -

**NO-** criminal penalties

**YES** - orders or injunctions to remedy environmental damage

**YES** - awards of financial compensation or compensation in kind?

Others?

(b) Please give examples of typical environmental law cases handled –

(i) By civil courts or tribunals;

**Awards of financial compensation for damages**

(ii) By criminal courts or tribunals;

**Deforestation crime, watter polution,**

(ii) By administrative courts or tribunals;

**Orders or injunctions to remedy environmental damage, environmental permits, planning**

(iii) By the constitutional court

### **No jurisdiction**

(v) By specialist environmental tribunals.

**Not the case.**

(c) Are there available statistics on environmental cases handled by the different categories of court and tribunal? If so, please summarise the figures for the most recent year available.

**NO**

### **B – Specialised jurisdictions**

#### **The Romanian Judicial System does not provide for specialised jurisdictions**

(a) If your system has specialised courts relevant to environmental law, please describe the nature of their jurisdiction (so far as not covered under A above), for example –

- how is the extent of the jurisdiction defined?
- is it exclusive, or concurrent with that of the ordinary courts?
- how, and by whom, are conflicts of jurisdiction resolved?
- are they independent of the executive?

(b) How, and by whom, are members of such courts recruited? Is knowledge or experience in environment law a specific requirement?

(c) What powers do the specialised courts have, for example -

- annulment of regulations or individual acts
- orders to enforce environmental laws
- power to substitute a decision for that of the government agency
- orders for financial compensation or compensation in kind
- other (e.g. granting environmental licences or consents)

(d) How and by whom are conflicts of jurisdiction with other courts resolved?

### **C - Criminal violations**

(a) In your country which agency or agencies have responsibilities for investigating and prosecuting criminal violations of environmental law –

- the police, or a particular branch of the police (national or local)
- customs authorities
- local authorities
- one or more specialised environmental agencies
- other bodies (public or private)

**The police, there are no special bodies or procedures.**

- (b) What special arrangements do the police or customs have for ensuring that those involved have expertise in environmental law? Do they have specialised units, organised locally or nationally?

**NO**

- (c) If a specialised environmental agency is responsible for prosecutions –

**NO**

- how is it organised, and under what authority
- is it independent of government
- how are its officers recruited and trained
- does it have similar powers to those of the police for investigating and prosecuting?

- (d) Which courts have power to impose criminal sanctions in environmental cases?

**Regular Criminal sections of Courts.**

- (e) Are there available reports or statistics of criminal sanctions imposed in environmental cases? If so, please give examples from recent cases.

**NO**

- (f) The role of the public prosecutor's office

Does the public prosecutor's office have services specialising in environmental area ?

**NO**

- Is this specialisation created by law or by internal organisational rules?
- Is its jurisdiction national or local?
- Does it relate to all environmental law violations or particular violations only?
- Is it exclusive or concurrent with the office's general jurisdiction?

How are conflicts over jurisdiction resolved?

**NOT the case**

Do members of the public prosecutor's office who specialise in environmental law have assistance from civil servants or experts appointed on a permanent basis to provide them with technical assistance?

**NOT the case**

How are these assistants recruited?

#### **D. Administrative violations/cases**

See the questions in the previous section. Who and how decides on the choice of administrative vs criminal enforcement ?

**Criminal enforcement belongs to the prosecutors and criminal judges.**

**Administrative enforcement belongs to the National Environmental Guard, which is an administrative body.**

#### **E. Civil cases**

In what circumstances are civil courts involved in environmental law cases?

**Civil courts can award civil compensations for damages.**

Can they award remedies other than orders for damages ?

**Yes, for example they can impose the obligation to bring the facts to the initial situation.**

Are there civil courts specialised in environmental law ?

**NO**



## **F. Standing**

Do environmental NGOs have standing in the different courts?

**YES**

**Art. 20 par.6 of The Government Emergency Ordinance no. 195/2005 confers locus standi in environmental matters to environmental protection NGOs**

-What requirements apply for the grant of standing?

**No special requirements**

- Must they have obtained formal recognition or accreditation by the authorities, or is the right to standing assessed on a case by case basis ?

**Yes.**

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