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Climate and Environmental Justice and Public Participation

Assessment Report

North Macedonia

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January 2025

EXPERTISE FRANCE
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1. LIST OF ABBREVIATIONS

AC	Aarhus Convention
AFIR	Alternative Fuels Infrastructure Regulation
CBAM	Carbon Border Adjustment Mechanism
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEJ	Climate and Environmental Justice
CESE	European Economic and Social Committee
CJEU	Court of Justice of the European Union
CLP	Classification, Labeling, and Packaging
CNDP	National Commission on Public Debate
CPDP	Committee on Petitions and Public Deliberations
CSO	Civil Society Organization
CSRD	Corporate Sustainability Reporting Directive
ECHR	European Convention on Human Rights
ECRI	European Commission against Racism and Intolerance
ECtHR	European Court on Human Rights
EEA	European Environment Agency
EIA	Environmental Impact Assessment
ELEM	Elektrani na Makedonija (Power Plants of Macedonia)
ESG	Environmental, Social, and Governance
ETS	Emissions Trading System
EU	European Union
EUR	Euro
EUTR	EU Timber Regulation
GBV	Gender-Based Violence
GDP	Gross Domestic Product
GHG	Greenhouse Gas
GRB	Gender-Responsive Budgeting
ICAO	International Civil Aviation Organization
IED	Industrial Emissions Directive
IEP	Integrated Environmental Permit
INRAE	National Research Institute for Agriculture, Food, and the Environment (France)
IPA	Instrument for Pre-accession Assistance
IPPC	Integrated Pollution Prevention and Control
JTF	Just Transition Fund
LSG	Local Self-Government
MES	Ministry of Education and Science
MESP	Ministry of Environment and Spatial Planning
MoEPP	Ministry of Environment and Physical Planning
MW	Megawatt
NGO	Non-Governmental Organization
OBI	Office for Budgetary Integrity
OECD	Organization for Economic Co-operation and Development
OSCE	Organization for Security and Co-operation in Europe
PDF	Portable Document Format
PM	Particulate Matter
PO	Project Officer
PPWG	Public Participation Working Group
PRTR	Pollutant Release and Transfer Register
RNM	Republic of North Macedonia
SAF	Sustainable Aviation Fuel

SCAP	State Commission for Decision-Making in Administrative Procedures and Procedures of Second Instance
SCF	Sustainable Climate Financing
SEA	Strategic Environmental Assessment
SEI	State Environmental Inspectorate
SHP	Small Hydropower Plant
SLAPP	Strategic Lawsuits Against Public Participation
TFEU	Treaty of the Functioning of the European Union
UICN	International Union for Conservation of Nature (French abbreviation)
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Programme
UNECE	United Nations Economic Commission for Europe
WB	Western Balkans

2. EXECUTIVE SUMMARY

The present Initial Assessment Report by the Climate and Environmental Justice Project Convergence Project (CEJ Convergence Project) in the Western Balkans assesses the current state of environmental justice and public participation mechanisms in North Macedonia, emphasizing alignment with European Union (EU) directives and international standards. The key findings identify systemic gaps and opportunities to enhance transparency, accountability, and inclusivity in environmental governance.

Namely, while the legal framework, supported by the Law on Environment and Aarhus Convention (AC), mandates public participation during Environmental Impact Assessments (EIA) and Strategic Environmental Assessments (SEA), its implementation remains inconsistent. Public hearings are frequently under-attended, due to limited public awareness, inadequate scheduling, and a lack of proactive engagement by institutions. Municipalities, burdened by resource constraints, struggle to facilitate inclusive public participation effectively. Resource constraints, particularly at the municipal level, dilute officials' focus on environmental governance. Legislative ambiguities, such as unclear definitions of "public concerned", complicate stakeholder inclusion. The fragmented and inconsistent dissemination of environmental information through outdated platforms further undermines transparency, limiting public access to timely, accurate data and diminishing opportunities for informed participation.

Moreover, the EU's progress report for North Macedonia highlights the urgent need to align with directives on EIA, SEA, and environmental liability. Weak enforcement and administrative capacities pose significant barriers to achieving these benchmarks, negatively impacting governance and public trust.

Finally, when it comes to access to justice, North Macedonia's Criminal Code demonstrates progress, particularly by criminalizing "ecocide". However, limited judicial capacity, procedural errors, and insufficient empowerment of civil society organizations (CSOs) hinder the effectiveness of legal redress mechanisms. Challenges such as inconsistencies in law enforcement and inadequate institutional capacity obstruct the public's ability to seek justice effectively.

2.1 Key Recommendations

To address the identified weaknesses, thematic experts analyzed data gathered through interviews, focus group discussion, and reviewed the thematic reports and documents from domestic and international organizations and institutions. Based on this comprehensive evaluation, they proposed a set of recommendations, grouped into five main points:

2.1.1 Strengthen the Legal and Policy Framework

- Amendment of the Law on Environment and/or relevant bylaws to mandate detailed public consultation standards, including standardized notification formats, clear timelines, and mandatory consultations during EIA and SEA processes.
- Harmonization of public participation practices across municipalities by establishing uniform guidelines and ensuring consistent implementation through capacity-building initiatives.
- Amending environmental and procedural legislation in order to establish a clear and precise framework for providing wide access to justice in environmental matters.

- Amending procedural legislation to establish clear judicial jurisdiction related to cases on environmental degradation *vis-a-vis* human rights violation.

2.1.2 Enhance Access to Information

- Development of a centralized online platform for environmental decision-making, integrating searchable databases, automated alerts, and multilingual support.
- Standardizing municipal websites to improve local dissemination of environmental documents and public consultation notices.
- Promotion of open data policies to facilitate independent analysis by researchers, non-governmental organizations (NGOs), and citizens, while ensuring sensitive information is protected.
- Improving capacities for regular and prompt publication of environmental decisions that can be appealed as well as a centralized platform for its publication.

2.1.3 Improve Public Awareness and Engagement

- Launching targeted awareness campaigns using diverse media to educate citizens about their rights to participate in environmental decision-making.
- Engagement of marginalized groups, including rural populations and youth, through tailored outreach programs and community workshops to foster inclusivity.

2.1.4 Build Institutional and Professional Capacity

- Implementation of regular workshops for municipal officials to enhance skills in organizing public consultations, addressing feedback, and maintaining transparency.
- Organizing national and regional expert legal debates, counseling and events for different stakeholders in order to discuss on interpretation and implementation of national and international legislation.
- Conducting training for judges and public prosecutors on environmental legislation.
- Providing funding and technical support to CSOs to enable them to act as effective intermediaries between communities and decision-makers.

2.1.5 Prioritize EU Directive Alignment

- Further alignment of current EIA and SEA processes with Directive 2014/52/EU.
- Strengthen mechanisms for monitoring and enforcing environmental regulations, with a focus on transparency and accountability.
- Leverage funding mechanisms to support capacity-building efforts and policy alignment.

3. INTRODUCTION

3.1 The Rationale

The environment in North Macedonia and across the whole Western Balkan region is deteriorating with increasing air, water and soil pollution. Public participation in environmental decision-making and the judiciary play pivotal role in increased environmental protection, while substantial shortcomings are continuously noted by the European Commission.

Having this in mind this assessment report defines the main challenges relating to public participation and environmental justice, provides in-debt analysis on these topics and recommends actions for improvements. For that purposes the first chapter of the document provides overview and analysis of the public participation and access to justice processes and mechanisms with special focus on EIA and SEA processes. The second chapter, through case studies, emphasizes the challenges in implementation of the legislation, while the third chapter provides comparative analysis and highlights comparative best practices that could be used to overcome national shortcomings. The final part of the document recommends actions that need to be implemented to improve the public participation and environmental justice in the Republic of North Macedonia.

3.2 Why This Report?

This report serves as a key deliverable of the Climate and Environmental Justice Convergence Project in the Western Balkans. The report focuses on diagnosing the current state of environmental justice and public participation processes in North Macedonia, providing recommendations for enhancing governance, transparency, and citizen engagement in environmental decision-making.

The CEJ Convergence Project aligns with the EU accession priorities of North Macedonia by addressing critical elements of environmental governance, particularly those mandated under domestic and international legislation and agreements. By fostering convergence with international standards, the Project supports North Macedonia's ongoing efforts to align its legislative, institutional, and participatory frameworks with EU environmental policies. This report is a step forward in assessing the existing gaps and opportunities to strengthen public participation and access to justice in environmental matters, which are key pillars of democratic governance and environmental sustainability.

3.3 Background and Context

Environmental justice is a fundamental principle ensuring that all individuals and communities have equal access to environmental protections, decision-making processes, and legal recourse. In the context of North Macedonia, environmental justice is particularly relevant as the country faces challenges related to enormous air pollution, urbanization, weak resource management, and industrial impacts on all environmental media. Effective public participation and access to justice are the most democratic mechanisms to address these challenges, ensuring that citizens and stakeholders can engage meaningfully in shaping environmental policies and holding institutions accountable.

With this regard, the CEJ Convergence Project aims to bridge gaps in these areas by promoting:

- Strengthened mechanisms for citizen involvement in environmental decision-making processes, particularly in EIA procedures.
- Improvement of legal frameworks and institutional capacities to ensure that individuals and communities can seek redress for environmental harm.
- North Macedonia's efforts to harmonize its legislative and institutional frameworks with EU directives and international conventions.

Therefore, the focus of this report is to assess the current state of environmental governance in North Macedonia, with a specific emphasis on public participation processes and access to justice mechanisms. In this regard, the assessment reveals critical trends and challenges affecting the state of environmental justice in North Macedonia.

3.4 Public Participation Processes

Strengths: North Macedonia has established a legal framework for public participation through the Law on Environment and related regulations, which provide for consultation during the EIA and SEA processes. The country's ratification of the AC underscores its commitment to transparency and citizen engagement.

Weaknesses: Despite these frameworks, the practical application remains inconsistent. Public hearings are often poorly attended due to inconvenient scheduling, limited dissemination of information, and a lack of proactive engagement by institutions. Municipalities, in particular, struggle with technical and human resource limitations that hinder their ability to facilitate meaningful public participation.

3.5 Access to Justice

Strengths: The Macedonian Criminal Code includes provisions for environmental crimes, going beyond EU standards by criminalizing "ecocide". Amendments to clarify definitions, such as emissions exceeding legal limits as a crime, demonstrate progress in strengthening accountability.

Weaknesses: Procedural errors by inspectors, limited judicial capacity, and a lack of empowerment for CSOs impede the effectiveness of access to justice mechanisms. Additionally, systemic challenges in interpreting and enforcing laws create barriers for individuals and CSOs seeking legal redress.

Public institutions in North Macedonia face significant challenges in terms of resource availability and institutional capacity, which directly impact their ability to effectively implement environmental laws and policies. This issue is particularly pronounced at the municipal level, where officials, *i.e.* local inspectors, are often required to manage diverse responsibilities across multiple sectors. The multitasking nature of their roles dilutes their focus and hampers their ability to address environmental governance matters in a comprehensive and efficient manner. These constraints underline the need for increased capacity-building initiatives and targeted resource allocation to strengthen institutional performance on administrative and technical levels.

3.6 Other Challenges

In addition to resource limitations, legislative gaps further complicate public participation in environmental decision-making. Ambiguities in critical legal definitions, such as the term "public concerned", create uncertainty and inconsistencies in identifying stakeholders eligible to participate in consultations. Without a clear and standardized framework for public engagement, consultations often lack inclusivity and fail to capture the perspectives of all relevant parties. This legislative ambiguity not only diminishes the effectiveness of public participation processes but also risks alienating communities directly or indirectly affected by environmental decisions.

Transparency in information dissemination is another critical issue. The current system is plagued by inconsistencies, with key environmental information often scattered across various platforms and institutions. The absence of a centralized and user-friendly platform for publishing documents and updates makes it difficult for the public to access timely and accurate information. Furthermore, selective publication of important documents undermines public trust and limits opportunities for meaningful engagement. Addressing these transparency issues is essential to foster a participatory culture and ensure that environmental governance processes are accessible and inclusive to all stakeholders.

3.7 Relevance to EU Accession

The findings of this report are directly relevant to North Macedonia's EU accession process, as environmental governance is a key component of the *acquis communautaire* under **Chapter 27: Environment**. Strengthening public participation and access to justice not only aligns with EU directives but also enhances democratic accountability and public trust in institutions. By addressing the gaps identified in this assessment, North Macedonia can make a move forward in meeting EU standards and fostering a more inclusive and democratic environmental governance.

4. METHODOLOGY

The assessment employed a mixed methodology to provide a holistic and nuanced understanding of public participation and access to justice in environmental governance. This approach combined desk research, stakeholder interviews, focus group discussions, and comparative analysis to ensure the aggregation of both qualitative and quantitative data. Each methodological approach contributed equally to the overall analysis, allowing for a comprehensive evaluation of the legal and institutional frameworks, as well as practical experiences of public engagement.

Quantitative data were primarily collected through semi-structured surveys and analysis of documented statistics. The interviews were organized with the previously mapped stakeholders, including government institutions, CSOs, and legal practitioners. The purpose of this activity was to gather measurable insights on the frequency, efficiency, and transparency of public participation and access to justice mechanisms. Key quantitative data points included the number of environmental court cases filed, resolved, or dismissed; the frequency of public consultations; and response rates to public information requests.

Qualitative data were collected through a detailed review of court cases, legislation, and institutional reports, as well as stakeholder engagement activities. The review of court cases focused on legal reasoning, judicial interpretations of environmental laws, and outcomes related to public participation and access to justice. Legislation reviews included an analysis of national laws, such as the Law on Environment and the Criminal Code, in conjunction with international agreements like the AC and EU Directives. This process identified legislative gaps and areas of misalignment with international standards.

In addition, institutional reports from both domestic and international organizations were reviewed to identify systemic challenges, highlight best practices, and assess the alignment of national policies with international standards. Case studies documented by CSOs were also examined to shed light on gaps in the implementation of public participation mechanisms and access to justice provisions. Moreover, the research included an online assessment of institutional websites, focusing on their content, structure, and accessibility to evaluate the transparency and availability of environmental information. This comprehensive review offered a robust factual and legislative foundation, enabling a clear understanding of both the theoretical framework and the practical shortcomings in environmental governance.

For the purposes of primary data collection, stakeholder engagement was enabled in order to provide a narrowed assessment of the system and to identify needs based on the current practices. By utilizing a combination of participatory and consultative methods to ensure comprehensive input from both national and international stakeholders, national experts organized a focus group discussion, bringing together representatives from government institutions, CSOs, academia, and judiciary. The focus group sessions were designed to encourage open dialogue and gather diverse perspectives on the strengths, weaknesses, and gaps in the current systems for public participation and access to justice.

Finally, the assessment involved a detailed examination of the alignment between the national system of the country and European standards, with a focus on best practices implemented in France. This approach provided a framework to identify common challenges and needs, particularly in the context of integrating EU standards at national legal, institutional, and operational levels.

However, during the assessment, national experts encountered several challenges, including limited access to up-to-date and comprehensive institutional records due to the absence of centralized databases in some government bodies and inconsistencies in reporting formats that complicated data consolidation. Stakeholder engagement also presented difficulties, with limited participation from certain groups caused by time constraints and lack of awareness, while some institutional stakeholders were reluctant to share detailed information, citing confidentiality concerns or bureaucratic obstacles.

It is important to emphasize that the aforementioned challenges did not compromise the quality of the report, its findings, or the validity of its conclusions. Despite these obstacles, the assessment was conducted rigorously, employing a range of methodologies to ensure a comprehensive and accurate analysis.

5. DIAGNOSTIC OF THE ENVIRONMENTAL JUSTICE SYSTEM

5.1 System Overview

5.1.1 Legal Framework

The **Constitution of the Republic of North Macedonia** sets the basis for environmental protection and access to justice in cases of human rights violations including human rights violations related to environmental degradation.

The Constitution defines the land development and humanization and environmental protection and development[1] as fundamental values while at the same time prescribing that every person has the right to a healthy environment where the Republic provides conditions for the exercise of the right of citizens to a healthy environment.[2] Furthermore, the Constitution defines that all natural resources of the Republic, the flora and fauna are goods of general interest for the Republic and enjoy special protection, while their use is regulated by laws.[3] It is crucial to keep in mind that international agreements ratified in accordance with the Constitution are part of the internal legal order and cannot be changed by law.[4]

It is important to note that the Constitution only defines two procedures where the Constitutional court has the authorization to examine specific cases: 1) *ex-post* review of the conformity of general legislation (laws and by-laws) with the Constitution and 2) protection of only certain rights and freedoms of the individual and citizen (the right to a healthy environment is not part of the closed list of rights protected by the court).[5] The Constitutional Court can adopt a decision that annuals or repeals legislation or an individual act (administrative decision, judgment, etc.) where non-conformity with the Constitution or other legislation or violation of certain rights is found.

Horizontal legislation

Law on the Environment is the general environmental law setting up the basis for environmental protection as well as duties and responsibilities of different branches of government. Proceedings such as EIA and other environmental reports, SEA, access to information, issuing integrated environmental permits and environmental liability proceedings are the most crucial aspects regulated by the law.

Environmental report[6]

An environmental is a *sui generis* environmental assessment report other than an EIA. The investor has the obligation to prepare the report in 2 cases:

1. when the scoping under the EIA proceeding based on the case-by-case principle determines that an EIA is not necessary (the decision is adopted by the Ministry of Environment and Physical Planning (MoEPP)); and
2. when the proposed activity doesn't fall within activities for which an EIA is prescribed.

The environmental report is prepared by the investor[7] and is submitted to the relevant authority for approval. Unlike experts who are responsible for preparing EIA studies (certified by MoEPP),

[1] Constitution of the Republic of North Macedonia, Article 8.
[2] *Ibid*, Article 43.
[3] *Ibid*, Article 56.
[4] *Ibid*, Article 118.
[5] *Ibid*, Article 110.
[6] Law on Environment (Official Gazette of the Republic of Macedonia No. 53/2005; 81/2005; 24/2007; 159/2008; 83/2009; 48/2010; 124/2010; 51/2011; 123/2012; 93/2013; 187/2013; 42/2014; 44/2015; 129/2015; 192/2015; 39/2016 и 99/2018 and Official gazette of the Republic of North Macedonia no. 89/2022 и 171/2022), Article 24.
[7] The preparation of the report is a sole responsibility of the investor and the experts he/she hires.

the qualification of experts in charge of preparing environmental reports is not regulated. Specific by-laws[8] regulate whether the environmental report should be approved by the MoEPP or the municipality depending on the scale of the proposed activity. If the environmental report is not approved, the investor has a right to appeal within 15 days to the State Commission for decision-making in administrative proceedings and employment proceedings in the second degree (hereinafter: the second-degree commission).

> *The State Audit Office in a report from 2021 relating to small hydropower plants found the following shortcomings related to approving environmental reports: the reports are based on outdated documents; when approving the reports only official documents are taken into account without considering the factual situation; due to lack of submitted data to MoEPP, the planned activities of other competent institutions in that area are not taken into account, as well as the existence of water supply systems in smaller settlements; the locations of the intakes are often in inaccessible and impassable places, thus during the construction of the pipeline and the access road to the facility, the environment is damaged, which is not properly foreseen in the environmental reports which state that no significant environmental impact will occur.*[9]

Environmental Impact Assessment[10]

The activities for which an EIA study is required are specified in a by-law[11] which specifies two types of activities:

1) activities for which EIA is mandatory; and
2) activities for which it is decided on a case-to-case basis whether EIA should be performed.

Detailed review of the EIA procedure is provided in the chapter Review of Current Legislation and Practices on Public Participation in Environmental Decision-Making. It is important to note that within the EIA procedure, access to justice possibilities (appeals to second-degree Commission) are defined in two cases:

- Against the scoping decision within 8 days from its publication
- Against the decision for approving the EIA study/project within 15 days from the publication of the decision/from the day the person became aware of the adoption of the decision, if the decision was not properly published.

The appeals are submitted to the SCAP and have suspenseful effect.

Strategic Environmental Assessment[12]

[8] Decree about the activities for which an environmental report must be prepared which is approved by the authority for performing professional work in the field of the environment (Official gazette of the Republic of Macedonia no. 80/2009, 36/2012 and Official gazette of the Republic of North Macedonia no. 233/2022).
Decree about the activities for which an environmental report must be prepared which is approved by the mayor of the municipality, the mayor of the city of Skopje or the mayor of the municipality within the city of Skopje (Official gazette of the Republic of Macedonia no. 80/2009, 36/2012).

[9] Final report on compliance audit „Exploitation of water resources for production of electricity", available at: https://dzr.mk/sites/default/files/2021-12/1_70_RU_Eksploatacija_vodni_resursi_proizvodstvo_elektricna_energija_2021_KOMPLET.pdf
Analysis of the Operation of Small Hydropower Plants, Macedonian Young Lawyers Association, available at: https://myla.org.mk/wp-content/uploads/2022/07/Analysis-of-the-operation-of-small-hydropower-plants.pdf

[10] Law on Environment (Official gazette of the Republic of Macedonia no. 53/2005; 81/2005; 24/2007; 159/2008; 83/2009; 48/2010; 124/2010; 51/2011; 123/2012; 93/2013; 187/2013; 42/2014; 44/2015; 129/2015; 192/2015; 39/2016 и 99/2018 and Official gazette of the Republic of North Macedonia no. 89/2022 и 171/2022), Articles 76-94.

[11] Decree for the determination of the projects and the criteria on the basis of which the need to conduct the environmental impact assessment procedure is determined (Official gazette of the Republic of Macedonia no. 74/2005, 109/2009, 164/2012, 202/2016 and Official gazette of the Republic of North Macedonia no. 175/2022).

[12] Law on Environment (Official gazette of the Republic of Macedonia no. 53/2005; 81/2005; 24/2007; 159/2008; 83/2009; 48/2010; 124/2010; 51/2011; 123/2012; 93/2013; 187/2013; 42/2014; 44/2015; 129/2015; 192/2015; 39/2016 и 99/2018 and Official gazette of the Republic of North Macedonia no. 89/2022 и 171/2022), Articles 65-75

The specific strategic documents[13] for which an SEA is performed are specified in a by-law[14] adopted by the Government. The Law on Environment imposes the performance of an SEA for strategic documents relating to different fields among which for example strategic documents on agriculture, transport, mining, energy, water management, spatial and urban planning and use of land which creates basis for implementing projects for which EIA is performed as well as strategic documents for management of protected areas or strategic documents which can impact protected areas.

In cases where the strategic documents envision the implementation of a project for which an EIA is mandatory, the institution can decide to join the SEA and EIA procedures. In these cases, the SEA report should be an integral part of the EIA report and the EIA expert should also take into account every aspect of the SEA procedure and sign the SEA report.

The institution responsible for adopting the strategic documents is also responsible for performing the SEA. At the beginning of the process the institution adopts a decision regarding the performance of an SEA and its scope. The decision and the necessary forms that are integral part of the process shall be published on the institution's website while the public has a right to an appeal within 15 days from the day of the publication of the decision, to the State Commission for decision-making in administrative proceedings and employment proceedings in the second degree. The decision and the form are also submitted to the MoEPP, which can either confirm the decision or require the institution to conduct a SEA if the prior assessment does not meet the minimum standards prescribed by law. The decision of the MoEPP obliging the institution to perform a SEA and determining its scope is published and the public has the right to appeal within 15 days to the second-degree Commission.

The SEA report is prepared by an EIA certified expert. While other non-certified experts can be included in the process, there has to be at least one EIA certified expert which signs the SEA report and guarantees its quality. In cases where the strategic plan is adopted in two phases: draft strategic document and proposal strategic document, the SEA is performed before the preparation of the draft strategic document and forms an integral part of it.

Public participation related to the SEA procedure should take place before the start of the procedure for adoption of the strategic document and within 5 days from the completion of the SEA report. The institution responsible for performing the SEA publishes the draft strategic document and the SEA report and information about public participation. The public can submit written comments related to the draft strategic documents and the SEA report within 30 days from the day of their publication, while the institution is obliged to take the received comments into consideration and to prepare and publish a public participation report.

MoEPP reexamines the prepared SEA report and, as for EIAs, prepares and publishes a report on the appropriateness of the SEA report. After all comments are received from the public and other relevant institutions, the institution responsible for the adoption of the strategic document decides on the adoption of the strategic plan and publishes its decision.

Integrated environmental permits[15]

[13] Strategic documents refer to strategies, plans and programs

[14] Decree about the strategies, plans and programs, including changes to those strategies, plans and programs, for which a procedure for assessing their impact on the environment and on the life and health of people must be carried out (Official gazette of the Republic of Macedonia no. 153/2007 and 45/2011)

[15] Law on Environment (Official gazette of the Republic of Macedonia no. 53/2005; 81/2005; 24/2007; 159/2008; 83/2009; 48/2010; 124/2010; 51/2011; 123/2012; 93/2013; 187/2013; 42/2014; 44/2015; 129/2015; 192/2015; 39/2016 и 99/2018 and Official gazette of the Republic of North Macedonia no. 89/2022 и 171/2022), Articles 95-129

Two types of permits are regulated in the Law on Environment – A and B integrated environmental permit – depending on the scale of the proposed installation. The permits are issued by

- the MoEPP: A integrated environmental permit and B integrated environmental permit if the activity is projected in a protected area; or
- the municipality: B integrated environmental permit).[16]

The request for the permit should be published on MoEPP's or municipality's website. Public consultation is primarily based on written comments and, upon request from the public concerned, a public hearing should be held.

For **A-integrated environmental permit** the decision to issue the permit can be appealed by the public concerned within 15 days from the day of the publication of the decision on MoEPP's website to the second-degree Commission.[17] The appeal does not have a suspenseful effect.[18] The deadline for initiating an administrative dispute is 30 days from the day the appeal decision has been served. In case of the silence of the administration, there is no deadline for submitting a lawsuit.

The decision to transfer the permit, completely or partially, to another legal person can be appealed by the public concerned within 15 days from the day of the publication of the decision on MoEPP's website, to the second-degree Commission.[19] The appeal does not have a suspenseful effect.[20] The deadline for initiating an administrative dispute is 30 days from the day of serving the decision on the appeal. In cases of silence of the administration, there is no deadline for submitting a lawsuit.

For **B-integrated environmental permits** the decision for issuing the permit can be appealed by the public concerned within 15 days from the day of the adoption of the decision, to the second-degree Commission.[21] The appeal has a suspenseful effect.[22] The deadline for initiating an administrative dispute is 30 days from the day the appeal decision has been served. In cases of silence of the administration, there is no deadline for submitting a lawsuit.

Liability for environmental damage[23]

This liability allows the public concerned that is directly threatened or suffers the consequences of the environmental damage to submit a lawsuit before the competent court to seek:

- a return to the initial state of the environment; or
- compensation of damages in accordance with the general regulations for compensation of damages in cases where return to the initial state of the environment is impossible.

The liability for environmental damages occurs in cases of:

1) immediate threat of environmental damage or performed environmental damage which occurred as a result of performing professional activities defined in the respective by-law; and
2) immediate threat of damage to protected species and habitats or performed environmental damages to protected species and habitats which occurred as a result of performing professional activities defined in the respective by-law or it occurred based on guilt or negligence of the operator.

[16] *Ibid*, Article 95.
[17] *Ibid*, Article 108.
[18] *Ibid*.
[19] *Ibid*, Article 118.
[20] *Ibid*.
[21] *Ibid*, Article 126.
[22] Law on general administrative procedure (Official gazette of the Republic of Macedonia no. 124/2015), Article 108.
[23] Law on Environment (Official gazette of the Republic of Macedonia no. 53/2005; 81/2005; 24/2007; 159/2008; 83/2009; 48/2010; 124/2010; 51/2011; 123/2012; 93/2013; 187/2013; 42/2014; 44/2015; 129/2015; 192/2015; 39/2016 и 99/2018 and Official gazette of the Republic of North Macedonia no. 89/2022 и 171/2022), Articles 157-159.

The Criminal Code, as amended in 2023, is aligned with the relevant EU Directive 2008/99/EC. It systematizes crimes against the environment in Chapter XXII – Crimes against the environment and nature where 29 crimes are defined, including 'ecocide'. Depending on the crime and how it is defined in the Criminal Code, *mens rea* or the severity of the consequences or the threat occurred, should be proved for some crimes or for some qualified types of a crime. Criminal cases on environmental crime are brought to the court through the submission of an indictment by the public prosecutors. Private persons (plaintiffs) can't submit a criminal case directly to the court, but can submit a criminal complaint to the public prosecution office or the police. Some environmental crimes can be performed negligently so intention can be deducted from the facts.

Sectoral legislation

Although the Law on Environment sets the basis for legal regulation of environmental protection, different aspects of the environment are regulated in separate legislation. The sectoral legislation generally regulates the monitoring, strategic planning and management of each sector, the procedure to declare a protected area, the inspection overview and issuing permits (permits related to waste management and permits related to water use). The sectoral legislation is composed of the following legislation:

- Law on Nature Protection
- Law on Protection Against Noise in the Environment
- Law on Waters
- Law on Ambient Air Quality
- Law on Genetically Modified Organisms
- Law on Waste Management
- Law on Extended Producer Responsibility for the Management of Specific Waste Streams
- Law on the Management of Batteries and Accumulators and Waste Batteries and Waste Accumulators
- Law on Management of Additional Waste Streams
- Law on Management of Electrical and Electronic Equipment and Waste of Electric and Electronic Equipment
- Law on Management of Packaging Waste

CSOs have identified challenges relating to the enforcement of sectoral legislation and its complete harmonization with the EU legislation.[24]

5.1.2 Legal Framework on Public Participation in Environmental Decision Making

International Law on Public Participation

Ratified international agreements are integrated into the Macedonian legal system,[25] making it essential to provide an overview of international legislation in this area. However, their direct applicability within national legislation depends on the specific provisions for implementation. The Declaration on Environment and Development (Rio Declaration) establishes principles for environmental protection. Principle 10 specifies that at the national level, all individuals should have the opportunity to participate in decision-making processes, while states should facilitate and encourage increased awareness and participation by disseminating information. Principle 20 emphasizes the role of women in environmental management and development, stating that their participation is essential for sustainable development.

[24] First Shadow Report for Chapter 27, available at: https://drive.google.com/file/d/14CZ1iI2ud7sGI4vyGUqAUPohKVVVqHO7/view
Second Shadow Report for Chapter 27, available at: https://drive.google.com/file/d/1rqXbV_PGCorDIAdLsW8QVVJa3wHao-LA/view
Third Shadow Report for Chapter 27, available at: https://myla.org.mk/wp-content/uploads/2024/10/Shadow-report-Chapter-27.pdf
[25] Article 118 of the Constitution of the Republic of North Macedonia.

Adopted in 1998, the AC is one of the most significant international documents on this issue. A key pillar of the convention is public participation in environmental matters. Public participation includes involvement in:

1) Decision-making processes, specifically approving the operation of installations or activities listed in Annex I of the Convention.
2) Preparing plans and programs related to the environment.
3) Developing general legal rules and executive provisions that may impact the environment.

Of particular importance is Article 6 of the Convention which ensures that public participation is mandatory only during decision-making processes for activities described in Annex I. For all other activities, public participation is applied according to national laws for activities that may significantly impact the environment.

Another international instrument is the Convention on EIAs in a Transboundary Context (Espoo Convention) which mandates EIAs for projects and activities listed in Annex I of the Convention that have transboundary environmental impacts. Similar to the AC, this obligation applies to other projects if the proposed project or activity is not listed in Annex I but has a significant environmental impact. The convention provides detailed regulations on the procedure and public participation.

EU Law regarding public participation is primarily composed of two directives and one regulation specifically aimed at the citizens of EU member states.

Regulation No. 1367/2006[26] pertains to the implementation of the provisions of the AC by EU institutions and bodies. Article 9 establishes the obligation for EU institutions and bodies to adopt practical or other types of rules to ensure early and effective public participation at a stage when all options are still open. This applies to the preparation, modification, or updating of plans and programs that affect the environment. When the European Commission proposes such a plan or program to be adopted by another EU institution or body, the public must be involved from the preparatory phase.

Directive 2011/92/EU[27], known as the Environmental Impact Assessment Directive, establishes a framework for assessing the environmental effects of certain public and private projects within the European Union. Its primary purpose is to ensure that projects likely to have significant environmental impacts are identified, assessed, and considered before the development authorization is granted, thereby promoting sustainable development and environmental protection. The directive applies to a wide range of projects, categorized into two annexes:

- Annex I lists projects that automatically require an EIA due to their potential significant effects, such as large-scale infrastructure developments.
- Annex II includes projects where Member States must determine the need for an EIA based on defined criteria, considering factors like project size, location, and potential impact.

Key elements of the EIA process under the directive include the preparation of an EIA report by the developer, which identifies and evaluates the potential significant effects of the project on the environment. Public participation is a crucial component, ensuring that the public is informed and has the opportunity to express opinions on the proposed project and its environmental implications. The directive also mandates that the competent authority considers the EIA report and public feedback before making a decision on granting development consent.

[26] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32006R1367
[27] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32011L0092

In 2014, Directive 2014/52/EU[28] amended the original EIA Directive to enhance its effectiveness and align it with contemporary environmental challenges. The amendments introduced several updates, including the requirement for a more thorough assessment of biodiversity, climate change, and resource efficiency. They also emphasized the need for quality assurance of the EIA reports and strengthened provisions for public participation and access to justice. Additionally, the amendments aimed to streamline the EIA process to reduce administrative burdens while maintaining high environmental protection standards. A notable feature of the directive is its emphasis on integrating environmental considerations into the decision-making process at an early stage. By requiring assessments before project approvals, the directive ensures that potential environmental impacts are identified and mitigated proactively.

Directive 2001/42/EC[29], commonly known as the Strategic Environmental Assessment Directive, was established by the EU to integrate environmental considerations into the preparation and adoption of certain plans and programs. Its primary purpose is to ensure that environmental effects are assessed during the planning stages, thereby promoting sustainable development and environmental protection. The scope of the directive encompasses a wide range of public plans and programs across various sectors, including agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, and land use planning. It applies to plans and programs that set the framework for future development consent of projects listed in Annexes I and II of Directive 85/337/EEC, as well as those requiring assessment under Articles 6 and 7 of Directive 92/43/EEC.

Key elements of the SEA Directive include the requirement for an environmental report that identifies, describes, and evaluates the likely significant effects on the environment of implementing the plan or program, as well as reasonable alternatives. The directive mandates public consultation, allowing authorities and the public to express their opinions on the draft plan or program and the accompanying environmental report. It also requires that the environmental report and the results of consultations be taken into account during the preparation and before the adoption of the plan or program. Additionally, the directive stipulates monitoring the significant environmental effects of the plan's or program's implementation to identify unforeseen adverse effects and undertake appropriate remedial actions. A notable feature of the directive is its emphasis on transparency and public participation, ensuring that environmental considerations are integrated into the decision-making process at an early stage.

Other EU Legal Instruments for Public Participation in Environmental Decision-Making

- Directive 2003/4/EC[30] on Access to Environmental Information Directive: grants the public the right to access environmental information held by public authorities and ensures proactive dissemination of environmental information.
- Directive 2010/75/EU Industrial Emissions Directive (IED): requires public participation in the permitting process for industrial installations to ensure their compliance with environmental standards.
- Directive 2000/60/EC Water Framework Directive: mandates public participation in the management of water bodies, including the preparation of river basin management plans.
- Directive 92/43/EEC Habitats Directive: requires public consultation when designating Natura 2000 sites or implementing conservation measures.
- Directive 2008/98/EC Waste Framework Directive: ensures public participation in the preparation of waste management plans and strategies.
- Directive 2008/50/EC Air Quality Directive: requires public participation in developing air quality plans and programs to achieve compliance with air quality standards.

[28] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0052
[29] https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32001L0042
[30] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32003L0004

- Directive (EU) 2018/2001 Renewable Energy Directive: emphasizes stakeholder engagement and public consultation in the development of renewable energy projects.
- Directive 2004/35/EC Environmental Liability Directive: promotes public participation in cases involving environmental damage and liability for preventing and remedying such damage.
- Directive 2002/49/EC Noise Directive: ensures public participation in the preparation of noise maps and action plans.
- Directive (EU) 2018/2002 Renewable Energy and Energy Efficiency Directive: promotes stakeholder engagement in energy planning and environmental considerations.
- Directive 2012/18/EU Seveso III Directive: promotes public participation in decision-making related to industrial installations dealing with hazardous substances.

National Public Participation in Environmental Matters Legal Basis

The fundamental principles for environmental protection are established by the Constitution of the Republic of North Macedonia. The Constitution stipulates that one of the fundamental values is the regulation and humanization of space, as well as the protection and enhancement of the environment and nature. Additionally, one of the basic freedoms and human rights is the right to a clean and healthy environment. Citizens are also obliged to improve and protect the environment, while the state is required to provide conditions for the realization of this guaranteed right of citizens.[31] Furthermore, article 118 of the Constitution underlines the importance of international agreements, stating that ratified international agreements are an integral part of the domestic legal order and cannot be amended by law. Courts are bound to adjudicate based on the Constitution, laws, and ratified international agreements, ensuring compliance with international standards, including those of the AC.

AC

On July 1, 1999, the Parliament of the Republic of North Macedonia adopted the Law on Ratification[32] of the Convention on Access to Information, Public Participation in Decision-making, and Access to Justice in Environmental Matters (the AC). Additionally, North Macedonia ratified the Kyiv Protocol on Pollutant Release and Transfer Registers (PRTR) in 2010, further solidifying its commitment to environmental transparency[33]. The Law on the Environment incorporates the AC's principles, addressing access to environmental information, public participation in decision-making processes, and access to justice in environmental matters. More broadly, the issue of access to public information is governed by the Law on Free Access to Public Information,[34] while specific provisions for environmental information are embedded within the Law on the Environment.

Law on Environment

North Macedonia's public participation in environmental matters is determined by the EIA framework which is structured through a series of legislative instruments as an integral part of the Law on Environment.[35] By mandating public consultations and access to environmental information, the law empowers citizens to engage actively in shaping policies and actions that impact their environment. Furthermore, the law emphasizes the importance of EIAs and SEAs for proposed projects and plans. With this regard, in order to operationalize the Law on the Environment, several Rulebooks and Decrees have been enacted, detailing specific requirements and procedures:

[31] Article 43 of the Constitution of the Republic of North Macedonia
[32] Official Gazette of the Republic of North Macedonia no. 40/99
[33] Official Gazette of the Republic of North Macedonia, no. 135/2010
[34] Official Gazette no. 101/19
[35] Official Gazette of the Republic of Macedonia No. 53/05, 81/05, 24/07, 159/08, 83/09, 124/10, 51/11, 123/12, 93/13, 187/13, 42/14, 44/15, 129/15, 39/16

- Rulebook on the Content Requirements for the EIA Study[36]: This document specifies the necessary components and structure of the EIA study, ensuring a comprehensive assessment of environmental impacts.
- Rulebook on the Form, Content, Procedure, and Method for Preparing the Report on the Adequacy of the EIA Study[37]: This rulebook outlines the standards for evaluating the sufficiency of EIA studies and the authorization process for experts responsible for their preparation.
- Decree on Determining Projects and Criteria for Establishing the Need for Conducting an EIA Procedure: This decree identifies the types of projects that require an EIA and sets the criteria for determining such necessity.
- Rulebook on the Information Required in the Notification of Intent to Undertake a Project and the Procedure for Determining the Need for an EIA[38]: This document details the information that project holders/investors must provide when notifying authorities of their intent, facilitating the decision-making process regarding the need for an EIA.
- Rulebooks Listing Projects Requiring an EIA Report[39]: These rulebooks categorize projects that require an EIA report, specifying the approving authority – either the MoEPP or local municipal authorities, including the Mayor of the City of Skopje.
- Rulebook on the Form and Content of the Environmental Protection Report[40]: This rulebook defines the format and content of environmental protection reports, the approval procedures, and the maintenance of a register of approved reports.

Additionally, the MoEPP has produced step-by-step guidelines for conducting key EIA processes, such as screening, scoping, and reviewing. These documents are intended to support both Ministry staff and project holders in adhering to the legal and procedural requirements of the EIA process. Several environmental laws explicitly refer to EIA requirements, integrating them into broader regulatory frameworks:

- The Law on Waste Management,[41]
- The Law on Air Quality,[42]
- The Law on Water.[43]

Moreover, the Law on Nature Protection (2004) establishes the need for a Nature Impact Assessment for certain plans and programs, complementing the EIA process with additional considerations for biodiversity and ecosystem protection.

The EIA process applies to a wide range of public and private activities. It includes specific provisions to address transboundary environmental impacts, ensuring that projects with potential cross-border effects are adequately assessed in line with international obligations. However, article 78 of the Law on the Environment (amended via Official Gazette No. 48/10) allows for exemptions from EIA requirements in exceptional circumstances. These exemptions may apply to entire projects or specific components and are granted on a case-by-case basis. Exemptions are permissible under the following conditions:

- War or State of Emergency,
- Defense Needs of the Republic of North Macedonia,
- Urgent Prevention of Unforeseen Events in case of situations likely to have serious impacts on public health, security, property, or the environment.

[36] Official Gazette of the Republic of Macedonia No. 33/06
[37] Official Gazette of the Republic of Macedonia Nos. 33/06, 44/13
[38] Official Gazette of the Republic of Macedonia No. 33/06
[39] Official Gazette of the Republic of Macedonia Nos. 80/09, 36/12
[40] Official Gazette of the Republic of Macedonia Nos. 50/09, 44/13
[41] https://www.moepp.gov.mk/sites/default/files/alfa/regulativa/zakon-upravuvanje-otpad.pdf
[42] https://www.moepp.gov.mk/sites/default/files/alfa/regulativa/zakon-kvalitet-ambienten-vozduh.pdf
[43] https://www.moepp.gov.mk/wp-content/uploads/2014/10/%D0%97%D0%90%D0%9A%D0%9E%D0%9D-%D0%97%D0%90-%D0%92%D0%9E%D0%94%D0%98%D0%A2%D0%95.pdf

If an exemption is granted, the Ministry is obligated to inform the public about the decision and provide details on the alternative assessment methods used. This ensures that even in exceptional cases, some level of transparency and accountability is maintained.

Access to Information

The Law on Free Access to Public Information[44] in North Macedonia was enacted to enhance transparency, accountability, and public participation within governmental operations in line with the EU Directive 2003/4/EC. By granting citizens the right to access information held by public authorities, the law aims to make governmental processes more open and understandable, thereby fostering a culture of openness.

According to the Law on Environment (Chapter 8 – Access to Environmental Information) the MoEPP takes care of the dissemination of information on the environment and provides facilitated access to information possessed by entities that possess information. The MoEPP publishes and maintains a list of entities that possess information related to the environment or entities for which such information is possessed. The list also specifies the information possessed by each of these entities. The entities that possess information related to the environment or the entities for which such information is possessed are obliged to constantly update the possessed information and to deliver or make the information available to persons who requested access to the information. All entities that possess information related to the environment are obliged to appoint a person responsible for enabling the right of access to environmental information and to provide premises to ensure effective access to information when requested. However, despite its robust legal framework, the implementation of the law has faced challenges. The European Commission in its last progress report underlined that "*the proactive disclosure of information and datasets on official websites needs to be further encouraged, in particular at local level*".

With this regard, the Agency for Protection of the Right to Free Access to Public Information, (established in 2019[45]), plays a crucial role in overseeing the law's implementation. Any natural or legal person whose request for obtaining public information has not been dealt with properly, can appeal to the Agency. The Agency has to deal with the appeal within 15 days. If the person is not satisfied by the Agency's response or in cases of silence of the administration, a lawsuit can be submitted to the Administrative Court within 30 days from the day the decision is served.

Regarding EIA procedures, the MoEPP is obligated under the Law on Environment to make all documents related to the EIA/SEA process accessible to the public. This includes publishing the information in two national daily newspapers, broadcasting it on local radio and TV stations, and uploading it to the Ministry's website. Conversely, local authorities are exempt from these requirements when handling the environmental reports, as they are not mandated to fulfill these obligations under Article 24 of the Law on Environment.

The above developments lead to the conclusion that in an era dominated by advanced communication tools, the legally prescribed methods for informing the public are outdated and ineffective. Actual practice underlines the urgent need to revise the relevant provisions of the Law on Environment to align with modern communication practices and ensure broader and more efficient public outreach. The non-governmental sector also faces challenges,[46] as it requires significant capacity strengthening to better support public access to information and advocacy efforts. Furthermore, the limited use of electronic devices and the insufficient development of digital tools for accessing environmental information exacerbate the problem.

[44] Law on free access to public information (Official gazette of the Republic of North Macedonia no. 101/2019).
[45] The Agency is established under the Law on Free Access to Public Information.
[46] Interviews with local NGOs report

Many electronic registers[47] remain outdated or inaccessible to the public, further restricting transparency and availability of information.

Law on Local Self Government

The Law on Local Self-Government[48] North Macedonia defines the roles of local authorities in managing and protecting environmental resources, emphasizing their responsibility in urban and rural planning, environmental and nature protection, and communal activities. Municipalities are tasked with the development and implementation of urban and rural planning strategies, including the preparation and adoption of spatial and urban plans that promote sustainable development and environmental protection within their jurisdictions. Local authorities are also directly responsible for safeguarding the environment and natural resources. Their duties include monitoring environmental quality, managing local natural assets, and implementing measures to prevent pollution and environmental degradation. These responsibilities extend to addressing challenges such as air and water quality, soil protection, and noise pollution. In addition, municipalities oversee communal services that significantly impact environmental health, including waste management, water supply, and sanitation services. The principles of the AC are an integral part of this law and they are represented by articles 25, 27, 29, and 30 providing tools for citizens to exercise their rights to public participation and decision-making at the local level.

Review of Current Legislation and Practices on Public Participation in Environmental Decision-Making

Enforcement of Public Participation Practices: Analysis of legal and procedural frameworks governing public participation in environmental decisions (focus on EIAs).

The EIA process in North Macedonia is a cornerstone of environmental decision-making, designed to evaluate the potential impacts of proposed projects on the environment. Governed by the Law on the Environment and it's relevant by-laws which are aligned with the AC, the EIA process ensures public participation at various stages. The EIA process consists of five main stages: Screening, Scoping, Assessment, Review, and the final decision on the consent of the EIA process, which allows the project holder/investor to proceed with obtaining other relevant permits. Key documents are produced in this process, including the Notification Document (Screening), the Scoping Opinion Document, the EIA Study, and the Consent Decision Document. For activities that do not require an EIA, a simpler assessment, known as an "Environmental Report", must be prepared. This applies to projects across various industrial sectors, including energy, metallurgy, extractive/mining industry, chemistry, light industry (e.g., food, furniture, textiles, and shoes), as well as small-scale enterprises like bakeries, garages, and carwashes. The scope of the environmental report is determined by the Decreeon economic activities on which the environmental report is mandatory. [49]

Screening

The screening stage is critical as it determines whether an EIA is required for a proposed project. Conducted by the MoEPP, the screening process culminates in a publicly announced decision. The screening process begins with the submission of a notification document by the project holder/investor. According to the Rulebook on the Information to be contained in the notice of intent to implement the project and the procedure for determining the need for an EIA this notification document shall include essential information about the proposed project, such as:

- Information about the investor.
- Characteristics of the project, including documentation of its capacity or size, if relevant for the screening decision.

[47] https://ripz.moepp.gov.mk/
[48] Law on self-government (Official gazette of the Republic of Macedonia no. 5/2002 and Official gazette of the Republic of North Macedonia no. 202/2024)
[49] Official Gazette of Republic of Macedonia no. 33/2006

- Identification of the category under Annex 1 or Annex 2[50] to which the project corresponds.
- A justification if the investor considers the EIA unnecessary.
- Details of the municipality where the project will be located.
- A description of the project's location and the surrounding environment.
- Potential emissions to water, air, and soil.
- Characteristics of potential impacts on the environment, landscape, historical, and cultural heritage.
- A list of other competent authorities to which the notification has been sent.

This document is essential to enable transparency and facilitate public and institutional engagement. Once submitted, the Ministry ensures the notification is published, allowing public access to the information. The Ministry is required to issue a screening decision within 30 days of receiving the notification document. If the project holder/investor simultaneously requests both a scoping opinion and a screening decision, the Ministry must provide both decisions within this 30-day timeframe. In such cases, 15 days are allocated within this period for receiving comments from other competent authorities regarding the scope of the assessment (excluding the public).

Scoping

If the screening concludes that an EIA is required, the scoping stage defines the scope of the assessment. The scoping stage is mandatory, as stipulated in Article 82 of the Law on the Environment. The purpose of scoping is to identify the key environmental issues that need to be addressed in the EIA and to outline the methodology and data requirements for the study. The scoping process involves the preparation of an opinion document by the MoEPP, which details the scope of the EIA. This opinion is published, ensuring transparency and public accessibility. Consultation[51] within this stage includes engagement of the investor, municipalities where the project will take place, and other relevant bodies of the government and institutions, however, the public is not explicitly included in this process under the provisions of the Law. According to the Law on General Administrative Procedures, the scoping process must be completed within 30 days.

After the opinion is prepared by the MoEPP, it adopts a decision on whether EIA is mandatory. The content of the aforementioned opinion is an integral part of the decision.[52] The public concerned can appeal the decision within 8 days from the day it is published on MoEPP's website.[53]

Assessment

The assessment stage focuses on conducting a detailed evaluation of the environmental impacts of the proposed project. This phase is primarily concerned with understanding the effects of the project on the biophysical environment, although socio-economic and cultural impacts may also be considered. To ensure the quality of the EIA study, the project holder/investor is required to engage at least one certified expert from the official list of recognized EIA experts. These experts, certified under a process overseen by the MoEPP, are responsible for preparing and signing the EIA study, thereby guaranteeing its credibility and alignment with legal standards.

[50] Decree for the determination of the projects and the criteria on the basis of which the need to conduct the environmental impact assessment procedure is determined (Official gazette of the Republic of Macedonia no. 74/2005, 109/2009, 164/2012, 202/2016 and Official gazette of the Republic of North Macedonia no. 175/2022)
[51] Paragraph 2 of Article 82 of the Law on Environment
[52] Law on Environment (Official gazette of the Republic of Macedonia no. 53/2005; 81/2005; 24/2007; 159/2008; 83/2009; 48/2010; 124/2010; 51/2011; 123/2012; 93/2013; 187/2013; 42/2014; 44/2015; 129/2015; 192/2015; 39/2016 и 99/2018 and Official gazette of the Republic of North Macedonia no. 89/2022 и 171/2022), Article 81
[53] Ibid

The EIA Study must include the following elements[54]:

- Information on the location, nature, size, and land area required for the project;
- Description of the environment at the project location, including its media (air, water, soil) and biodiversity;
- Analysis of the impacts on cultural landmarks, historical sites, and the surrounding landscape, details on the expected emissions (air, water, solid waste), as well as other pollutants;
- Proposals for preventing, mitigating, or eliminating environmental impacts, including substitution measures for affected natural environments or landscapes;
- Analysis of the environmental effects of the project, based on accepted scientific methods and technological standards;
- Description of the technologies to be used in the project; a discussion of alternative project options considered by the investor, including a "zero-option" where the project is not implemented.;
- Simplified version of the study, designed for the general public;
- Review of any technical difficulties or gaps in knowledge encountered during the study preparation;
- Recommendations on when and under what conditions the EIA should be revised or updated.

Review Process

Once the project holder/investor completes the EIA Study, it is submitted to the MoEPP for review. If the MoEPP finds the EIA Study incomplete or insufficient, it may request the project initiator/investor to provide additional information. The project holder/investor is given up to 40 days to supplement the report. If the project holder/investor fails to comply, the Ministry has the authority to appoint an external EIA expert to address the deficiencies. After ensuring that the Study is complete, the Ministry announces the availability of the EIA report and publishes its summary on the official website. The report is also forwarded to the relevant municipalities for consultation.

During this stage, any individual, government agency, or municipal mayor can submit written opinions and feedback to the Ministry within a 30-day (from publishing the EIA report) consultation period. During these 30 days, written comments can be submitted through e-mail, post or in person. To further engage stakeholders, the Ministry is obliged to organize a public hearing, allowing the community to voice concerns or suggestions directly.

The Ministry prepares a review report based on the EIA study, public comments, and opinions from other stakeholders. Registered external experts may be appointed to assist with the review; however, experts involved in drafting the original EIA report are prohibited from participating in this stage to avoid conflicts of interest. If additional information is deemed necessary during the review, the project holder/investor is asked to provide it within 30 days. The review report assesses whether the EIA study complies with the legal requirements set forth in the Law on the Environment. It also proposes specific conditions for the project's implementation, including measures to prevent and mitigate harmful environmental impacts. This report is shared with relevant government bodies and published to ensure transparency and accountability. The review process is allocated a maximum of 60 days, as per Article 86 of the Law on the Environment. In exceptional circumstances, this period can be extended to a maximum of 90 days.

Decision-Making

The decision-making stage is the final step in the EIA process which takes place within 40 days of receiving the EIA review report. The decision is a prerequisite for obtaining further permits necessary for project implementation, thereby ensuring that the environmental aspects are

[54] Rulebook on the requirements regarding the content of the environmental impact assessment study (Official gazette of the Republic of Macedonia no. 33/2006)

integrated into the overall decision-making framework. The decision, among other aspects, states the conditions under which the project may proceed, as well as any mitigation measures that need to be implemented to minimize environmental impacts. Both the screening decision and the final consent decision, including its stipulated conditions, must be published and can be appealed, by the public concerned to SCAP. The appeal should be submitted within 15 days from the day of the publication of the decision, or in cases where it wasn't published appropriately, within 15 days from the day the person became aware of the adoption of the decision.[55] The appeal has suspenseful effect. The deadline for initiating administrative dispute is 30 days from the day on which the appeal decision was served. In cases of silence of the administration, there is no deadline for the submission of a lawsuit.[56]

Follow-Up

The follow-up stage is a crucial aspect in ensuring that approved projects comply with environmental commitments and that mitigation measures outlined in the EIA study are effectively implemented. This phase encompasses compliance monitoring and enforcement measures to address non-compliance. The State Inspectorate for Environment, in collaboration with the municipalities affected by the project, is responsible for overseeing the implementation of the measures defined in the Study. Compliance monitoring is essential for verifying that the project's activities do not deviate from what was assessed and approved during the EIA process. It also provides an opportunity to address unforeseen environmental impacts and to enforce corrective measures if necessary. The Law on the Environment prescribes penalties for non-compliance where the fines are imposed for various infractions:

- Failure to Notify: if a legal entity fails to inform the respective authorities of its intention to carry out a project, as required under Article 80 of the Law.
- Failure to Submit an EIA Study: if a project holder/investor does not develop and submit an EIA study to the respective authority, as mandated by Article 83.

Public Participation Requirements for EIA Process Stages

Public participation is explicitly integrated into only one key stage of the EIA process i.e. the Review Stage. During this stage, a public hearing is conducted as part of the review of the EIA Study where the public is granted 30 days, from the day of the publication of the EIA Study, to comment on the draft EIA Study. This period allows individuals, organizations, and other stakeholders sufficient time to review the document and provide meaningful input by submitting written comments to the competent authority i.e., MoEPP.

Enforcement and Judicial Practices

The Criminal Code defines 29 crimes against the environment. The statistical data from the State Statistical Office show that the most prosecuted crimes in the last 5 years refer to usurpation of real estate, forest devastation, unlawful hunting and killing and torturing animals. It is worth noting that there isn't clear statistical data for each of the crimes defined in the Criminal Code.

Discrepancies between submitted criminal complaints and indictments related to environmental crime are shown in the table below.

Year	Criminal Complaints Total	Rejected Criminal Complaint	Stopped Investigation	Submitted Indictments
2019	214	79	3	81
2020	146	51	0	82
2021	189	53	0	81
2022	162	54	1	73
2023	147	60	0	65

[55] Law on Environment (Official gazette of the Republic of Macedonia no. 53/2005; 81/2005; 24/2007; 159/2008; 83/2009; 48/2010; 124/2010; 51/2011; 123/2012; 93/2013; 187/2013; 42/2014; 44/2015; 129/2015; 192/2015; 39/2016 и 99/2018 and Official gazette of the Republic of North Macedonia no. 89/2022 и 171/2022), article 89

[56] Law on Administrative Disputes (Official gazette of the Republic of North Macedonia no. 96/2019), article 26

The table below provides an overview of the outcome of the criminal proceedings in the last 5 years related to environmental crimes.

Year	Accused Total	Conviction verdict	Judgement based on settlement	Judgement based on a criminal warrant	Judgement based on a guilty plea	Acquittal	Refusing the indictment
2019	69	32	/	19	8	5	3
2020	57	34	/	17	1	1	3
2021	85	/	/	62	11	5	4
2022	83	/	1	52	23	2	3
2023	78	72	/	61	11	4	2

Monetary penalties prevail in environmental crimes judgements. The table below provides an overview of the main penalty imposed with the judgements.

Year	Total prison sentences	1-2 imprisonment sentences	6 months-1 year imprisonment sentences	Imprisonment sentences for up to 6 months	Monetary penalty
2019	7	1	5	1	19
2020	0	0	0	0	10
2021	2	0	1	1	28
2022	2	1	1	0	21
2023	4	0	0	4	29

From the focus group discussion and the interview with a public prosecutor[57] it can be concluded that:

- The Criminal Code is aligned with the EU Directive 2008/99/EC and severe penalties are provided for some of the crimes (for example life imprisonment is provided for committing the crime ecocide);
- Imposing a monetary penalty instead of prison sentences cannot always question the accomplishment of the general and special prevention since it depends on the individual circumstances;
- There is a need for further defining of certain terminology (for example the terms widespread and long-term damage to the environment in the crime "ecocide" are not defined);
- There is a need for expert discussions since environmental crime hasn't been in the focus hence neither did the legal theory develop theoretical interpretation of the crimes (for example related to the crime "unlawful hunt" the incrimination covers situations only when a wild animal has been caught or it is covering the process of illegal hunting itself even if a wild animal is not caught);
- There is a lack of enough public prosecutors considering the number of criminal complaints that are submitted to the public prosecution office. Having this in mind specialization of public prosecutors for environmental crimes only is not feasible, however there is a need for continuous education of the topic. One of the ideas that needs to be further discussed is to have a public prosecutor who will be a focal point and will coordinate the work of other public prosecutors in his public prosecution office when environmental crime is investigated. This public prosecutor serving as a focal point should have continuous training on environmental crimes. The content to be included in the basic training and continuous training on environmental crimes should be further discussed;
- Raising awareness on improving the perception of environmental crimes as serious crimes comparing to other crimes is needed;
- The lack of practice related to environmental crimes leads to having public prosecutors which may not know where to start the investigations in cases of more serious environmental crimes. Example of a case of possible buried radioactive waste in Serbia and the approach of the Serbian prosecutor was mentioned;
- Many of the infringements of environmental legislation (for example emissions above the limitations in the integrated environmental permit) are prescribed as misdemeanor in the

[57] Interview with a public prosecutor, Annex III.4

environmental legislation, however it can also be considered as crime depending on the circumstances and the severity of the consequences or the threats it creates. Although the last amendments of the Criminal Code in 2023 make improvements in this regard, inspectors and prosecutors generally consider there is no clear line between misdemeanors and crime qualifications. This has a big significance considering *non bis in idem* principle.

- There is a need for strengthening the cooperation between public prosecutors and environmental inspectors on a central and local level and establishment of institutional channels of communication between them;
- Public prosecutors already faced situations/cases where they noted lack of technical expertise. Taking into account that there aren't many cases related to each of the environmental crimes defined in the Criminal Code, challenges with lack of technical expertise related to some other aspects of environmental crimes may arise in the future as well. Although the Law on Criminal Procedure provides for possibility to explore foreign scientific institutions to provide for an expert opinion in cases where the country lacks a national scientific institution which can provide for an expert opinion, there is lack of funds to engage with foreign scientific institution for these matters
- Lack of enough prosecutors prevents more than one prosecutor being engaged in a specific investigation on allegedly performed environmental crime.

Alternative Dispute Resolution Mechanisms

The Ombudsman is one of the non-judicial solutions in environmental cases. The table below shows the activity of the Ombudsman relating to environmental cases in the last 5 years.[58]

Year	Total number of complaints	Decisions for stopping or not initiating a proceeding	Legal advice provided	Adopted opinion and provided recommendations	Activities taken after an intervention of the Ombudsman
2019	18	13	1	5	2
2020	10	7	1	2	2
2021	12	10	1	1	1
2022	17	13	1	1	1
2023	21	4	2	8	3

The Ombudsman notes the low number of complaints by citizens related to environmental degradation. In its annual reports the Ombudsman constantly notes the lack of institutional capacities and funds on national and local level for implementation of environmental legislation, especially regarding waste management and air pollution. Lack of coordination between inspectors on local and central level exists hindering effective inspection oversight over the implementation of the environmental legislation. The Ombudsman has noted the need for 1) increased funding, 2) preparing effective and realistic strategic documents and 3) taking actions for implementing the prepared documents, in order to improve environmental protection. These recommendations given by the Ombudsman are not implemented effectively although they are generally included in each annual report.

5.2 Environmental Justice Stakeholder Mapping and Roles

The Ministry of Environment and Physical Planning has the crucial role in drafting and implementing environmental legislation. Their role affects environmental justice by 1) fostering public participation processes and publishing documents and decisions on its website and 2)

[58] Annual reports on the level of ensuring respect, promotion, improvement and protection of human rights and freedoms, Ombudsman, available at: https://ombudsman.mk/%D0%9F%D0%BE%D1%87%D0%B5%D1%82%D0%BD%D0%B0/%D0%93%D0%BE%D0%B4%D0%B8%D1%88%D0%BD%D0%B8_%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D0%B8.aspx

setting up provisions on access to justice in environmental legislation related to different processes (EIA, environmental reports, SEA, integrated environmental permits, etc.)

- *Department for Public Communications:* This department serves as the primary liaison between the MoEPP and the public. It is tasked with disseminating information, managing public relations, and coordinating communication strategies to foster transparency and public involvement in environmental matters.
- The *Environmental Sector* is a division within the Environmental Directorate of the MoEPP. This sector is responsible for implementing legal obligations related to EIAs. This includes collaboration with relevant sectors of the Environmental Administration and other concerned institutions, as well as public consultations. The department determines the necessity of conducting an EIA procedure, defines the scope of the EIA Study, organizes and moderates public hearings, and prepares reports on the adequacy of the EIA Study. It also drafts acts arising from the EIA procedure. For projects where an EIA is deemed unnecessary, the department assesses the need for Environmental Protection, reports and approves or rejects them accordingly. It maintains a register of approved Environmental Protection, reports and a Register of EIA Studies. Additionally, the department fulfils obligations under the Espoo Convention on EIAs in a Transboundary Context and certain responsibilities of the AC. The department is also tasked with soil protection as an environmental medium. This involves preparing legal regulations (laws and bylaws) related to soil protection, safeguarding soil as a limited, irreplaceable, destructible, and difficult-to-renew natural resource, and developing strategies, programs, and plans for soil protection. It implements international documents on soil protection and provides guidelines for preventing pollution and enhancing soil quality. Additionally, the sector contributes to the development of laws and regulations concerning noise management, not least monitoring and mitigating noise pollution.
- *Sector for Sustainable Development and Investment:* This sector focuses on integrating sustainable practices into development projects. It engages with the public to gather input on sustainable development initiatives, ensuring that community perspectives are considered in planning and implementation.
- *Sector for Nature:* Responsible for the conservation of biodiversity and natural resources, this sector involves the public in decision-making processes related to protected areas, species conservation, and natural heritage preservation. It organizes public consultations and educational programs to raise awareness and solicit community input.
- *Sector for Waste Management:* This sector addresses issues related to waste management policies and practices. It engages the public through informational campaigns, public consultations, and feedback mechanisms to develop effective waste management strategies that reflect community needs and concerns.
- *Department for Air Quality:* Focusing on monitoring and improving air quality, this department involves public initiatives aimed at reducing air pollution. It provides platforms for public input on air quality management plans and policies, ensuring that citizens' concerns are addressed.
- *Sector for Waters:* This department manages water resources and quality. It facilitates public participation in the development and implementation of water management plans, ensuring that community stakeholders have a voice in water conservation and usage policies.
- *Sector for Cooperation with Local Self-Government and Administrative and Supervisory Affairs:* This sector is responsible for overseeing municipalities in implementing environmental legislation at the local level. It identifies legal and procedural deficiencies in municipal operations and monitors the timely adoption of regulations by municipalities in accordance with environmental laws. The sector proposes an annual plan for municipal oversight, addresses extraordinary reports and notifications, and organizes training for municipal employees.

- *Commission for Misdemeanours:* This commission conducts proceedings initiated by environmental inspectors and other authorized personnel, imposing fines and other sanctions as prescribed by environmental laws.
- *Commission for Settlements:* This commission facilitates settlement procedures in accordance with environmental legislation.

The Ministry of Justice is responsible for drafting the access to justice legislation in general (the Law on Civil Procedure, the Law on Criminal Procedure, the Law on Courts, the Law on Public Prosecution), the Criminal Code and the Law on misdemeanors. It is responsible for following the implementation of the legislation related to the judiciary and is responsible for its amending for the purposes of establishing effective and efficient protection of rights.

- *The Sector for Judiciary* is responsible, among others, for aspects related to the judiciary, the public prosecution office, the state attorney's office, other judicial bodies, the work of attorneys at law and other types of legal aid, criminal, civil and non-civil procedure and misdemeanors.
  - *The Department for Normative Activities in Criminal Matters* is responsible for preparing legislative proposals, draft laws and other general acts in criminal matters; preparing analyses related to the implementation of the criminal legislation; preparing comparative analyses and analyses of international standards in criminal matters; preparing opinions on laws and initiatives for assessing the constitutionality of laws in criminal matters; monitoring and implementation of laws in criminal matters; collecting data from courts, conducting analysis of the penal policy of courts, making proposals for improving the legal framework.
  - *The Department for Organization of the Judiciary and Monitoring the Reforms of the Judiciary* is responsible for preparing legislative proposals, draft laws and other general acts in the field of the judiciary, public prosecution, the work of the attorneys at law and other judicial bodies; preparing reports, opinions, analyses, reviews, information and other materials relating to the work of the judiciary, public prosecution, the work of the attorneys at law and other judicial bodies; monitoring the work of the judiciary in relation to the organization, timeliness, expeditiousness and promptness in their work; establishing cooperation with the public prosecution on issues of ensuring general working conditions, as well as on other issues of common interest; preparing the Court Rules of Procedure; following the implementation of the Court Rules of Procedure and providing instructions and explanations on its application and inspecting the application of the Court Rules of Procedure; monitoring the work of judicial institutions and improvements of their work; monitoring the activities of the Reform Strategy of the Judiciary; monitoring and implementation of the reform of the judiciary; collecting and keeping statistical data and preparing analyses and statistical reports on the work of the courts and public prosecutor's offices; keeping regular court statistics and preparing annual statistical records, collecting and processing statistical data.
  - *The Department for acting upon submitted complaints related to the work of the judiciary* is responsible for acting on citizens' complaints related to the work of the courts (delay of the court procedure or the work of the court services); examining citizens' complaints related to the work of public prosecutors and other judicial authorities; preparing information, analyses and other materials related to citizens' complaints; keeping records of submitted complaints.
  - *The Department for Normative Activity in Civil Matters* is responsible for preparing legislative proposals, draft laws and other general acts in civil matters and expert opinions; preparing analyses on the implementation of laws in civil matters; preparing comparative analyses and analyses of international standards in civil matters; preparing opinions on laws and initiatives for the assessment of the constitutionality of laws in civil matters; monitoring and implementation of laws and by-laws in civil matters; preparing reports, opinions, information, analyses, reviews and other materials relating to the work

of the expert opinions; dealing with requests for an expert's license and maintains a register of expert's licenses.

- *The Sector for International Legal Cooperation* is responsible, among other aspects, on human rights aspects.
  - *The Department for Human Rights and Comparative-Legal Analysis* is responsible for activities aimed at preparing initial, regular and periodic reports on the compatibility of national legislation with ratified international instruments; preparing reports on the implementation of obligations arising from international documents on national minorities; activities for the implementation of recommendations from international organizations, dissemination of relevant recommendations and materials to competent authorities and responsible civil servants, initiation and implementation of national activities (proposing legal solutions or other activities) for the implementation of recommendations and monitoring their implementation; communication with competent courts, collection of relevant documentation and other activities related to individual requests submitted against the Republic of Macedonia, before the UN Human Rights Committee; activities for continuous cooperation with international bodies and organizations (UN and CoE) their bodies and committees as well as activities for participation in the implementation of programs and projects; activities for cooperation with the non-governmental sector, and activities for the implementation of joint projects and programs; constant monitoring of the implementation of the European Convention on Human Rights, and other documents on freedoms and rights and their implementation in the national legislation and preparation of reports on the implementation of obligations.
- *The Sector for the European Union* is responsible for aspects related to the process of accession of the Republic of North Macedonia into the European Union.
  - *Department for Negotiations and Integration*

The Academy for Judges and Public Prosecutors is responsible for the overall education of the judiciary. Its mandate covers two aspects:

1) is responsible for selecting and admitting candidates for judges and public prosecutors and provides them with the necessary initial trainings before being appointed; and
2) is responsible for continuous education of the already appointed judges and public prosecutors.

Inspectorates are responsible for the inspection, the implementation of environmental legislation, issue misdemeanor acts and initiate misdemeanor proceedings before the courts. The inspection system in the country is composed of inspectors on central level and municipal inspectors while each of them have specified jurisdiction when it comes to aspects of the environmental legislation they are following. Inspectorates should contact public prosecutors in cases where an environmental crime has been committed or if there is a suspicion of a crime, and interact with the police in this regard as well as require police assistance in cases when needed.

The State Environmental Inspectorate (SEI)[59] plays a key role in the EIAs process, particularly in the compliance and enforcement stages. Its primary responsibility ensures that project holders/investors adhere to the conditions set forth in the EIA approval. This involves verifying the implementation of prescribed mitigation measures and monitoring plans as outlined in the EIA study. The SEI, in collaboration with affected municipalities, is responsible for overseeing the execution of these monitoring plans to prevent and mitigate environmental impacts. The SEI carries out regular and extraordinary inspections of projects subject to EIA to assess compliance with environmental regulations and the specific conditions of the EIA approval. These

[59] According to the Law on the Organization and the Work of the State Administration Bodies, the State Environmental Inspectorate is formally an institution within the Ministry of Environment and Physical Planning

inspections are vital to identify any deviations or non-compliance issues that could harm the environment. In cases of non-compliance, the SEI has the authority to impose penalties and enforce corrective measures. The Law on the Environment prescribes fines for various misdemeanors, such as failing to inform the respective authority about the intention to carry out a project or not developing and submitting an EIA study as required. The SEI ensures that these legal provisions are upheld to maintain environmental integrity.
According to reports prepared by SEI, only 65 (8%) of inspector's positions systematized in the Act for systematization of workplaces, are filled. The following is the statistics from SEI's inspection oversight in the period 2020-2024:

- In 2020, 1.792 inspection oversights performed and 322 infringements of environmental legislation were determined;
- In 2021, 1.725 inspection oversights performed and 596 infringements of environmental legislation were determined;
- In 2022, 2.100 inspection oversights performed and 369 infringements of environmental legislation were determined;
- In 2023, 1.728 inspection oversights performed and 464 infringements of environmental legislation were determined;
- In the first 6 months of 2024, 721 inspection oversights were performed and 166 infringements of environmental legislation were determined.

The State Administrative Inspectorate is responsible for performing inspection oversight over state institutions and bodies that implement the Law on General Administrative Procedure, the Law on Inspection and other legislation containing provisions on the administrative procedure. Among other aspects, the inspection oversight can include the timely, economical and efficient exercise of the rights and interests of the citizens and of the other participants in the administrative procedure when resolving administrative matters; the acting within the prescribed deadlines in the first and second instance administrative procedure, as well as in the deadlines determined by acts of the court authorities; the enforcement of legally valid administrative acts; the manner of conduct and work of the administrative servants and the employees, with the aim of ensuring abidance by the principles of lawfulness, professional integrity, efficiency, responsibility and loyalty in the performance of their official duties; the implementation of the measures of the competent bodies regarding the improvement of the work when resolving administrative matters;

The State Commission for decision-making in administrative proceedings and employment proceedings in the second degree is responsible to act upon submitted appeals from the public, public concerned or investors related to decisions adopted under the environmental legislation and protection of the right to public participation in the environmental decision-making process. The decision on the appeals is adopted with a simple majority by the members in a session. According to the Law on General Administrative Procedure, no public hearing is held when deciding upon appeal.

The 7 members of the Commission are appointed by Parliament upon a public call. Their term is 5 years with a right to re-appointment. Besides the members, the staff of the Commission is composed of people employed according to the Law on Administrative Officials.

Courts are responsible for acting upon lawsuits submitted by private persons and indictments submitted by public prosecutors including appeals and extraordinary legal remedies. The number of judges has decreased by 74 in the last three years. The system of judiciary is organized in the following manner:

- *Administrative Court* is established on national level and acts upon 1) lawsuits submitted by private persons (public, public concerned or investors) in cases where their appeal was refused or rejected by the second-degree commission, 2) lawsuits for protection of their

rights in cases where there is no possibility for submitting an appeal, 3) lawfulness of the acts adopted in misdemeanor proceedings.[60]

Although the Law on Administrative disputes prescribes that the court will conduct the procedure quickly, without the use of unnecessary actions and costs, and will make its decision within a reasonable period, *i.e.*, no later than within nine months from the date of delivery of the documents or creation of decision-making conditions,[61] the prescribed deadline is often exceeded. In 2023, 57% of the public hearings referred to cases submitted to the court in 2022 while 15% of the public hearings referred to cases submitted to the court in 2021.[62]

- *The Higher Administrative Court* is established on a national level and decides upon appeals against the decisions or judgements of the Administrative Court.
- *Basic Courts* act upon 1) lawsuits on liability for environmental damage, 2) lawsuits on protection of human rights, 3) indictments submitted by public prosecutors on environmental crimes, 4) misdemeanor proposals submitted by inspectors. It should be noted that basic courts have separate civil and criminal divisions.
- *Court of Appeals* acts upon appeals submitted against the decisions and judgements of the basic courts
- *Supreme Court* acts among other aspects 1) upon submitted appeals against decisions of the court of appeal and extraordinary legal remedies, 2) conflict of jurisdiction between courts, 3) general positions on questions of significance to unified implementation of the legislation, 4) deals with questions related to the work of the courts, the implementation of the legislation and the practice of the courts.

The Constitutional Court can be considered as a special court separate from the judiciary, considering the fact that it doesn't decide on the same types of cases as regular courts, but only on issues clearly defined in the Constitution. The Constitutional Court has jurisdiction to:

1) decide on the conformity of laws with the Constitution;
2) decide on the conformity of collective agreements and other regulations with the Constitution and laws;
3) protect the freedoms and rights of the individual and citizen relating to the freedom of conviction, conscience, thought and public expression of thought, political association and activity as well as to the prohibition of discrimination among citizens on the ground of sex, race, religion or national, social or political affiliation;
4) decide on conflicts of competency among holders of legislative, executive and judicial offices;
5) decide on conflicts of competency among Republic bodies and units of local self-government;
6) decide on the accountability of the President of the Republic;
7) decide on the constitutionality of the programs and statutes of political parties and associations of citizens.

The Public Prosecution is responsible for investigating allegedly committed environmental crimes and submits indictments to the courts. According to the reports prepared by the Public Prosecution Office of the Republic of North Macedonia, the country lacks 88 prosecutors. Public

[60] According to articles 60-61 from the Law on Administrative disputes, depending on the claims and the circumstances of the case, the administrative judges can 1) annul the decision and decide on the merits of the case (judgement in full jurisdiction) as well as decide on the damages and return of objects, 2) annul the decision and return the case for re-examination, providing the authorized institution guidance on the aspects that need to be taken into consideration in the repeated procedure, 3) declare the decision null and void, 4) order the relevant institution to adopt a decision 4 (in cases related to silence of the administration).

[61] Law on Administrative Disputes (Official gazette of the Republic of North Macedonia no. 96/2019), article 11

[62] Annual report (January – December 2023) on the work of the Administrative Court on cases referring to social rights, Institute for Human Rights, available at: https://www.ihr.org.mk/storage/app/media/%D0%9F%D1%80%D0%BE%D0%B5%D0%BA%D1%82%D0%B8/2023%20-%20%D0%9F%D0%A0%D0%98%D0%A1%D0%A2%D0%90%D0%9F%20%D0%94%D0%9E%20%D0%9F%D0%A0%D0%90%D0%92%D0%94%D0%90%20%D0%97%D0%90%20%D0%A1%D0%98%D0%A2%D0%95/Upraven/Izvestaj_Upraven_SocijalniPrava_MK.pdf

prosecutors interact with police and environmental inspectors during the investigation process. Its structure is the following:

- *Basic Public Prosecution* investigates alleged crimes against the environment when they are not committed by organized group (three or more perpetrators);
- *Basic Public Prosecution – Department for Organized Crime and Corruption* investigates alleged crimes against the environment when they are committed by organized group;
- *Higher Public Prosecution* is established in each of the appellate areas in the country and represent cases before the Court of Appeal;
- *The Public Prosecution Office of the Republic of North Macedonia* represents cases before the Supreme Court.

The Ministry of Internal Affairs (police) is an investigative body and is protecting the legal order, preventing and detecting performed criminal acts and takes measures for investigating performed crimes upon an order by a public prosecutor or *ex officio* (depending on the phase of the criminal investigation process). Police officers are interacting with public prosecutors by implementing their orders on securing evidence and people (searches, hearings etc.) or collecting information and evidence *ex officio* in the pre-investigative procedure. Police officers are interacting with environmental inspectors in cases police assistance is required while performing inspection oversight.

The Agency for Protection of the Right to Free Access to Public Information is an independent body governed by a director and its deputy which are appointed by the Parliament. The persons dealing with cases at the Agency are officials employed according to the Law on Administrative Officials. The Agency conducts administrative procedures, decides on appeals against decisions by information holders, and ensures the enforcement of the law's provisions. It also provides opinions on draft laws related to free access to information and develops policies and guidelines to exercise this right.

Ombudsman is an independent human rights body and acts *ex officio* or upon submitted complaints by private persons of a violation of a certain right performed by public officials. It performs independent investigation of the alleged violation and adopts an opinion on the matter including recommendations for overcoming the detected violation. The only specialized department within the Ombudsman, according to the Law on Ombudsman, is the National preventive mechanism which deals with prevention against torture and other types of inhumane dealing or punishing of people deprived of liberty. There is no deputy Ombudsman, or special Ombudsman for environment, explicitly defined as such in the Law on Ombudsman. Environmental cases are dealt with by staff members employed in the Ombudsman. So far, the environmental cases were awarded to one deputy Ombudsman and staff members. The Ombudsman can ask for documents and information, perform a visit to the state institution against which a case is investigated and secure evidences, call persons for interview, ask for an opinion from scientific and expert institutions and persons. An individual can submit a complaint in oral (recorded on minutes) or written (including on e-mail or the Ombudsman's website).

Local Self-Government Units (Municipalities): Municipalities are tasked with implementing national environmental policies at the local level. Their responsibilities include urban and rural planning, environmental protection, and management of communal services such as waste management and water supply. They serve as primary interfaces for public participation, enabling community involvement in environmental decision-making processes.

Non-Governmental Organizations actively advocate for environmental protection, raise public awareness, and monitor governmental and corporate compliance with environmental standards. They often serve as intermediaries between the public and authorities, facilitating community engagement and participation in environmental governance.

Communities and the Public play a crucial role in environmental governance through participation in public consultations, environmental assessments, and local decision-making processes. Their involvement is essential for ensuring that environmental policies reflect the needs and concerns of the populace.

International Organizations: Entities such as the United Nations Development Programme (UNDP), the European Union, and the Organization for Security and Co-operation in Europe (OSCE) provide technical assistance, funding, and policy guidance to support North Macedonia's environmental initiatives. They facilitate the integration of international environmental standards and best practices into national policies and promote regional cooperation on environmental issues.

The Assembly of the Republic of North Macedonia has responsibilities that encompass the enactment of environmental laws, oversight of their implementation, and facilitation of public participation in environmental decision-making processes. The Assembly is tasked with drafting, debating, and enacting laws that govern environmental protection and sustainable development. This includes legislation on air and water quality, waste management, biodiversity conservation, and climate change mitigation. By aligning national laws with international environmental standards and agreements, the Assembly ensures that North Macedonia meets its global environmental commitments. Through its various committees, particularly via the Committee on Transport, Digital Transformation, Environment and Spatial Planning, the Assembly monitors the execution of environmental policies by the executive branch. It holds governmental agencies accountable for their performance in environmental management, ensuring transparency and adherence to established laws and regulations. The Assembly provides platforms for public engagement in environmental matters, recognizing the importance of inclusive decision-making. Mechanisms for public participation include:

- Public Hearings organized by parliamentary committees. These hearings allow citizens, NGOs, and experts to present their views on proposed environmental legislation or policies.
- Consultations: The Assembly invites public input during the drafting stages of environmental laws, enabling stakeholders to influence policy formulation.
- Access to Information: In compliance with the AC, the Assembly ensures that environmental information is accessible to the public

Despite these provisions, challenges remain in effectively engaging the public. A 2024 analysis titled "Parliament Watch: Citizens' perceptions of the work of the Assembly of the Republic of North Macedonia" highlighted areas for improvement in public involvement and transparency.[63]

5.3. Case Analysis

5.3.1 Environmental Justice Case Studies

Access to justice on determining human rights violations caused by environmental degradation

From 2019 to 2021, at least 5 cases were initiated before domestic civil and administrative courts on the grounds of human rights violations caused by environmental degradation.

Civil Court Cases

Three cases[64] before the civil courts in Skopje, Bitola and Struga were initiated by a CSO and individuals against public bodies (the Government, MoEPP, municipalities and public enterprises). The cases concerned:

[63] https://idscs.org.mk/en/2024/10/21/parliament-watch-citizens-perceptions-assembly-north-macedonia-2024/
[64] Decision XXV no. 578/19 from the Basic Civil Court in Skopje, Decision no. П1-119/20 from the Basic Court in Bitola, Decision no. П1-6/21 from the Basic Court in Struga

- quality of ambient air: concentration limit values on Particulate Matter (PM) 2.5 and PM 10 particles had been exceeded for longer than the maximum allowed number of days in Skopje and Bitola; and
- waste management: the municipal waste across the country is disposed of on municipal landfills that do not fulfill legal standards and are managed by the municipalities and public enterprises.

Based on the Aarhus convention, International Covenant on Economic, Social and Cultural Rights, European Convention on Human Rights and the case law of the European Court on Human Rights (ECtHR), the Constitution of the Republic of North Macedonia, the Law on Civil Procedure, the Law on Obligations and the domestic environmental legislation on quality of ambient air and waste management, the lawsuits sought that courts determine that the right to a healthy environment, the right to health, the right to life and the right to respect for private and family life were violated due to non-enforcement of domestic environmental legislation.

The lawsuits claiming that the above-mentioned rights were violated due to air pollution were rejected and are completed on national level, while the lawsuit claiming that human rights violations occurred due to improper waste management was rejected but is still ongoing before the Appellate Court Bitola. Besides disputing the legal standing of the CSO, the courts considered that there is no legal basis for submitting the lawsuits considering that the claimants sought determining facts instead of determining legal relations.

Administrative Court

At least 2 cases[65] were brought by individuals in front of the Administrative Court based on the special procedure envisioned in the, at that time,[66] Law on Administrative Disputes. The special procedure allowed the court to determine violation of the constitutional rights due to acts or omissions by state institutions. The cases claimed that due to concentration exceeding limit values of PM 2.5 and PM 10 particles for a longer period than the allowed maximum number days as well as by not enforcing other domestic legislation on quality of the ambient air (effective monitoring system, valid strategic document related to air quality), the right to healthy environment was violated by the heads of the Government, the MoEPP and the State Environmental Inspectorate.

The cases were rejected and the court decided that the cumulative grounds for submitting the proposal based on the special provisions were not met. The court determined that the proposals did not define an individual act or omission performed by the defendants but rather just stated legal obligations by the state institutions defined in the environmental legislation. Furthermore, the court determined that there was no individual interest in the lawsuit but rather general interest since the actions that needed to be undertaken by the state institutions benefited society and not only the plaintiff.

Access to justice in cases for determining that an environmental strategic document was not prepared

In 2022, two cases[67] were brought by a CSO in front of the Administrative Court claiming that specific strategic documents enshrined in the Law on waters were not prepared, hence not adopted, although the legislation specifies a specific deadline for its preparation by the MoEPP. The lawsuit stated that the state of non-existence of the documents affected the right to healthy environment and the water management and thus sought that omissions be determined and the MoEPP be obliged to prepare the documents within 1 year.

[65] Decision УСПИ no. 4/2020 from the Administrative Court and Decision УСПИ no. 11/2020 from the Administrative Court
[66] In 2019 new Law on Administrative Disputes was adopted which entered into force in 2020. Compared to the previous Law on Administrative Disputes, the new Law doesn't have special provisions related to protection of constitutionally guaranteed rights.
[67] Decision У-3 no. 377/2022 from the Administrative Court and Verdict УРП no. 89/2022

The Administrative Court had different reasoning in both lawsuits:

- One of the lawsuits was treated as a dispute on silence of the administration and was rejected on grounds that it did not claim that a right was violated by an individual act adopted by a state institution but was referring to a general act, thus the court considered that the Law on Administrative Disputes doesn't provide a jurisdiction for the court to decide on matters like this.
- The other lawsuit was rejected on grounds that the lawsuit did not define an individual act or omission performed by the defendant but rather just stated legal obligations by the state institutions defined in the environmental legislation. Furthermore, the court determined that there was no individual interest in the lawsuit but rather general interest since the actions that needed to be undertaken by the state institutions are benefiting the society and not only the plaintiff.

The cases are still ongoing.

Access to justice in cases related to omissions resulting in prevention of public participation in environmental decision-making

Public participation in the decision-making process relating to water permits is enacted in the Law on Waters. According to the legislation the public has a right to submit written comments within 15 days from the publication of the request for a water permit on MoEPP's website and in one newspaper. There had been challenges in publishing water permit requests on MoEPP's website on a regular basis and at the time of initiating the proceedings in 2023 the last published request on MoEPP's website was dated from 2016.

The proceedings related to decisions for issuing water permits for small hydro power plants in 2015 and 2018, seeking for their annulment due to infringement of the right to public participation in the decision-making process. Although the Law on Waters regulates the right to an appeal for the investor, having in mind that the Law on General Administrative Procedure has subsidiary implementation,[68] an appeal against the decisions was lodged before the second-degree commission. The Law on Waters does not stipulate that decisions issuing water permits should be published, contrarily to the Law on Environment concerning the EIA decisions or decisions issuing integrated environmental permits. Having this in mind the decisions were obtained according to the Law on Free Access to Public Information and the appeals were lodged within 15 days from the day of receiving the decisions.

The appeals were rejected by the MoEPP claiming that it is not submitted within the prescribed deadline since the decision was adopted in 2015 and 2018 and that the right to an appeal is not allowed since the CSO and the individual were not party in the specific administrative procedure.

The appeal on the decision of the MoEPP stating provisions from the Law on General Administrative Procedure and the AC was refused by the second-degree commission claiming that MoEPP rightfully decided that the appeal was not timely and that the CSO and the individual were not party in the administrative procedures.
The cases are ongoing and lawsuits are submitted to the Administrative Court.

Access to justice in cases related to omissions in public participation relating to SEA

According to the Law on Environment, SEAs should be performed for urban plans. In this process the draft SEA report should be published together with the draft of the urban plan, before the public hearing. In the specific case analyzed, the announcement for a public hearing was

[68] Article 1 paragraph 3 of the Law on Waters (Official Gazette of the Republic of Macedonia no. 87/2008, 6/2009, 161/2009, 83/2010, 51/2011, 44/2012, 23/2013, 163/2013, 180/2014, 146/2015 and 52/2016 and Official Gazette of the Republic of North Macedonia no. 151/2021 and 3/2025)

published by the municipality, however only the draft SEA report was published without the publication of the draft urban plan for which the SEA was prepared. Having this in mind, challenges in providing substantive public participation were identified by a CSO.

A complaint, according to the Law on General Administrative Procedure, was submitted to the municipality seeking that the draft urban plan be published and that the consultation process begin after the publication of the draft urban plan. Instead of adopting an individual decision, according to the article 120 of the Law on General Administrative Procedure, the municipality prepared a notification for rejecting the complaint. The CSO initiated an administrative dispute on grounds of silence of the administration because an individual act was not prepared and adopted by the municipality. The Administrative Court rejected the lawsuit stating that *in the specific case the basis of the dispute is a general act with which it was sought that the municipality be obliged to publish the draft urban plan for which the draft SEA was prepared and to organize public consultations after the publication of the necessary documents… from what was elaborated before it can be concluded that administrative dispute cannot be initiated against general acts of the institutions because these acts do not refer to individual relations and they are not adopted as a regulation.* Although the High Administrative Court repealed the decision of the Administrative Court, the Administrative Court reached the same decision in the repeated procedure.

The case is still ongoing before the Higher Administrative Court.

Conformity of by-law related to environmental reports with the AC

The initiative for deciding on the constitutionality of a by-law regulating the activities for which it is mandatory to prepare an environmental report was submitted by a CSO in 2024 to the Constitutional Court. The initiative claimed that the by-law specified highways as an activity for which an environmental report is mandatory and should be approved by the MoEPP, while at the same time the by-law specifying the activities for which EIA is mandatory also sets highways as an activity for which an EIA is mandatory. Taking this into consideration the claim was that the by-laws are contradictory to each other thus affecting legal certainty.

Furthermore, having in mind that highways are an activity listed in Annex II of the AC where public participation in the decision-making process is mandatory, the fact that public participation is excluded in approving the environmental reports, according to the initiative, is contrary to the AC.

The Constitutional Court decided that the by-law specifying the activities for which environmental report is mandatory is based on the existing legal provision from the Law on Environment (article 24) and is adopted by the authorized state institution (the Government). It further noted that its jurisdiction allows the court to decide on conformity of by-laws with laws and the Constitution and does not include

- the horizontal conformity of two acts, namely the conformity of two by-laws which are on the same level in the legal hierarchy. and.
- whether domestic legislation is in conformity with international agreements, namely the AC.

Having this in mind, the Constitutional Court rejected the initiative.

Conclusions

Generally, lack of environmental expertise (expert opinions on technical aspects) is noted in the process of drafting lawsuits on human rights violations due to environmental degradation. Finding an expert to determine the causal link between air pollution and improper waste management and human health thus monetizing the damage caused, has proven to be a challenge. The knowledge on and applicability of article 9 paragraph 3 of the AC is shown to be

a challenge among judges[69]. Finally, the lack of *actio popularis* lawsuit is shown to be limiting access to court relating to environmental justice.

Conclusions on civil court proceedings

When it comes to proceedings related to determining human rights violation caused by environmental degradation there is a restrictive interpretation of the procedural legislation[70] which limits access to justice. The Court of Appeal in Bitola has previously adopted a position that part of a claim seeking violation of a right to be determined cannot be considered as determining facts,[71] however it does not find applicability in the decisions analyzed in the case studies. The relation that courts do with the proceeding for liability for environmental damage, defined in the Law on Environment, is not adequate since only restitution of damages or return to the original state of the environment can be sought. Furthermore, the proceeding for liability for environmental damage[72] can be initiated only against an operator (basically legal person which performs certain professional activity defined in a by-law) and not against the state for omissions related to enforcement of environmental legislation.

Moreover, any inspection oversight, referred to in the decisions for rejecting the lawsuits as a procedure through which the plaintiffs could seek for determining non-enforcement of environmental legislation, cannot substitute proceedings for determining human rights violation. Although the Law on Administrative Disputes, that was in force at the time of the submission of the civil lawsuits described above, prescribed special provisions for determining violation of constitutional rights, the practice showed that it is not effective.

Conclusions on the Administrative Court proceedings (right to a healthy environment)

A broader understanding of the concept of protection within the administrative disputes is needed. Narrow interpretation of the omissions and public officials is implemented by courts. Undertaking actions towards improving air quality and the subsequent omissions in that regard affect the general public and is of general interest however it should not be disputed that it also affects the individual and his individual right to a healthy environment enshrined in the Constitution. It should be taken without any disputes, having in mind the practice of the ECtHR is that it falls within the positive obligation of the state to take all the necessary actions to ensure peaceful enjoyment of rights,[73] thus the state can violate those rights by omitting the implementation of legal obligations conferred to them.

In October 2024 the Supreme Court adopted a general position on this kind of cases stating that the right to a healthy environment is an individual right which can be violated by acts or omissions performed by officials from state institutions and that the Law on Administrative Disputes is applicable in cases where no other legislation clearly stipulates jurisdiction of other courts. Having in mind the discussion of the focus group,[74] it is not clear enough if the general position will overcome the challenge of access to court since in the meantime the Law on Administrative Disputes has changed and the new Law does not envision a special procedure for determining violations of constitutionally protected rights.

Conclusions on administrative protection of the right to public participation

There is a lack of clear provisions on the right to appeal and legal protection of the right to public participation in the decision-making process related to water permits. Considering the Law on Waters does not clearly state that the public has a right to an appeal, thus one can say that the

[69] Article 9 paragraph 3 of the Aarhus Convention seeks that members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment.
[70] In particular: Law on Civil Procedure, Law on Courts and Law on Obligations
[71] Decision ТСЖ-427/19 from the Appellate Court Bitola
[72] Procedure defined in articles 157-159 from the Law on Environment
[73] L.C.B. v. United Kingdom, application no. 23413/94
[74] Detailed in Annex II of this report

protection of the right could be secured directly through an administrative dispute. On the other hand, according to the Law on General Administrative Procedure which has subsidiary applicability, each party whose rights or legal interests are violated by an individual administrative act can submit an appeal.

Furthermore, when analyzing the case related to the SEA public participation, a conclusion can be reached that courts consider the label of the act as a crucial question on whether legal remedies are applicable. Although the notification acted as an individual decision because it rejected the complaint, and even though the Law on General Administrative Procedure obliges institutions to adopt an individual decision, the court determined the label of the document as a key precondition for initiating administrative dispute.[75] Having this in mind, more extensive interpretation of the provisions is needed as well as taking into consideration the function of the document in question rather than its label.

Conclusions on conformity of legal acts with international agreements (Constitutional Court)
Existing by-laws which are contradictory to each other can reasonably take into question the legal certainty and rule of law taken into consideration with environmental protection as a fundamental value. It can be reasonably questioned whether the position of the Constitutional Court is in conformity with its role in the legal system. Moreover, taking into consideration article 118 of the Constitution that stipulates that ratified international agreements cannot be amended by domestic legislation, hence they are higher in the hierarchy of legal provisions and should consequently allow the Constitutional Court to have a more proactive role in determining conformity of domestic legal acts with international agreements. Nevertheless, the Court has a narrow interpretation of its jurisdiction.

5.3.2 Analysis of Participation Mechanisms

North Macedonia has established various tools and frameworks to facilitate public participation in environmental decision-making. However, the accessibility, availability, and effectiveness of these tools remain inconsistent, posing challenges for professionals responsible for implementing participation mechanisms.

Legal Frameworks
The cornerstone of public participation is the Law on Environment, complemented by associated decrees that define procedures for public consultations during EIAs and SEAs. These legal provisions mandate public notifications, hearings, and opportunities for submitting written opinions, ensuring that the public has a platform for involvement in decision-making processes.

Additionally, North Macedonia's ratification of the **AC** establishes a foundational framework for guaranteeing access to information, public participation, and access to justice. This commitment aligns the country with international standards and obliges public authorities to uphold transparency and inclusivity in environmental governance. Government portals, including the MoEPP website, provide notices of public consultations, EIAs, and SEA documents. While these resources are essential for transparency, their fragmented and inconsistent nature often makes it difficult for professionals and the public to locate timely and relevant information. The MoEPP maintains a registry of certified experts authorized to evaluate the quality of EIAs and SEAs. This registry aims to ensure that environmental assessments are conducted by qualified professionals, providing credibility to the process. However, the registry is not publicly available and there are no available mechanisms for quality and extraordinary control and verification of knowledge.

[75] Although the proceeding itself is initiated for silence of the administration, the court in the final part of the reasoning of its decision elaborates on the components that one decision should have in order for and administrative dispute to be allowed

Municipal Platforms

In some municipalities, local online platforms are used to disseminate information about public consultations and environmental initiatives. However, the absence of a standardized format and uneven adoption of these platforms across regions significantly undermines their utility and effectiveness.

The Aarhus Center conducted a nationwide monitoring[76] of the environmental data on a local level. The applied methodology envisaged the monitoring of the websites of all 80 local self-government units (79 municipalities and the City of Skopje) in 2022 assessed the publication of information related to public participation in local decision-making processes, including topics such as the environment, urbanism, local economic development, youth participation, forums, and responsible budgeting.

The monitoring also evaluated the publication of SEA-related information, such as decisions for conducting or not conducting SEA, opinions from the MoEPP, SEA reports, and public consultation feedback.

Public Participation Key Case Studies

1. Right to Access to Information related to Environmental Protection Studies for Hydropower Projects Under 10 Megawatt (MW)

According to the Law on Environment, every hydropower project, regardless of size, is subject to environmental assessment. Projects with an installed capacity of more than 10 MW or those involving reservoirs are required to undergo a full EIA. Projects with an installed capacity under 10 MW, often referred to as small hydropower plants, are subject to the preparation of an Environmental Protection Report, based on which the MoEPP approves or rejects the project implementation.

While the EIA process is thoroughly regulated in the Law on Environment, including a specific obligation to ensure public access to related information, there is no explicit legal requirement for the publication of Environmental Protection Reports. Investors/project holders must submit an application for approval along with the details in both paper and electronic formats to the MoEPP.

In April 2015, MoEPP announced the approval of four new SHP projects in the Mavrovo National Park based on Environmental Protection Reports. The same month, the NGO "Front 21/42" submitted a written request to MoEPP to access to the reports and approval decisions for the four SHPs in electronic format (Portable Document Format (PDF) on a compact disc). MoEPP failed to respond within the legal deadline of 30 days, prompting "Front 21/42" to file an appeal with the Commission for Access to Information in August 2015.

The Commission identified a violation and instructed MoEPP to respond within seven days. MoEPP complied in September 2015 but refused to provide electronic copies of the reports, stating that "Front 21/42" could partially review the documents upon prior notice. Given the extensive volume of data (often exceeding 100 pages of technical documentation), "Front 21/42" pursued the appeal further. The Commission ruled in favor of "Front 21/42," stating that MoEPP must provide the requested information in the required format unless the information was already available in another format (as prescribed by law) or if the format proposed by the Ministry was more appropriate. In either case, the Ministry was obligated to justify its decision.
In December 2015, MoEPP issued another response, again refusing access to the information, citing copyright concerns over the requested studies. The Ministry argued that access could only be provided after an administrative review of the conflict arising from the request. This decision

[76] https://arhus.mk/?page_id=1924

contradicted the Commission's ruling, which mandated full access to the requested information in the specified format.

This case highlights significant challenges in ensuring transparency and public access to environmental information in North Macedonia, particularly concerning Environmental Protection Reports for smaller hydropower projects. According to Article 4 of the AC, the public has the right to request information in a specific format, such as paper copies, electronic media, video recordings, or audio recordings. Public authorities are generally obligated to comply with the requested format unless specific exceptions apply. This provision also requires public authorities to provide copies of documents, in addition to allowing in-person review of the materials.

In its findings related to communication ACCC/C/2008/24[77] (Spain), the Compliance Committee of the AC determined that the concerned Party was not in compliance with the Convention when public authorities, responding to an information request, failed to provide the requested data in electronic format on a CD-ROM and instead offered paper copies. This decision highlighted that environmental studies, such as EIA reports or similar documents, are prepared for the purposes of public disclosure as part of administrative procedures. Therefore, the authors or project proponents cannot restrict the public dissemination of these documents by invoking intellectual property laws.

As a result, in February 2016, the NGO "Front 21/42" filed two administrative appeals with the State Administrative Inspectorate, in addition to the previously submitted complaint to the Commission for Access to Information. These appeals sought full and proper implementation of the Commission's decision. Administrative appeals are utilized when public authorities fail to comply with decisions made by a hierarchically superior administrative body or court.

In March 2016, following the administrative complaints submitted to the State Administrative Inspectorate, the MoEPP ensured full and proper access to the requested Environmental Protection Reports. The entire procedure to access environmental information, including the administrative appeals and eventual resolution, spanned one year.

This case underscores the importance of compliance with the AC and highlights the challenges in ensuring timely and adequate public access to environmental information. It demonstrates the need for strengthened administrative processes to facilitate transparency and uphold public rights in environmental decision-making.

2. Public Participation in Decision-Making Processes: EIA Procedure for the "Boškov Most" Hydropower Project

The "Boškov Most" hydropower project is located within Mavrovo National Park, with more than 80% of the project planned within the park boundaries. The project includes the construction of a reservoir (with a 33-meter-high dam), a hydropower plant with a total capacity of 68 MW, generating approximately 118 GWh annually, a tunnel, and a reservoir outlet to the hydropower plant. The project falls under Annex I of the AC and Annex I of the EIA Directive.

Initial EIA Process

In September 2010, the state-owned energy company AD ELEM Macedonia (Elektrani na Makedonija) submitted a notification of intent to the MoEPP, outlining the project proposal and the scope of an EIA study. In April 2011, the MoEPP issued a decision requiring the preparation of an EIA study and defined the scope of the assessment. However, this decision was made

[77] Aarhus Convention Compliance Committee

without consulting the public. By July 2011, a draft EIA study for the project was prepared and published.

The initial public comment period coincided with the summer vacation season; a timing criticized for being contrary to the AC's principles of meaningful public participation. The Public Participation Working Group (PPWG) submitted a formal comment to the MoEPP, prompting the Ministry to extend the consultation period until the end of September 2011.

As part of its responsibility for overseeing the process, the MoEPP organized three public hearings in September 2011: two in the affected areas (Mavrovo National Park and Debar) and one in Skopje. During these hearings, the PPWG actively participated by asking questions and providing comments on the draft EIA study.

Following the hearings, the PPWG submitted a series of detailed comments to the MoEPP, including input from international experts. The primary criticism of the EIA study was the lack of critical information required for an accurate and objective assessment of the project's environmental impact. Additionally, the study failed to propose viable alternative solutions to mitigate potential environmental damage.

Identified Shortcomings and Legal Challenges

This case highlights the importance of comprehensive public engagement in environmental decision-making processes. Meaningful consultation and access to complete information are essential to ensure transparency, accountability, and sustainable development, particularly for projects with significant environmental and social impacts.

The lack of complete and critical information in the EIAs study for the "Boškov Most" hydropower project was acknowledged even by the project investor. Despite this, the MoEPP never officially responded to the comments submitted during the consultation process. To address the identified gaps in the EIA study, the investor agreed to conduct a one-year environmental and biodiversity monitoring program at the project site before construction began. This monitoring aimed to provide additional data to fill the gaps in the EIA study and develop alternative solutions and mitigation measures. The monitoring started in the summer of 2012 and was planned for completion by summer 2013, with representatives from MoEPP in attendance.

However, despite the investor's decision to implement pre-construction monitoring, MoEPP approved the project and issued a decision for its implementation in October 2012. The NGO "Front 21/42" submitted an appeal within the legal deadline to the State Commission for Decision-Making in Administrative Procedures and Procedures of Second Instance (SCAP) in 2012. SCAP dismissed the appeal as unfounded and upheld the implementation decision in March 2013.

In April 2013, within the legal deadline, "Front 21/42" filed a lawsuit against SCAP's decision with the Administrative Court. The lawsuit argued that the EIA study for "Boškov Most" was incomplete, as evidenced by the necessity of pre-construction monitoring, and highlighted the lack of adequate and effective public consultations. Specifically, the comments submitted during the consultation period had not been addressed, and no formal response was provided before the planned monitoring.

The Administrative Court ruled in favor of the claimants, finding that there was no evidence to demonstrate how MoEPP incorporated public comments into its decision-making process. According to the Law on Environment, MoEPP was required to base its decision on the EIA study, particularly the report assessing the study's adequacy, the public hearings, and opinions gathered during the consultation period. For the "Boškov Most" project, there was no evidence of how

MoEPP made its decision in compliance with these legal requirements. The absence of a list detailing accepted or rejected comments and proof of their transmission to the project investor further underscored the procedural deficiencies.

As a result, the court could not validate the consultation process as a meaningful part of the decision-making process. The court's ruling, issued in December 2015, became final in May 2016. The EIA decision for "Boškov Most" was officially annulled in January 2017.

The EIA procedure for the project lasted two years (2010–2012), while the judicial procedure extended nearly five years. This case highlights significant gaps in the EIA process, particularly regarding public consultation and transparency, and underscores the importance of adhering to legal requirements to ensure that environmental decision-making is both robust and participatory.

3. Public Participation in Decision-Making with Transboundary Impact: EIA Procedure for the "Lukovo Pole" Hydropower Project

The "Lukovo Pole" hydropower project involves several components:

a) Construction of a 20-kilometer supply channel with an adjacent access path for transferring water from the Korab watershed to the Lukovo Pole reservoir and the Crn Kamen River, effectively transferring water from the Adriatic Basin to the Aegean Basin.
b) A 70-meter-high dam at Lukovo Pole with a storage capacity of approximately 39 million cubic meters.
c) The "Crn Kamen" small hydropower plant with a capacity of approximately 5 MW downstream from Lukovo Pole.

The project is situated in the northwestern region of North Macedonia, within the Korab mountain range at an altitude of 1,500 meters, in the heart of Mavrovo National Park. Parts of the project are located in zones where such activities are prohibited, including strict protection and active management zones.

Initial EIA Process

In January 2010, the state-owned energy company AD ELEM Macedonia initiated the process by preparing documentation and submitting a notification of intent to the MoEPP. Based on the written notification, MoEPP issued a decision in August 2010 to determine whether an EIA study would be required.

The project involved transferring water between river basins, which brought it into close proximity to Albania and Greece. As a result, the Espoo Convention required that the intent notification and the decision on whether an EIA study was necessary, along with its scope, be translated into the relevant languages and shared with neighboring countries through a transboundary public consultation process. However, the transboundary component was omitted from the decision, and neither the intent notification nor the decision was translated or forwarded to neighboring countries.

The Public Participation Working Group (PPWG) filed a complaint with MoEPP, demanding that the decision be annulled and the process restarted, incorporating the obligation for transboundary consultation. Three years later, in August 2014, AD ELEM Macedonia submitted a new notification of intent, which included the transboundary component and the scope of the EIA study. PPWG submitted comments on the scope, but when MoEPP issued a decision on the EIA scope in November 2014, the comments were not fully reflected.

In December 2014, the NGO "Front 21/42" filed an appeal with the SCAP. However, in January 2017, SCAP ruled the appeal as unfounded. In February 2017, "Front 21/42" filed a lawsuit with

the Administrative Court, supported by findings from the Bern Convention case decision from 2015.

Identified Shortcomings and Legal Challenges

The initial omission of the transboundary component in the EIA process violated international obligations under the Espoo Convention, which mandates cross-border consultations for projects with potential transboundary impacts. The lack of full consideration of public comments further undermined the procedural integrity of the decision-making process.

The case underscores the importance of adhering to international conventions and ensuring meaningful public participation, both domestically and internationally. Transparent processes and the incorporation of public and expert input are essential for achieving environmentally and socially sustainable project outcomes.

5.4. Existing Assessments

The 2022 EU report on the country's progress notifies that the administrative capacity at all levels remains weak, with insufficient human and financial resources to implement and enforce legislation. The 2023 EU progress report stressed that the inspections performed have had little impact,[78] while North Macedonia needs to intensify the work to achieve full alignment with the cornerstone EIA and SEA Directives. This negatively impacts all other environmental sectors, infrastructure investments and overall public participation and perception. The country has not yet aligned with the Directive on Environmental Liability. The last EU report underlines the lack of specialized staff and weak institutional and administrative capacity are undermining quality control and the performance of EIAs.[79] Regarding the third pillar of AC, the most recent EU report notes that access to justice on environment matters is virtually non-existent and public access to information is weak.[80] This concern was also highlighted in the last NiR under the AC, which emphasize that competent authorities have insufficient capacities to implement the right of access to justice, especially the authorities of executive and judicial power. Special training is required, especially for the third pillar so that its proper implementation can be performed.[81]

The third pillar – access to justice was referred to by almost all of our interviewees as the least developed pillar in North Macedonia. Violations of environmental laws are usually difficult to prove without clear environmental standards, clear emissions requirements in permits or regular monitoring and reporting of emissions data, all of which have been reported to require further development. Additionally, and as referenced by the United Nations Economic Commission for Europe (UNECE) in their AC Implementation guide, countries face other potential barriers. In North Macedonia, key and persistent challenges include financial obstacles, difficulty in obtaining legal counsel, unclear review procedures, lack of awareness within the review bodies of the public's rights under the Convention and of environmental law more generally, lack of information, lack of independence and impartiality by decision makers, weak enforcement of judgements and extremely limited cooperation among stakeholders.[82]

Both Councils – the Council of Public Prosecutors and the Judicial Council – need to continue pursuing their commitment to full respect of the principle of independence of the judiciary. Furthermore, transparency needs to continue increasing in both Councils. The judiciary should be shielded from any risk or perception of undue external interference.

[78] EU Progress report 2022, page 95
[79] EU progress report 2023, page 107
[80] EU progress report 2024, page 81
[81] National Implementation Report under Aarhus Convention of the Republic of North Macedonia, page 44
[82] Aarhus Convention-based Needs Assessment Report for the OSCE Mission to Skopje, December 2020, page 10

Any new law on the Academy for Judges and Prosecutors maintains the Academy as the sole entry point to the judiciary and prosecution, should ensure a fair and transparent access to these professions in line with the recommendations of the 2018 peer review mission on judicial training.[83] The Academy should follow the European Commission's recommendations not to shorten the initial training. The total budget allocated to training initiatives at the training centers and to other initiatives implemented directly by courts and prosecution offices in 2021 amounted to EUR 1,193,036, a 38 % increase on the previous year. [84] The total budget for training initiatives in 2022 amounted to EUR 1.74 million, a 46.3% increase compared to the previous year.[85]

In December 2021, Parliament adopted a new law on mediation, which promotes the quality of mediation and unifies the application of the law by all licensed mediators. Work is needed to continuously promote mediation and the use of other alternative dispute resolution methods, including through the relevant chambers, the Academy for Judges and Prosecutors and the Association of Judges.[86]

It is essential to speed up implementation of the human resources strategies for the courts and public prosecutors' offices and to plan ahead for staffing needs. Limited progress was made in implementing the strategies for human resources management in the courts and in the Public Prosecutor's Offices. There are serious concerns about undue external influence over the work of the Judicial Council and the judiciary. Further efforts are needed to increase transparency and prevent any attempt to exert undue influence or intimidation. Reliable statistical data are needed on the performance of the judiciary and the prosecution service. It remains crucial to speed up implementation of the human resources strategies for the courts and public prosecutors' offices and to plan ahead for staffing needs.[87]

The Strategy for Judicial Reform 2024-2028 and the accompanying action plan have been adopted by the government in December 2023. No progress was made in the implementation of the 2020 strategies for human resources management in the courts and in the public prosecutor's offices. The management bodies are in place but need to further step up their efforts to safeguard the independence, integrity and professionalism of judges and prosecutors. The independence and impartiality of the judiciary needs to be improved. External or political interference remains a serious concern. The quality of justice needs to be improved. In July 2024 the Supreme Court held its first general session in presence of the media discussing the need to determine a principled stance in relation to the infringement of the right to a healthy environment. The justice system's efficiency needs to be improved. According to the Judicial Council assessment, there is a need for 162 new judges (434 total judges would be needed, while currently only 272 are appointed; with 40 retirements upcoming in the next 3 years). Additionally, according to the 2023 annual report by the Council of Public Prosecutors, there are currently 179 prosecutors working in the country, which falls short of the estimated need for 279 prosecutors to adequately fill all necessary positions.[88]

[83] European Commission North Macedonia 2022 Report accompanying the document 2022 Communication on EU Enlargement policy, page 18-19
[84] Ibid, pages 18-19
[85]European Commission North Macedonia 2023 Report accompanying the document 2023 Communication on EU Enlargement policy, pages 18-21
[86] European Commission North Macedonia 2022 Report accompanying the document 2022 Communication on EU Enlargement policy, pages 18-19
[87] European Commission North Macedonia 2023 Report accompanying the document 2023 Communication on EU Enlargement policy, pages 18-21
[88] European Commission North Macedonia 2024 Report accompanying the document 2024 Communication on EU Enlargement policy, pages 27-30

6. NEEDS ASSESSMENT

6.1 Legislative Needs

The crucial provisions related to public participation in the environmental decision-making process and access to justice in this regard are enshrined in the Law on Environment and the Law on Waters.

6.1.1 Strategic Environmental Assessment

The Law on Environment stipulates the right to an appeal for the public concerned against the decision for performing or not performing SEA related to a specific strategic document. The focus group's discussions show that state institutions face serious challenges related to their digital capacities, thus many documents, including SEA forms, are not published or are not published promptly. Furthermore, it is not clear from the provisions of the Law on Environment when the deadline for submitting the appeal from the public concerned starts.[89] The provisions of the Law on General Administrative Procedure should be implemented regarding the question of the start of the deadline for submitting appeal, however, case studies indicate that administrative institutions responsible for handling appeals struggle with interpreting and implementing procedural legislation correctly. Taking into consideration that the court proceedings in front of the Administrative Court can last up to over 1 year, amendments of the legislation should be adopted to avoid any delays. Taking into consideration that the deadline for deciding upon appeal specified in the Law on General Administrative Procedure is 60 days,[90] shorter deadlines should be introduced in the Law on General Administrative Procedure and the Law on Administrative Disputes (the Law on Administrative Disputes does not clearly set a deadline for deciding on a lawsuit).

After all that has been said, strengthening the digital capacities of state institutions for prompt publication of documents and having clear provisions on deadlines for submitting appeals should improve access to justice related to SEA proceedings.

6.1.2 Environmental Reports

As mentioned above, although regulated as an environmental assessment proceeding different from EIA, the environmental reports have a big significance in protection of the environment. Even though the AC does not require that public participation is envisioned in each of the environmental assessment proceedings, its principles defined in the preamble requires early and wide access to public participation in the environmental decision-making process. Taking into consideration that construction of highways is defined as a project in two different by-laws (EIA projects and environmental report projects) as well as Annex II of the AC where public participation is mandatory it is necessary that a review of the respected by-laws is performed for the purposes of detecting the contradictions between the by-laws. Furthermore, the specific article of the Law on Environment regulating the procedure for preparing and approving the environmental reports should be amended to allow for public participation in the decision-making process in accordance with the principles of the AC.

[89] Article 65 paragraph 17 from the Law on Environment only states that the public concerned and the institution responsible for preparing the strategic document have a right to an appeal within 15 days to the State commission for decision-making in administrative procedure and employment procedure in the second degree, but doesn't specify when does this deadline start

[90] Law on General Administrative Procedure (Official gazette of the Republic of Macedonia no. 124/2015), article 112

In order to provide for clear legislation regarding access to legal mechanisms for protecting the right to public participation as well as wide access to justice in environmental protection according to article 9 paragraph 2 and 3 of the AC, further amendments should be made in the article 24 of the Law on Environment. These amendments are necessary in order to avoid arbitrary or inconsistent interpretation on the procedural legislation related to the right to an appeal, as it is shown in the above-mentioned case studies. Moreover, having in mind the principles of precaution, prevention and cleaner production, when introducing provisions on access to justice, exemptions from the general rule for the suspenseful effect of the appeal, set in the Law on General Administrative Procedure, shouldn't be made. This notion is very relevant considering that the Law on Environment already has some provisions making this kind of exemption from the general rule. Taking into consideration the purpose of environmental assessment it is necessary that the enforcement of the decision that is appealed to be in place in order to prevent occurrence of irreparable environmental damage. Taking into consideration that the deadline for deciding upon appeal specified in the Law on General Administrative Procedure is 60 days, shorter deadlines should be introduced in the Law on General Administrative Procedure and the Law on Administrative Disputes (the Law on Administrative Disputes does not clearly set a deadline for deciding on a lawsuit).

The case studies presented in the previous chapter show that lack of clear provisions on access to justice in environmental matters hinders the effective implementation of article 9 of the AC since although article 118 of the Constitution provisionally allow direct implementation of international agreements in domestic proceedings, article 9 paragraph 3 of the AC is too broad while domestic institutions hesitate in cases where direct application of international agreements should be done.

6.1.3 Environmental Impact Assessment

Public participation in EIA processes should be analyzed together with the provisions on access to legal mechanisms. In the EIA scoping phase, consultations are mandatory only with the relevant ministries and municipalities while wide public participation is not regulated, however access to legal mechanisms against the scoping decision is provided for.

Many challenges emerge when analyzing the provisions on access to justice relating to the scoping decision. Contrary to the general deadline for submitting an appeal specified in the Law on General Administrative Procedure, which is 15 days after the decision is served, the Law on Environment specifies a shorter deadline of 8 days. Although the Law on General Administrative Procedure sets, in its article 2, that special legislation can regulate certain areas distinctly as long as they do not contradict basic principles and purpose of the law or decrease protection of rights and legal interests of parties guaranteed by this law, amendments of the Law on Environment relating to the deadline for submitting an appeal should be introduced in order to avoid interpretation challenges. Furthermore, taking into consideration the discussion on the focus group related to the digital capacity of the MoEPP taken in connection that the appeal deadline starts from the moment of the publication of the decision, effective and prompt access to justice may be hindered without strengthening MoEPP's capacities in this regard.

Public participation is provided for in the phase of approving the EIA study by mandatory public hearing and written comments as well as access to legal mechanisms to challenge the legality of the decision itself. According to the Law on Environment an appeal can be submitted by the public concerned within 15 days from the day of the publication of the decision or within 15 days from the day someone found out that a decision has been adopted in cases where it is not published on MoEPP's website.

Although the Law on Environment tries to overcome the challenge of the absence of prompt publication of decisions on MoEPP's website, practical challenges emerge in implementing the specific provision. Macedonian legislation does not define the term "the day someone found out that a decision has been adopted" thus arbitrary interpretation is possible when deciding whether the submitted appeal is timely. In addition to this fact, it is questionable whether someone can challenge the decision in substance if it is not published, hence the person does not have access to its reasoning. Furthermore, taking into consideration the challenges of prompt preparation and publication of reports related to public participation it remains unclear whether the existing provision provides for effective protection of the right to public participation in EIA proceedings. Further expert discussions on these issues should take place and appropriate amendments of the Law on Environment should be introduced in order to provide effective access to justice and proper implementation of the article 9 of the AC.

Another question that needs further discussion is whether the right to an appeal and public participation should be guaranteed only for the public concerned or the public.

6.1.4 Integrated Environmental Permits

The Law on Environment prescribes public participation in issuing integrated environmental permits through written comments upon the publication of the request as well as through a public hearing if it is requested by the public concerned, while access to legal mechanisms is provided against the decision to issue the permit.

Analyzing the provisions related to access to justice, several challenges emerge. Besides the challenge mentioned in the previous proceedings on the prompt publication of the decision, which is applicable in the sphere of the A-integrated environmental permits, the Law on Environment stipulates an exemption from the general rule set in the Law on General Administrative Procedure that the appeal suspends the enforceability of the decision. Having in mind the principles of precaution, prevention and cleaner production it is disputable whether an exclusion in this sense should be in place. Even though prior to the issuing of the integrated environmental permit EIA study is usually approved, having in mind the irreparable damage that can occur in the environment it should be widely discussed whether this exemption should be amended.

Talking about the B-integrated environmental permits the Law on Environment states that the deadline for submitting the appeal starts from the day of the adoption of the decision. Having in mind that the moment of adoption and the moment of serving/publication of a decision are two different aspects as well as the challenge of prompt publication of decisions and documents on state institution's websites this provision seriously limits and hinders effective access to justice that would result in effective environmental protection as well as protection of the right to public participation. It would be easily expected that in practice the deadline, defined as it is in the existing Law on Environment, would have expired before the publication of the decision, hence the public concerned would not have an effective possibility to challenge the decision. It would be furthermore questionable whether this specific rule is in conformity with the article 2 of the Law on General Administrative Procedure.

Taking everything into consideration, amendments in the Law on Environment should be introduced in order to provide wide and effective access to justice in conformity with the AC.

6.1.5 Water Permits

As described in the case study above, although public participation is included in the process of issuing water permits there is lack of clear provisions whether appeals are applicable in cases

of violation of the right to public participation or whether legal protection should be sought through direct submission of a lawsuit to the Administrative Court. Having in mind article 2 in connection with article 104 of the Law on General Administrative Procedure, clear provisions on the right to appeal should be defined. Even if the right to an appeal is not applicable in these cases and legal protection should be sought through a lawsuit to the Administrative Court, considering that the Law on Waters does not provide for an obligation for publication of decisions on water permits, and in the presented cases, the decisions are adopted, *i.e.*, 6 years ago, it would probably be again questionable whether the submitted lawsuit is timely.

Considering that the Law on Environment provides for a right to an appeal against different decisions as well as the arguments mentioned above, appropriate amendments of the Law on Waters should be introduced in this regard.

6.1.6 Other Legislative Amendments

Taking into consideration the focus group discussion and the interviews the following amendments of the Law on Civil Procedure are needed:

1. introducing *actio popularis* lawsuit regarding environmental degradation and human rights;
2. shifting the burden of proof to the polluter;
3. prescribing urgent deadlines for deciding upon submitted environmental lawsuits to the courts; and
4. harmonization between the Law on Public Prosecutors and the Law on Courts relating to the jurisdiction of the Basic public prosecutor's office for prosecuting organized crime and corruption and the specialized court department established in the Basic Criminal Court Skopje.

6.2. Public Participation Needs

6.2.1 Key Issues Noted during the Monitoring

The monitoring reveals significant challenges in the accessibility and quality of information provided by municipalities. These challenges directly affect the transparency and inclusiveness of local governance, particularly in areas related to environmental and urban planning.

One prominent issue is the **incomplete information** published by municipalities. Many local governments rely on graphical representations of plans, such as maps or diagrams, while failing to provide the accompanying textual explanations or documentation that detail the implications of these plans. Similarly, some municipalities publish resolutions approving projects or plans without including the supporting documents or evidence required for public understanding and scrutiny. This lack of comprehensive documentation prevents stakeholders from fully grasping the scope and impact of proposed decisions, undermining the effectiveness of public participation.

Another common shortfall is the **lack of public notifications** regarding key processes such as public inspections, consultation deadlines, or requirements for conducting SEAs. Without timely and accessible announcements, many citizens remain unaware of opportunities to engage in consultations or provide input. This omission violates principles of transparency and inclusivity, as mandated by national legislation and international conventions such as the AC.

Technical issues further compound the problem. Broken links on municipal websites, inaccessible documents, or outdated content create significant barriers for citizens seeking information. For example, documents crucial for understanding urban planning proposals or environmental assessments are often unavailable or impossible to retrieve due to technical

errors. These lapses hinder public engagement and erode trust in the ability of local authorities to provide reliable and efficient digital services.

Finally, the short comment periods allocated for public review and feedback exacerbate these challenges. In many cases, the deadlines for submitting comments on draft documents or plans are unreasonably brief, leaving insufficient time for stakeholders to review the materials thoroughly. This limitation disproportionately affects groups that require additional support to participate effectively, such as CSOs, local communities, and individuals with limited access to digital resources.

6.2.2 Effectiveness of Current Tools for Public Consultation

While these tools create a baseline for public participation, their practical application reveals significant disparities, particularly in the context of major projects such as tourism developments, energy installations, and mining activities.

Strengths

1. Legal Mandates

The legal framework for public consultations ensures that formal mechanisms exist for stakeholder engagement. EIAs and SEAs serve as central tools for integrating public input into major projects.

2. Access to Information

Institutional websites and public notices provide a basic degree of transparency, meeting minimum standards for public access to environmental information.

Weaknesses

1. Fragmentation of Information

Public notices and environmental documents are dispersed across multiple platforms without a centralized repository, complicating access to timely and accurate information for professionals and the public.

2. Limited Engagement

Public consultations often fail to attract meaningful participation due to poor dissemination of information, inconvenient timing, and lack of awareness among stakeholders.

3. Low-Quality Materials

EIA reports for high-stakes projects are frequently criticized for being superficial or biased, undermining their credibility. Additional measures for quality control shall be developed.

4. Technological Gap

Digital tools to support virtual consultations or centralized public input platforms are underdeveloped, restricting the reach of professionals tasked with engaging diverse audiences, particularly in remote areas.

Challenges in Major Projects

1. Tourism

Large-scale tourism developments often proceed without thorough public consultations. EIAs are sometimes treated as procedural formalities rather than substantive evaluations of environmental impacts.

2. Energy

Renewable energy projects, such as hydro power plants, wind farms and solar installations, often struggle to engage affected communities due to technical complexities and limited stakeholder understanding of potential impacts.

3. Mining

Consultations for mining projects frequently face resistance from local communities due to insufficient information, perceived bias in EIAs, and inadequate consideration of community concerns. This was particularly underlined by the NGOs from the South- Easter Region of the country.

6.3. Institutional Needs

Environment and environmental protection are rarely a topic included in the general and special training for judges and public prosecutors. In the programs for continuous training of judges and public prosecutors for the last 3 years, the environment is addressed only in the general training on criminal law in which environmental crimes are mentioned. In 2019, two events relating to the environment were organized by the Academy for judges and public prosecutors: 1) a training on the Law on Environment and 2) a seminar on the Energy Community.[91] In the period from 2022-2024 only 5 one day trainings/counseling events[92] were planned by the Academy for judges and public prosecutors on environmental subjects. There are two curricula on environmental protection training for judges and public prosecutors prepared by a CSO,[93] while the one prepared in 2024 is in the process of certification.

The validation workshop discussions revealed that although the training possibilities for judges and public prosecutors is limited, there is also very low interest among judges and public prosecutors to attend such training sessions.

[91] Annual report on the work of the Academy for judges and public prosecutors for 2019, available at: https://jpacademy.gov.mk/
[92] Catalog for trainings for 2022, available at: http://www.vsrm.mk/wps/wcm/connect/osohrid/983deb08-1aaf-4d88-8119-d59b25d9c2ee/Katalog+2022.pdf?MOD=AJPERES&CVID=nXjmuKl&CVID=nXjmuKl
Catalog for trainings for 2023, available at: http://www.osvinica.mk/wps/wcm/connect/osohrid/0105c3a1-0056-4103-8e29-34c5afc743e7/KATALOG+NA+OBUKI+2023.pdf?MOD=AJPERES&CVID=oomdevS&CVID=oomdevS
Catalog for trainings for 2024, available at: https://jpacademy.gov.mk/wp-content/uploads/2024/01/%D0%9A%D0%B0%D1%82%D0%B0%D0%BB%D0%BE%D0%B3-%D0%BD%D0%B0-%D0%BE%D0%B1%D1%83%D0%BA%D0%B8-%D0%B7%D0%B0-2024%D0%B3.-2.pdf
[93] Training curricula for judges and public prosecutors on environmental justice, 2022, available at: https://cpia.mk/wp-content/uploads/2022/02/%D0%9A%D1%83%D1%80%D0%B8%D0%BA%D1%83%D0%BB%D1%83%D0%BC-%D0%B7%D0%B0-%D0%B5%D0%BA%D0%BE%D0%BB%D0%BE%D1%88%D0%BA%D0%B0-%D0%BF%D1%80%D0%B0%D0%B2%D0%B4%D0%B0.pdf
Curricula for advanced training for judges and public prosecutors on environmental justice, 2024, available at: https://cpia.mk/wp-content/uploads/2024/12/%D0%9A%D0%A3%D0%A0%D0%98%D0%9A%D0%A3%D0%9B%D0%A3%D0%9C-%D0%97%D0%90-%D0%9D%D0%90%D0%9F%D0%A0%D0%95%D0%94%D0%9D%D0%90-%D0%9E%D0%91%D0%A3%D0%9A%D0%90-%D0%9E%D0%94-%D0%9E%D0%91%D0%9B%D0%90%D0%A1%D0%A2%D0%90-%D0%9D%D0%90-%D0%95%D0%9A%D0%9E%D0%9B%D0%9E%D0%A8%D0%9A%D0%90%D0%A2%D0%90-%D0%9F%D0%A0%D0%90%D0%92%D0%94%D0%90-1.pdf

7. COMPARATIVE ANALYSIS

7.1 Environmental Justice and Participatory Mechanisms on the EU Accession Path

7.1.1 Environmental Justice

Firstly, access to justice depends on access to information and certain procedural guarantees that protect the claimant. Secondly, access to justice depends on the admissibility of claimants and the technical nature of the case before the courts, especially regarding climate litigation where the "preventive" dimension is increasing.

Before the case goes to court: access to information and procedural framework

Access to justice is the result of numerous interconnected factors, including procedural components, information and awareness of the populations, existing supporting mechanisms such as human rights institutions, etc. To fully comprehend the access to justice in environmental and climate matters, it is essential to observe the context and respect for different rights. They are of the utmost importance to create an **effective climate of trust and build a pathway to the court regarding environmental and climate disputes**.

(a) To have access to justice, both individuals and legal entities must be able to show the judicial authorities that their request has sufficient grounds. This implies being able to **access the necessary pieces of information.** This means, on the one hand, that the information can be requested to and then provided by the competent authorities and/or stakeholders (e.g. project owner), and on the other hand, that the information is accessible to individuals and CSOs (complete information, in a known and understandable language, available for people with disabilities, etc.). In addition to the elements of the Aarhus Convention which develop on access to information, European Court of Human Rights (ECtHR) case law is clearly identifying access to information regarding environmental matters as a component of the right to protection of private and family life.[94] The definition of what constitutes environmental information is particularly important as a restrictive definition can deprive the general and concerned public of essential knowledge. In France, the access to information is a broad concept.[95] It covers all information (whatever the medium - written, visual, audio, electronic) on the state of the environment and its various elements (atmosphere, water, soil, landscapes, natural sites, etc.), decisions, activities and factors likely to affect the status of the environment, human health, safety and living conditions, buildings and cultural heritage (insofar as they are or may be altered by environmental factors) or reports drawn up by or on behalf of public authorities on the application of legislative and regulatory provisions relating to the environment, including on financial aspects of a project. The effectiveness of such provisions is important and must be ensured in a timely manner.

In France, any person who has been refused access to an administrative document or information, or who has not received a reply within one month or has received a negative answer to its demands regarding re-use of public information, may refer the matter to the Commission d'Accès aux Documents Administratifs, the French Commission for Access to Administrative Documents (CADA).[96] CADA's opinions are interpreting the law to ensure a good equilibrium. For instance, CADA has constantly highlighted that the administration is

[94] Article 8 of the Convention requires the establishment of an effective and accessible procedure enabling such persons to request all relevant and appropriate information relevant and appropriate information – See for instance ECtHR, Roche v. United Kingdom, 19 October 2005; ECtHR, Vilnes and others v. Norway, 5 December 2013.
[95] Article L. 124-2 du Code de l'Environnement ; Article 7 of the Charte de l'Environnement.
[96] To help the public to access information, the Commission d'Accès aux Documents Administratifs - an independent administrative authority - was created in 1978. It issues opinions but can also sanction an infringement.

required to provide documents and pieces of information for projects that are still in the preparatory phase even if elements on the project itself cannot be disclosed yet.[97]

(b) Individuals and CSOs' needs regarding information are not only on the environment itself and on decisions/projects impacting the environment, but also on legal procedures, remedies, etc. **Clarity of legislation and of available remedies** is important for access to justice in environmental matters: development of procedures that derogate from ordinary law, referrals to other multiple pieces of legislation, and so on, may obscure relevant remedies and proceedings. It can be the case in Albania, for which academics underline that several laws can cover the same issues,[98] while other laws introduce exemptions (see above - section 5).

(c) Facing the technicity of environmental law and proceedings, individuals can lack expertise to access justice by themselves. Nevertheless, the Aarhus Convention and the European directives on public participation and access to environmental justice emphasize that the "public concerned" in this context are "the public affected or likely to be affected by environmental decision-making procedures [...] or having an interest in such procedures", which includes NGOs.[99] The **possibility to act collectively** is essential regarding environmental justice as it is a field of strong mutual interests and NGOs can concentrate on expertise. At the roots of this, is the **freedom of association** as protected by the European Convention on Human Rights (ECHR)[100] and the Charter for Fundamental Rights of the European Union[101]. For this reason, the legal procedures and formalities for registering associations must be reasonable and not hinder this freedom.[102] And the European Commission in its 2024 report on Albania underlines that the electronic registration of NGOs is not yet fully functional.[103] If the NGOs are not registered, they have no legal status and cannot go to court.

(d) Another element creating a context favorable to access to environmental justice is the possibility of disseminating information and thus **freedom of expression**[104] which is imperative in the case of climate and environmental issues for individuals[105] as well as for NGOs which are seen as acting watchdogs[106], and journalists whose profession is closely linked to the dissemination of objective and sourced information. The European Agency for Fundamental Rights underlines various difficulties in this regard, with Strategic Lawsuits Against Public Participation (SLAPPs) which is an increasing matter in Albania[107]. If France has not yet transposed the 2024 EU directive regarding SLAPPs[108], other legislation[109] participates to protect activists and whistleblowers enabling the emergence of legal environmental and climate cases and goes beyond the scope of the Directive (EU) No 2019/1937[110].

[97] See for instance CADA, Avis (favorable) n° 20072918-PN du 26 Juillet 2007; CADA, Avis (favorable) n°20103735-AR du 23/09/2010 Alsace Nature.
[98] MISHO Erinda, "The Development of Environmental Law in Albania: Historical Overview of Efforts toward Full Approximation with the Acquis Communautaire", in Balkan and Near Eastern Journal of Social Sciences, 2019:5 (3)
[99] See art. 11 Directive 2011/92/EU on Environmental Impact Assessment.
[100] Article 11 of the ECHR.
[101] Article 12 of the CFREU.
[102] See for instance ECtHR, Costel Popa v. Romania, 26 April 2016.
[103] Commission Staff Working Document Albania 2024 Report, 30 October 2024, p.24: https://neighbourhood-enlargement.ec.europa.eu/document/download/9f9ac397-ca8a-4bde-8204-998e27ab4f51_en?filename=SWD_2024_242_2_EN_autre_document_travail_service_part1_v3.pdf
[104] Art. 10 ECHR and Art. 11 of the CFREU.
[105] See for instance ECtHR, Steele and Morris v. United Kingdom, 15 February 2005; ECtHR, Bumbes v. Romania, 3 May 2022.
[106] See ECtHR, Vides Aizsardzības Klubs v. Latvia, 27 May 2004.
[107] COMMISSION STAFF WORKING DOCUMENT Albania 2024 Report, 30 October 2024, p.36,37.
[108] Directive (EU) No 2024/1069 11 avril 2024.
[109] Loi organique n° 2022-400 du 21 mars 2022 visant à renforcer le rôle du Défenseur des droits en matière de signalement d'alerte ; Loi n° 2022-401 du même jour visant à améliorer la protection des lanceurs d'alerte
[110] The protection of whistleblowers in France, Biennial report 2022-2023, Défenseur des Droits, https://www.defenseurdesdroits.fr/sites/default/files/2024-09/ddd-rapport-LA_2022-23_EN_20240716.pdf

(e) The access to court can be limited by financial issues. **Judicial fees and legal costs** contribute to the proper administration of justice. They can also be a genuine obstacle to **accessing justice** when excessive (leading to « prohibitive expenses » objectively and subjectively for the plaintiffs)[111] or not compensated by free legal aid mechanisms offered by the State - an essential tool for equality of arms[112]. **Legal free aid** is particularly important regarding environmental justice since on the one hand environmental law is a technical subject with complex proceedings generally needing the assistance of a lawyer,[113] and on the other hand costs regarding expertise, lab analysis, and so on, can be very high and unaffordable for citizens with low incomes. In Albania, a strong evolution of free legal aid is visible in the legislation since 2008, with the law no 111/2017 on the legal aid guaranteed by the State. However, adoption of important bylaws has been delayed[114] and the amount of aid seems insufficient compared to the costs supported by plaintiffs in environmental cases (see above - section 5).

(f) All the elements presented above are particularly important for minorities, marginalized communities and vulnerable individuals which are disproportionately affected by environmental and climate issues.[115] Among the individuals and communities particularly concerned with environmental matters within the EU are the Roma[116], who are also a minority present in Albania and suffer from extreme poverty and various discriminations which can prevent them from accessing justice.[117] For instance, the European Commission against Racism and Intolerance (ECRI) mentions that "*the absence of a functioning legal aid system disproportionally often affects members of the Roma and Egyptian communities* [...] *due to their social marginalization and extremely low incomes*".[118] Nowadays, EU Member States have obligations regarding **fighting discriminations**, and are particularly encouraged to take appropriate measures to ensure that these populations have access to environmental justice on an equal footing with others.[119]

Once before the courts: adapting procedural guarantees to meet environmental challenges

(a) The Court of Justice of the European Union (CJEU), pursuant to article 47 of the Charter of Fundamental Rights and the indirect effect of article 9(3) of the Aarhus Convention, recognizes the **interest** of individuals in bringing an action in environmental disputes in the light of their "sufficient interest" related to the environmental damage complained.[120] This framework is more protective than the one of the Strasbourg Court, where the concept of

[111] Regulation (EC) No 1367/2006 on the application of the provisions of the Aarhus Convention, Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment - See also CJEU, C-530/11, European Commission v. United Kingdom of Great Britain and North Ireland, 13 February 2014 ; CJEU, C-260/11, The Queen, on demand of David Edwards and Lilian Pallikaropoulos c. Environment Agency and others, 11 April 2013.

[112] See for instance ECtHR Steele and Morris v. United Kingdom, 15 February 2005.

[113] See ECtHR, P., C. and S. v. United Kingdom, nº 56547/00, 16 October 2002, paras. 88-91

[114] ECRI, 6th report on Albania, June 2020, p.25.

[115] See for instance IPCC, sixth assessment report, Working group II contribution Climate Change 2022: Impacts, Adaptation and Vulnerability 28 February 2022: Sixth Assessment Report — IPCC.

[116] European Environmental Bureau, Push to the wastelands: Environmental racism against Roma communities in Central and Eastern Europe, April 2020: Pushed to the wastelands: Environmental racism against Roma communities in Central and Eastern Europe - EEB - The European Environmental Bureau; European Environmental Bureau, Bearing the brunt : Roma and Travelers experiences of environmental racism in Western Europe, January 2024.

[117] See for instance ECRI, 6th report on Albania, June 2020.

[118] ECRI, 6th report on Albania, June 2020, p.25.

[119] The guidelines of the EU Strategic Framework for Roma Equality, Inclusion, and Participation published in 2020 include indicators and measures linked with environmental issues, such as prioritizing access to social housing for Roma living in environmentally hazardous areas, ensuring active participation of Roma communities, etc. See: European Commission, A Union of Equality: EU Roma strategic framework for equality, inclusion and participation, 7 October 2020 - see in particular: Portfolio of indicators, Objective 7-a: Fighting environmental deprivation, promoting environmental justice

[120] C-243/15, §44: considering that « It would be incompatible with the binding effect attributed to a directive by Article 288 TFEU to exclude, in principle, the possibility that the obligations which it imposes may be relied on by those concerned.". See also: C-664/15 Protect, para. 45. This interest in bringing proceedings also depends on the applicable directives concerning acts or omissions that have an impact on the environment. For example, in relation to the following directives: ELD (Article 12(1)(a) -(c)), air quality plans (C-404/13 Client Earth and C-237/07 Janecek), nitrate (C-197/18/ Burgenland), habitats (C-240/09 Slovak Bears), water framework (C-664/15 Protect) and see also article 15a of directive 2003/35/C.

victim is only granted where the victim is directly affected[121] by the alleged breach of the Convention.[122] However, in the Klima judgment, under Article 6(1) of the Convention, collective entities such as associations were granted standing to defend the rights and interests of their members or individuals affected or concerned, in cases of climate inaction attributable to the defendant State. This interpretation appears to be in line with the case-law of the CJEU and the Aarhus Convention.[123] In Albania, Montenegro and Northern Macedonia, the admissibility of associations, groups and individuals, as in many Member States, may constitute the first barrier in which this European framework should nevertheless encourage an extensive approach to the interest to act.

In France, approved environmental protection associations by the authorities are presumed to have the right to take legal action. This facilitates their admissibility but also restricts this access by requiring them to obtain administrative approval, the granting and withdrawal rests in the hands of the authorities, under the control of the administrative judge. Some Member States, such as Germany (sanctioned by the CJEU)[124] restrict the right of associations to act, by limiting it to certain categories of action against certain decisions or acts. In addition, although class actions are recognized in French law, particularly in environmental matters, they were not as successful as expected due to their procedural complexity, with citizens and associations preferring collective and/or individual legal actions, which are quicker and simpler. This tendency to seek to provide a legal framework for access to the courts[125] should be weighed against the effectiveness of a flexible case-by-case approach, as it appears to be the case in the studied countries, provided that major national decisions should provide sufficient legal certainty and foreseeability for claimants in such disputes.
Furthermore, the difficulty of proving the environmental and/or material damage alleged by the environmental association is significant in all three countries. In France, there is a legal peculiarity due to the existence of case law, in certain disputes,[126] relating to the moral prejudice suffered by associations. In other words, a judge may consider that an association has been harmed if the facts, even if they do not involve any environmental damage - for example, failure to comply with environmental regulations - undermine an association's statutory purpose of protecting the environment. This indirect damage, assessed in abstracto, is either complementary to the material and ecological damage suffered or the only damage claimed by the association, which facilitates access to the courts. European case law, without explicitly mentioning non-material damage, encourages such an approach, where the mere mobilization of environmental provisions in a dispute should be sufficient to justify this interest.[127] Associations' moral prejudice, understood as non-material damage, does not seem to be recognized by the legal systems in Albania, Northern Macedonia and Montenegro.

(b) In addition, given the technical dimension of environmental law, **adversarial debate on the evidence** is essential. In the three countries studied, the difficulties of demonstrating the risks or damage to the environment were noted. The administrative or judicial judge (civil or criminal) should forge his or her conviction based on the evidence brought by the parties. The quality of environmental inspections and any EIAs depends on the independence and therefore the resources of the authorities that carry them out. The absence of an independent

[121] Article 34 of the ECHR. In the Klima and Carême cases, the applicant individuals' exposure to the effects of climate change and the urgent need to guarantee their protection were not demonstrated.
[122] Articles 6 and 8 of the ECHR
[123] C-664/15 Protect, §67: "if national law establishes such a link between the status of party to administrative proceedings and the right to judicial review, that status cannot be denied unless the right to review is deprived of any useful effect, or even of its very substance".
[124] See for example, in the Dieselgate case: Judgment of 8 November 2022, Deutsche Umwelthilfe (Type-approval of motor vehicles) (C-873/19, EU: C: 2022: 857).
[125] In Albania, for example, a law is currently being drafted to allow collective proceedings to be initiated.
[126] Certain disputes are subject to specific rules of admissibility, such as town planning disputes.
[127] Ibid §67 Protect. Although Directive 2003/35/EC on public access to justice in environmental matters, amended by Directives 2008/99/EC and 2011/92/EU, recognizes the right to take legal action, it does not mention non-material damage.

environmental authority[128] in Albania and Northern Macedonia necessarily taints the risk of bias in the technical findings made and therefore in the evidential debate before the courts. The independence of the judicial function - in the sense required by the ECtHR under article 6 of the ECHR, i.e. the "appearance" of independence required, or the "objective" impartiality sought - is the only “bulwark” against this risk.

In France, the principle of freedom of evidence remains before the criminal court, which may order any useful measure to lead to truth. Civil and administrative judges, for their part, have the possibility of ordering expert environmental reports, including as part of the investigative measures prior to any debate on the merits of the case. These additional expert reports are sometimes essential to quantify the damage. The issue of compensation appears to be little or non-existent in local case law, apart from one case of compensation before the Albanian civil court (Gorishovë).

(c) Finally, the **"preventive" dimension of environmental litigation** is essential and influences the progressive tendency of jurisdictions to protect the environment, where the principles of precaution[129] and prevention[130] call for a global approach. Environmental offences, which are sometimes concealed and have a gradual impact, are difficult to apprehend and are comparable to corruption offences, where anticipatory punishment plays an important role. Legal protection of the environment can only be achieved if States also incorporate obligations on private companies, particularly in terms of environmental risk management. Like the case of corruption[131] , the courts will penalize the absence of preventive measures from damaging the environment. In this respect, the European Green Deal includes, for example, the deforestation regulation,[132] the CS3D directive[133] and the environmental crime directive[134]. None of the countries studied - even though they are exposed to the problem of deforestation - appear to have introduced obligations to monitor the management of illegal timber risks within forestry companies.[135] Furthermore, the application of the so-called deforestation regulation requires the existence of a company control authority with "functional" independence, which the countries studied do not have, with the exception, a priori, of Montenegro (EPA authority).

Public Participation

The legal guarantees of public participation are **essentially procedural**. The States Parties must implement the provisions of international law and define the way in which the public participates in the preparation of decisions.[136] Derived from two major sources of international law, the principle of participation was translated into normative obligations by the Aarhus Convention. In EU law, however, these requirements are asymmetrical. This is the requirement relating to **the duty to know and make known environmental impacts that is the most formalized in EU**

[128] Jurisprudence of the European Court of Justice says: "the public authorities responsible for environmental assessment must be independent and objective in their analysis, so as to guarantee environmental protection. The Court stressed that Member States must guarantee an independent assessment of projects, without pressure from project promoters." (CJUE, 2004, C-41/00), the Court also explains that "national environmental assessment authorities must be independent of any influence, including political or economic, in order to ensure the quality and reliability of assessments. The Court specified that the competent authorities must exercise their function without interference from those with an interest in the approval of a project." (CJUE, 2011, C-263/08).
[129] Article 191 of the TFEU.
[130] See in particular: the Lugano Convention of 193 on civil liability for damage resulting from activities dangerous to the environment and the Directive of 21 April 2004 on environmental liability regarding the prevention and remedying of environmental damage.
[131] Article 17 of the Sapin II Act.
[132] Regulation 2023/1115 against deforestation and forest degradation (RDUE), which will replace the regulation on illegal timber.
[133] Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on companies' duty of care regarding sustainability
[134] Directive n°2008/99/CE
[135] Regulation EUTR n°995/2010 which will be replaced by the Regulation n°2023/1115.
[136]World Charter for Nature, October 28, 1982, point 23: “Everyone shall have the opportunity () to participate () in the making of decisions which directly affect his environment”.
Rio Declaration on Environment and Development, August 12, 1992, principle 10: “Environmental issues are best addressed through the participation of all concerned citizens, at the appropriate level”.

legislation. It is embodied in two mechanisms - the SEA for certain plans and programmes, and the EIA for certain public and private activities with a significant impact on the environment.[137] Moreover, the legal requirement for public participation does **not imply that public authorities share decision-making power with the public**. The mechanisms must simply enable the public to influence the direction of the forthcoming decision[138] and the private petitioner or public authority must **take the results of the participation into account**.

In Albania, the EU has already identified discrepancies in the implementation of the SEA and EIA under domestic law. The national assessment similarly highlights the difficulties inherent in ensuring effective participatory processes, particularly regarding the public's influence on decision-making and the inclusion of concerned groups, including vulnerable groups.

To address these challenges, institutional arrangements were introduced in French Law:

Early and Structured Public Involvement

Under French legislation, public participation in decision-making – whether for plans and programmes or for specific decisions relating to projects with environmental implications – is allowed or required, depending on the case, at **a very early stage in the process**.

When a plan or programme relating to environmental or regional development, or for certain projects that may have a significant impact on the environment is envisaged, two forms of participation may be organized successively:

- The first **is the dialogue process**: this concerns the preliminary project and enables the public to question the appropriateness of the project. There are three alternative procedures: public debate, spontaneous consultation (concertation) and consultation (concertation) with a guarantor.
- The second one is the consultation **process**: it precedes the decision that enables the public authority to set the conditions and limits governing the activity. It is implemented through two procedures: public inquiry, and public participation online (*participation du public par voie électronique*).[139]

Participation at a very early stage encourages the public to influence the definition of the project's content. Although no power is formally attributed to the public, the participatory arena of consultation regularly exerts an influence on the content of the decision taken by the public authority or the developer.[140]

Adaptation of Participation Procedure to the Seriousness of the Impact

Under French legislation, the type of procedure organized for consultation or debate process depends on the seriousness of the environmental impact of the project, plan, or programme. This is measured objectively, in the light of the nature, technical characteristics or cost of the project and/or in the light of whether it is subject to an EIA, either systematically or after a case-by-case examination. In short, **the greater the impact on the environment, the stronger the guarantees for participation procedure will be for the public.** Among these strong guarantees, the presence of **a neutral, independent and impartial moderator** appears to be of prime importance in organizing public participation. This guarantee is not required by international or European law.[141] However, it does appear in the academic literature as a guarantee of the effectiveness of the procedure.[142] At the debate process stage, two procedures - public debate and consultation with

[137] In France, for the SEA, see L. 122-4 to L. 122-11 and R. 122-17 to R. 122-24 of the Code of the Environment and Articles L. 104-1 to L. 104-8 of the Code of Urban Planning.
[138] Public participation takes place before the authorization decision has been adopted, and when the project may still be modified.
[139] - vie-publique.fr -
[140] Revel, M., Blatrix, C., Blondiaux, L., Fourniau, J.-M., Dubreuil, B. H., & Lefebvre, R., (2007), Le débat public: Une expérience française de démocratie participative, 2007, Paris, La Découverte.
[141] The requirement for independence under EU law only applies to the environmental authority.
[142] Bobbio, L. (2003). Building social capital through democratic deliberation: The rise of deliberative arenas. Social Epistemology, 17(4), 343-357.

a guarantor - and one procedure during the consultation - the public inquiry - involve a moderator. The moderator is independent of both the developer and the public authorities and is responsible for facilitating public discussion and reporting their opinions and recommendations. These moderators are the *Commission Nationale du Débat Public* (CNDP) – the French National Public Debate Commission - for the public debate and the *Commissaire enquêteur* – the French investigating commissioner- for the public inquiry.

Simplification and Innovation in Participatory Procedures

Finally, in France, **the question of the design of participatory procedures** is also being examined, in terms of their ability to promote public inclusion or influence, but also to delay decision-making or to weaken its legitimacy due to procedural defects. A process of **simplifying participatory procedures** has been underway for several years. This has taken two forms:

- **Forms of public participation are developing that are less regulated by law and more open.** For example, the oldest and most codified form of public participation - the public inquiry - is increasingly being replaced or complemented by online participation. Similarly, consultation procedures involving collegiate bodies have shifted toward open consultations, offering fewer legal guarantees but allows greater accessibility.
  In the same vein, public debate, the most sophisticated dialogue process, is loosely regulated by law. The independent administrative authority responsible for organizing it - the CNDP - has developed a doctrine based on six guiding principles: independence, neutrality, transparency, equal treatment, argumentation and inclusion. The CNDP implements these principles in different ways depending on the debate, and develops different forms of participation during the same debate to reach out to all audiences: online participation, stands in supermarkets, events in cultural venues, partnerships with associations for vulnerable people, mini publics, etc.

- **The administrative authorities are developing *ad hoc* forms of citizen participation alongside the procedures codified in law**. For example, at national level, the government opted for "five-party governance" to undertake a major reform of environmental law known as the Grenelle Environment Forum. In this process, the government engaged representatives of local authorities, trade unions, professional leaders and environmental protection organizations to build a consensus that would be validated and shared by all, with a view of drafting new laws to protect the environment. More recently, the *Convention citoyenne pour le climat* – the Citizens' Convention for Climate – assembled randomly selected residents to propose desirable measures to achieve the French government's GHG emission reduction targets.

7.2 Comparative Analyses Among Targeted Countries

Below are the main similarities and differences of environmental justice systems and public participation mechanisms in the Western Balkans (Albania, North Macedonia and Montenegro).

7.2.1 Environmental Justice

Prior to referral to the courts, the three countries do not appear to be complying with their obligations regarding the dissemination of environmental information, which ultimately also contributes to **limiting access to the courts and tainting the quality of justice** due to the lack of public information available in sufficient quantity and quality. In addition, although all three countries have laws on access to information, they do not appear to have any special regime that

is more favorable to the right of **access to environmental information**[143] and the paucity of litigation on the subject does not appear to make it possible to assess the position of local courts on this point.

All three countries are also facing similar challenges regarding removing obstacles to access to the judge, on three aspects:

- financial obstacles (persistent limitations regarding accessing free legal aid by the State - for marginalized communities -, lack of funding for NGOs, etc.),
- psychological obstacles (lack of trust in the institutions, perceived lack of equality of arms linked with marginalization of some victim-communities, SLAPPs, low protection of whistleblowers and criminalization of activists, threats against environment defenders and journalists),
- procedural obstacles (NGOs registration - for North Macedonia and Albania -, poor readability of legislation and regulations on environment and available remedies, overlapping of legislations, difficulties to have sufficient elements to start a case, locus standi, etc.).

Before the courts, the question of the admissibility of individuals and associations has been the subject of significant developments in case law in Albania, even though this issue is still being debated, which raises questions about the" binding nature" of case law in this country. In Montenegro, citizens' complaints in environmental matters which do not lead to prosecution constitute a major obstacle to access to the courts.[144] Regarding adversarial debates, particularly on evidence and causality, apart from the need for the judicial sector to be trained on environmental matters, the use of external expertise does not appear to be developed before the criminal, civil and administrative courts in these countries. On the contrary, particularly in Albania and Northern Macedonia, the mobilization of a ministry's in-house expertise and its environmental assessment taint the quality of the evidentiary debate with bias. Finally, in all three countries, at the project environmental assessment stage, the failure to analyze the cumulative impact of several industrial projects and the failure to consider the climatic impact and vulnerability of these facilities do not appear to be sanctioned by the authorities or the courts.

7.2.2 Public Participation

Public participation is required in the decision-making process for two categories of public decisions: decisions on certain public and private projects, mainly industrial activities,[145] and plans or programmes relating to the environment.[146] For each of these categories of decisions, there are similarities and differences in the requirements for participation. As far as the differences are concerned, participation in the preparation of authorizations for certain activities must be aimed at the "public concerned",[147] whereas participation in the preparation of plans, programmes relating to the environment concerns the "general public". This difference seems to derive directly from the scope of the documents: plans, programmes may concern all residents, whereas authorizations for industrial activities primarily affect residents, neighbors, land users and even neighboring countries. On the other hand, as far as similarities are concerned, the two procedures follow common guiding principles: the need **for transparency**, the **obligation to know and to make known the environmental impact of public decisions**, the need for **effective public participation** to have a real influence on the decision-making process.

[143] For example, Directive 2003/4/EC prohibits the State or the company from invoking business secrecy when the request for information concerns emissions into the environment.

[144] Depending on the circumstances of the case, these dismissals could be sanctioned on the grounds of lack of effective remedy to a court. In France, if a complaint to the public prosecutor is dismissed, the plaintiff has the option, in both misdemeanor and criminal cases, of lodging a complaint before an investigating judge and then appealing to the investigating court of appeal if the judge refuses to open investigations.

[145] See Annex 1 of the Aarhus Convention.

[146] For an overview of the diversity of these arrangements, see Annex II.

[147] The term is used to designate those who will be affected by the decisions to be taken or who will have an interest to assert, NGOs

In all three countries, public participation faces the same challenges. Firstly, effective participation does not always seem to be guaranteed. This difficulty may be linked to the conditions under which the procedures are organized (dates, places and times of public meetings not adapted), but also to the lack of public awareness of environmental issues. Secondly, the independence of the environmental authority from the public authority making the decision and from the developer does not seem to be clear. However, this point is essential to ensure that the environmental and health impacts of projects, plans or programmes are fully and objectively assessed and that the public is informed.

Finally, the public's influence on the decision often appears to be weak. This observation points to the difficulty of developing projects, plans or programmes within the framework of consultative procedures. This observation undoubtedly calls for a reflection on the timing of participation procedures - do they come too late in the decision-making process? - but also on their methods or on the way in which the authorities perceive these mechanisms: instruments of legitimization, Information tools? Instruments for improving decision-making process?

7.3 French Best Practices

7.3.1 Access to Environmental Justice Good Practices

In Albania, French legal cases focus on issues such as climate inaction, the independence of environmental assessment authorities, and soil and water contamination caused by agrochemical products. In North Macedonia, legal cases primarily address air pollution and the impacts of a mega basin. In Montenegro, the cases pertain to illegal logging, biomass/biofuel plants, and water contamination. Additionally, all three countries provide examples of emergency proceedings.

Climate inaction: injunction to respect the EU trajectory, State liability and ecological prejudice
Conseil d'Etat, 2020, Commune de Grande-Synthe and Administrative Tribunal of Paris, 2021, Association Oxfam et al.: In this case, the highest administrative court ordered the French State to respect its trajectory of climate objectives of reduction of emissions until 2030. In the second decision, the administrative tribunal recognized the liability of the French State for failing to comply with the European objective of emissions' reduction concerning a past period and recognized the ecological prejudice from this State inaction. These decisions show that the judge accepts to verify that the State's action is sufficient to achieve the objectives of reduction of emissions settled by the European and or Domestic Law. This form of "anticipatory monitoring" led by the judge is a step forward as the trajectory review with regular deadlines could follow and, if needed, sentence the environmental policies of the State to achieve its climate goals.

Independence of the environmental assessment authority
The *Conseil d'Etat*, the highest administrative court in France, specifies that although a public authority may authorize a project and simultaneously be responsible for environmental consultation, it is essential that a functional separation be organized within this authority to guarantee real autonomy, with its own administrative and human resources, thus enabling the administrative entity concerned to give an objective opinion on the industrial project. In this context, the *Conseil d'Etat* decided to annul provisions of a Decree insofar as it maintains the designation of the regional prefect as the State's competent authority for environmental matters.[148]

[148] CE, 6 December 2017, no. 400559

Ecological prejudice for soil and water contamination (agrochemical products)
The Paris Administrative Court recognized the existence of ecological damage resulting from the widespread, diffuse, chronic and lasting contamination of water and soil by the active substances of phytosanitary products, the decline in biodiversity and biomass and the impairment of the benefits derived by man from the environment. It enjoins the State, by 30 June 2024, to take all appropriate measures to repair the ecological damage, prevent further damage by restoring consistency between the rate of reduction in the use of agrochemicals products and the trajectory set out in the Ecophyto plans, and to restore and protect groundwater from the impact of plant protection products.[149]

Emergency procedure for the right to a safe and healthy environment: the "référé liberté"
The French legislator has created a specific form of appeal when there is an urgent need to obtain the suspension of an action to avoid the aggravation/continuation of the situation: the "référé". Several "référés" are available, including one specific when a fundamental right is at stake, "référé liberté"[150]. This legal remedy has been used for a couple of years to protect the right to a healthy environment, in particular biodiversity, when irreversible actions are imminent[151]. The administrative judge checks the existence of the necessary conditions[152] and has 48h to give an answer. They can dismiss the case or order all measures necessary to safeguard the fundamental freedom, in the waiting of the decision on the merits of the case by a full jurisdiction. In one successful case, an NGO (Comité écologique ariégeois) asks the judge to suspend the execution of an order by which the Prefect of Ariège introduced a maximum authorized harvest and set quotas (10) for protected birds (*Lagopedus muta*) for the hunting season 2024-2025. The *Conseil d'Etat* suspended this order on the ground that, even if the quota is low, it cannot "*prevent a significant reduction in numbers, since such a reduction is likely to lead, in the long term, to the disappearance of the species concerned*" so that the order "*constitutes a serious and manifestly illegal infringement of the right to live in a balanced environment that respects health, in view of the interests that the Comité Ariège écologie association justifies defending*"[153].

7.3.2 Public Participation Good Practices

Public participation in environmental law in France can be binding according to the size and risks presented by the project or the public policy. It's regulated by "Environmental code" and relies on **the article 7 of the Charter for the environment** which has a constitutional value : *"Everyone has the right, in the conditions and to the extent provided for by law, to have access to information pertaining to the environment in the possession of public bodies and to participate in the public decision-taking process likely to affect the environment".*

The main authorities granting public participation in France are the Commissaire enquêteur – the French investigating Commissioner - since 1810, the Public Participation in Environmental Evaluation, [154]the *Conseil Economique, Social et Environnemental* (CESE) – the French Economy, Social and Environmental Council, a collegiate body set up under the French Constitution to represent civil society – since 2008 and the CNDP since 1995. The latter became an **independent administrative authority** in 2002 and it's the guarantor of the so-called environmental democracy. It's constituted by 25 permanent members representing public authorities and CSOs in the broader sense and by a pool of 300 "guarantors" that can be activated to conduct or to monitor specific and ad hoc public participation processes on projects or plans. The most binding is the public debate, led by a specific commission, the Committee on Petitions and Public Deliberations

[149] TA Paris, no. 2200534/4-1 of 29 June 2023
[150] Art. L521-2 Code de la Justice Administrative
[151] For instance, launch of work: TA Pau, 10 November 2022, n° 2202449; TA de Montpellier, 7 March 2024, n° 2401295.
[152] Conditions are emergency and a manifestly illegal infringement on a fundamental right.
[153] Conseil d'Etat, 18 October 2024, n°498333
[154] I.E. 7.1.1

(CPDP). The CPDP must respect the request, the timing, which is before the decision is made and the public enquiry starts but is quite free regarding the tools implemented for information and participation purposes. Any person involved in the CNDP and CPDP processes must sign a non-interest conflict statement and respect six values of the institution: independence, neutrality, transparency, argumentation, equality of treatment and inclusion.

The public participation legal process implemented by CNDP or the project owner have three main temporalities and roles:

- public participation as prevention meaning before the decision making through *concertation* (equivalent of public consultation) or public debate (strengthened public consultation in which processes are decided by the independent authority)
- public participation as follow-up of the decision through *concertation* (equivalent of public consultation) ensuring the access to information and public hearings lead by the Prosecutor's Office
- public participation as a permanent component of the project

The noncompliance of public participation mechanisms can lead to legal complaints and trials as it will be developed below. However, before this eventuality, the public participation mechanisms strengthen the access to information and to discussion of a project/plan, especially in public debate procedure that questions the opportunity of it. Thus, 60% of projects are modified after a public debate and some of them are abandoned such as Rhornergia (hydro plant) or *Montagne d'Or* minerie in Guyana.

Focus on 2 cases of public participation procedures

"La Mer en débat" 2024 - Updating of Façade Strategic Documents (DSF) and mapping of offshore wind farms (45GW)

A new strategic maritime planning and the high-level development of offshore wind farms proposed by the political authorities comes under the field of public participation. The CNDP was then necessarily seized and decided to implement a **"public debate"**. The CPDP created *ad hoc* was composed of X people, due to the extensive geographical realm of coastal areas and the impacts for all the country's energy and environment. The members of the CPDP were divided in 4 maritime areas, administratively defined, and had to grant:

- the project opportunity, objectives and characteristics.
- the socio-economic stakes involved, as well as their significant impact on the environment and regional planning.
- the alternative solutions, including those that cannot be implemented.
- the procedures for public information and participation after prior consultation This procedure was initially planned for a little more than a month.

The procedure took place for **4,5 months.** Difficulties started at the beginning of the debate: two DSF were missing, the commission had to ask repeatedly for them, and they arrived almost one month after the start of the events. In addition, some other problems emerged: tensions between stakeholders, especially with fishermen, cumulative effects difficult to identify, and a very large commission, with different visions of public participation , to coordinate. However, this debate is one of the biggest ever held with **21 043 participants to the 375 organized events, 20 088** written contributions and **195 506** visits of the specific tool developed for the debate «*Faites l'expérience!*». An experimental "inclusion group" was also created in partnership with the European project Phoenix. It allowed vulnerable communities to participate fully thanks to specific tools and organize **their own debates in their local communities** that gathered around **350 people**. All of these completed the online platform where stakeholders can produce a short dossier, and the large public can access information and question/answers systems.

At a national level, the main topics raised and discussed by the public were:

- The challenge of providing information and useful knowledge (on the state of ecosystems impacts of activities and cumulative effects, etc.);
- Adapting to climate change and combating land-based pollution;
- Offshore wind power: conditions for its for its development (energy planning, fishermen, ecology);
- Concerning high-protection zones: what are their specific features? (Why is the European taxonomy not used? What is the difference between protection zones and high-protection zones?);
- The key issue of governance: towards shared governance? (Articulation with spatial planning, common governance for zone protection factor and participation of stakeholders and public a posteriori regarding offshore wind farms).

CPDP issued **49 common recommendations and between 12 and 30 specific** recommendations linked to the geographical area. **The requests for responses** from the project owner, i.e. the ministers making the referral and RTE, concern:

- the land-sea link.
- the coastline.
- the place of offshore wind power and other marine renewable energies in the energy transition.
- location and connection of wind farms.
- strong protection zones and marine protected areas.
- fishing.

On the improvement of information and public participation. In particular, the commission recommended in particular:

- support institutions working to improve scientific understanding of the marine environment.
- continuing to involve the public in the decision-making process through ongoing consultation.

The **concertation continues** to ensure information and public participation a posteriori will take place from 2025 to the end of the wind farm projects, with a specific attention to mapping and inclusion of stakeholders.

Concertation on the redevelopment of the energy recovery and waste sorting site at VAUX-LE-PENIL (Smitom Lombric) – 2023

The project, led by the syndicate Smiton Lombric, involved:

- Extension of the existing Energy Recovery Unit (UVE), raising total energy recovery capacity from 137,900 to 190,900 t/year;
- New packaging sorting center capable of handling the new sorting resins resulting from the extension of sorting instructions to plastics, in place of the existing drop-off center and bulky waste sorting platform;
- Creation of a workshop for the repair and resale of electrical and electronic waste;
- Creation of a third-party food sorting facility;
- Development of a plot of land for sorting and recycling bulky items.

By law, regarding the financial cost and the nature of the project, **the syndicate was not forced to request the CNDP.** Despite that, it did anyway, probably to show good faith and gather the opinions of the local communities and stakeholders. 3 guarantors were then nominated by the CNDP to ensure that public participation would address and ensure:

- the project opportunity, objectives and characteristics.

- the socio-economic stakes involved, as well as their significant impact on the environment and regional planning.
- the alternative solutions, including those that cannot be implemented.
- the procedures for public information and participation after prior consultation.

The *concertation* lasted for 1 month and 1 week through different tools: a website with a question-and-answer section, an information kit, 4 public hearings and workshops with stakeholders. From March 13 to April 24, 2023, website traffic statistics show 969 visitors, with a total of 4,604 views and an average visit time of 3 minutes 47 seconds. 204 opinions and contributions were submitted via the participative section during the consultation period. It finally reached the face-to-face participation of 310 persons. The guarantors made their report with **10 recommendations**, noting some points but also the rather positive perception of the project, which has been carried on.

7.3.3 Lessons Learned from the EU

Environmental justice

Regarding inaction on climate change and air pollution, the existence of European standards with quantified targets has led to court rulings in France in these areas.[155] Given that general and sectoral directives on reducing CO2 emissions and air pollution are sufficiently precise with thresholds, failure to comply with them has led to the French State being held liable and / or convicted[156] with an injunction to act for the future[157] and heavy fines[158]. These obligations to achieve results at European level, with the risk of infringement proceedings initiated by the European Commission, provide an incentive framework for public policies and a sufficient legal basis to enable the courts to impose sentences and injunctions for the future, via a form of anticipatory monitoring of public policies.

As far as EIAs are concerned, French law has been affected by several important developments thanks to EU law. Firstly, there is the need to separate the authority assessing environmental impacts from the authority issuing operating permits for industrial facilities. Secondly, the content of environmental assessments had to be adapted to take account of climate issues. Finally, the geographical scope of the impact study, which must include direct and indirect effects without distinction, has made it possible to include environmental impacts that are geographically distant but essential and necessary to the operation of the facility.

Public Participation

In France, four elements contribute to effective public participation:

a) The CNDP mandatory referral[159]: Independence of the third party ensuring the access to information and public participation, that is to say to swear a non-conflict of interest, to withdraw if any conflict of interest emerged, and respect the following values: independence, neutrality, transparency, argumentation, equality of treatment and inclusion. These

[155] Concerning climate inaction : Conseil d'Etat, 2020, Commune de Grande-Synthe, Case 427301 ; Administrative Tribunal of Paris, 2021 (3 February), Association Oxfam et al, Cases 1904967, 1904972, 1904976/4-1. Concerning air pollution : Conseil d'Etat, 2017, Les Amis de la Terre, Case 394254 and Conseil d'Etat, 2021, Les Amis de la Terre, Case 428409.
[156] Administrative Tribunal of Paris, 2021 (3 February), Association Oxfam et al, Cases 1904967, 1904972, 1904976/4-1 ; 2021 (14 October), Association Oxfam et a., Cases 1904967, 1904968, 1904972, 1904976/4-1.
[157] Conseil d'Etat, 2020, Commune de Grande-Synthe, Case 427301, ECLI :FR : CECHR :2020 :427301.20201119 ; 2021, Commune de Grande-Synthe, Case 427301, ECLI :FR : CECHR:2021:427301.20210701
[158] Conseil d'Etat, 2017, Les Amis de la Terre, Case 394254 and Conseil d'Etat, 2021, Les Amis de la Terre, Case 428409.
[159] https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006074220/

obligations are listed in a Charter[160] and it is not uncommon to see people step out from their third independent party mandate because of conflict-interest or neutrality issues.

b) Accountability of Project Owner and decisions makers within the Public Debate procedure (most binding consultation): the project owners have to answer to the questions and recommendations made by the differents authorities that can be involved in a public participation process on projects or planning affecting the environment: IAE, CNDP, CPDP and the Commissaire enquêteur – the French investigating Commissioner.
c) Financing the process through the project owner for the biggest projects and plans affecting environment: the project owner -in the case of a private project- or the State/local authority -in the case of policy planning- must finance the public participation process in the case of a public debate
d) Public participation mechanism outside of the legal scope (freedom of enforcement): the project owner -in the case of a private project- can call for an independent guarantor (coming from CNDP) or implementing its own process, generally with the support of a company specialized in assistance in participatory processes.

Two more strengthen an effective information and participation only under the French case of a Public Debate:

1. Access to (balanced) information and its vulgarization of a project or a public policy planning affecting the environment.
2. Implication of independent and contradictory expertise

In France, several innovative experiments in citizen participation highlight the challenges faced in increasing the influence of the public in participation. The most recent, the Citizens' Climate Convention, was an assembly of 150 randomly selected citizens who met over eight weekends to discuss the legislative measures that the French state should adopt to enable France to achieve its European GHG reduction targets. This form of deliberative participation was a success. At the end of these discussions, citizens trained in climate issues adopted by consensus 150 measures or recommendations on subjects as diverse as motorways speed limits or the reform of environmental criminal law to introduce the concept of ecocide. At the end of this process, the Government presented the citizens' work to Parliament. Parliament finally adopted a law, the Act of 22 August 2021 to combat climate change and strengthen resilience to its effects[161], known as the "Climate and Resilience" Act, which incorporated many of their proposals. The success of this participatory process has also led to an institutional reform of the CESE. From now on, this assembly, which only has consultative powers, will also be the chamber of citizens' participation, since it can convene, spontaneously or at the request of the government, conventions of citizens chosen by lot.[162] In addition, since the adoption of these two laws, many other citizens' or residents' conventions have been mobilized at a local level to support environmental policies.

These so-called "mini publics" reflect a renewed interest in organizing deliberations to involve the public in resolving what are often highly charged controversies in environmental policy. The mini public formula has a few advantages over traditional participatory processes. Firstly, in most cases the composition of the public drawn is weighted to be representative of the general population. In this way, the sample can have the same proportion of women, minorities and socio-professional categories as the general population. Next, the mini public is put in a position to collectively construct a common opinion, after each person has been able to express his or her preferences and has heard those of others in a discussion. In other words, it's not just about

[160] https://www.debatpublic.fr/sites/default/files/2024-02/DECISION_2024_28_CHARTE_MEMBRES_CNDP_1%20Sign%C3%A9%20MP.pdf

[161] Act no. 2021-1104 of 22 August 2021 to combat climate change and strengthen resilience to its effects

[162] Organic Law 2021-27 of 15 January 2021 on the Economic, Social and Environmental Council

expressing an opinion, it's about getting people to change their initial preferences as part of a discussion process.[163]

However, these systems also raise several questions:

- The first question concerns their relationship with other representatives of civil society: what place should be given to NGOs, associations and trade unions in the context of these systems?
- The second question concerns the link between these mini-publics and the public: how can we ensure that these mechanisms involve all members of the public, not just those who have participated in the discussion? Initiatives in Iceland and the United States, for example, involve linking these systems to referendums:
    - Access to (balanced) information and its vulgarization
    - Implication of independent and contradictory expertise (only in Public Debate)
    - Integration but also conflicts between climate deregulation and biodiversity.

[163] like by the creation for example, of safe spaces for dialogue, where women and vulnerable groups can discuss concerns and propose solutions

8. GENDER AND VULNERABLE GROUP INCLUSION

8.1 Barriers to Access

The main vulnerable communities are the following:

- Roma communities: facing similar challenges as in Albania, these groups endure discrimination, limited access to services and substandard living conditions.
- Women: persistent gender inequalities manifest in lower employment rates, wage disparities and underrepresentation in decision-making positions.
- Youth: high unemployment rates and limited opportunities contribute to their vulnerability, often leading to migration in search of better prospects.

Major systemic cultural, economic, and institutional barriers hinder women's and marginalized groups' participation in environmental decision-making and access to justice in North Macedonia are listed below.

8.1.1 Gender-Based Violence and Inequality

High rates of violence: Gender-based violence (GBV) is prevalent in **North Macedonia,** nearly 1 in 3 women experience violence in their lifetime and politically active women face even greater risks both online and offline.[164] There has been a **61%** increase in the number of domestic violence complaints received in 2022 compared to 2018.[165] **92%** of all domestic violence perpetrators are men.[166]

Despite existing laws against domestic violence, **protective measures are often inadequate**, and public support for victims remains low due mainly to a general lack of relevant administrative data on violence against women and domestic violence, such as the **absence of information** on the gender of the victim and perpetrator in police-recorded crime data.[167]

Low Legal Literacy: Many women lack awareness of their legal rights, particularly concerning gender-based violence and discrimination, which limits their ability to seek justice and protection effectively.[168]

Weak enforcement of protection measures: Although the country has ratified the Istanbul Convention[169] and adopted laws such as the Law on Prevention and Protection from Domestic Violence, implementation is inconsistent. Services for victims of gender-based violence require significant improvement, and there is a lack of systematic gender-responsive procedures tailored to female victims.[170]

8.1.2 Institutional Gaps

While North Macedonia has made progress in aligning its legal framework with international gender equality standards, challenges persist in effective enforcement.

[164] https://www.ndi.org/our-stories/combating-violence-against-women-politics-north-macedonia
[165] https://eca.unwomen.org/en/digital-library/publications/2024/03/infographic-treading-the-elusive-path-to-justice-in-north-macedonia#view
[166] https://eca.unwomen.org/en/digital-library/publications/2024/03/infographic-treading-the-elusive-path-to-justice-in-north-macedonia#view
[167] https://kvinnatillkvinna.org/about-us/where-we-work/europe/north-macedonia/?
[168] https://eca.unwomen.org/sites/default/files/2023-09/unw_cgep_nmk_eng_web.pdf
[169] https://rm.coe.int/1680084840
[170] https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_693%20North%20Macedonia%20report.pdf?

Politics are male dominated. Many women do not vote, and at the municipal level of government, only 6 out of 81 Mayors are women, which accounts for only 7% of Mayoral positions in the country.[171]

8.1.3 Economic and Employment Barriers

Economic dependence and unemployment: Women's participation in the labor force is lower than men's, with significant gender employment gaps. Indeed, **In North Macedonia, the labor force participation rate among females is 42.6% and among males is 62.8% for 2023.**[172]

North Macedonia's Roma population, the country's poorest community, has long been marginalized. **87% of the country's Roma live in material deprivation** compared to 55% among the non-Roma population and Roma children are three times more likely to grow up in poverty in North Macedonia.[173] In addition, there are difficulties in accessing sanitary housing, which ECRI[174] has highlighted in its new strategy for Roma, placing them in a situation of extreme vulnerability. Unemployment remains particularly high among Roma women, with just 8% formally employed.

Structural barriers, such as limited access to childcare and persistent wage disparities, hinder women's economic independence.[175]

8.1.4 Barriers to Environmental Justice

Limited access to resources and energy Poverty:
The significant **energy poverty** in North Macedonia is a particular challenge on the way to shaping a sustainable low-carbon society and adapting energy and climate protection regulations as part of the EU accession process.[176] **An estimated 24% of the North Macedonian population is increasingly unable to meet their own energy needs**, and yet this group is not sufficiently represented in decision-making processes, nor are there enough measures tailored to their needs.
Women often have limited access to environmental resources and are underrepresented in decision-making processes related to environmental matters.[177] This exclusion hampers their ability to participate fully in environmental governance and access justice in environmental issues.

8.1.5 Education and Awareness Gaps

Gender bias in education systems: The most significant difference in enrolment is visible in **higher education**, with consistently higher numbers for women. For example, in 2021, 59 per cent of the students enrolled in higher education were women.[178] **Disparities emerge** at higher education levels and in certain fields of study. **Gender stereotypes** persist, influencing educational choices and limiting opportunities for women in Science, Technology, Engineering, and Mathematics fields.[179]

[171] https://kvinnatillkvinna.org/about-us/where-we-work/europe/north-macedonia/?
[172] https://liveprod.worldbank.org/en/economies/north-macedonia
[173] https://www.worldbank.org/en/country/northmacedonia/brief/improving-access-to-services-and-economic-opportunity-for-north-macedonia-s-roma
[174] https://rm.coe.int/sixieme-rapport-de-l-ecri-sur-la-macedoine-du-nord/1680ac8c48
[175] https://www.osce.org/files/f/documents/c/5/500983.PDF?
[176] https://www.dbu.de/en/projektbeispiele/empowering-energy-vulnerable-citizens-by-establishing-energy-communities-in-north-macedonia/
[177] https://data.unwomen.org/country/north-macedonia
[178] https://eca.unwomen.org/sites/default/files/2023-09/unw_cgep_nmk_eng_web.pdf
[179] Ibid

8.2 Inclusion Strategies

Implementing these strategies can contribute to reducing gender disparities and enhancing the inclusion of vulnerable populations in North Macedonia's justice and participation mechanisms, consider the following steps:

8.2.1 Gender-responsive Approaches and Inclusion in Environmental Justice (Comp. 1)

Outcome: Enhanced access to environmental justice through inclusive governance, capacity building and improved legal frameworks.

Key Strategies

1. Identify vulnerabilities among women, youth and rural populations:
   - Realization of assessments, workshops and reports.
2. Capacity building with gender-sensitivity training:
   - Provide mandatory gender-sensitive training for legal professionals, judges and law enforcement officers to handle environmental cases involving vulnerable groups.
   - Focus on addressing unconscious bias, gender-based violence and discrimination.
3. Improve access to legal remedies for vulnerable groups:
   - Strengthen legal aid and advocacy services tailored to the needs of women and marginalized communities.
   - Develop simplified procedures for vulnerable groups to report environmental violations and access justice.
4. Promote inclusive reporting channels:
   - Ensure reporting systems are accessible to illiterate or digitally excluded populations.
   - Provide multilingual and culturally appropriate materials for Roma and rural communities.
5. Strengthen institutional coordination on gender equality:
   - Collaborate with national gender equality bodies to monitor cases involving vulnerable populations.
   - Ensure enforcement of gender-responsive laws and international frameworks (e.g., the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)[180], Istanbul Convention[181]).

8.2.2 Gender and Inclusion in Public Participation for Environmental Decision-Making (Comp. 2)

Outcome: Strengthened public participation practices through inclusive decision-making processes.

Key Strategies

1. Empower marginalized voices in decision-making:
   - Establish quotas for women and representatives of vulnerable groups (e.g., Roma, youth and rural residents) in local decision-making processes.
   - Support community-led environmental initiatives through participatory methods such as focus groups and forums.
2. Tailor outreach campaigns to vulnerable groups:

[180] https://www.un.org/womenwatch/daw/cedaw/cedaw.htm
[181] https://rm.coe.int/1680084840

- Use targeted communication tools such as radio, social media and community meetings to reach rural and marginalized populations.
- Create gender-sensitive and accessible information about environmental policies and rights.

3. Enhance education and awareness programs:
   - Develop informal and non-formal educational programs to increase legal literacy and environmental awareness, especially for women and youth.
   - Collaborate with schools and NGOs to mainstream gender and inclusion in environmental education.
4. Improve consultation tools and feedback mechanisms:
   - Design culturally appropriate consultation tools and surveys to gather input from vulnerable communities.
   - Ensure follow-up mechanisms to address their feedback and concerns transparently.
5. Promote partnerships with women's organizations:
   - Engage women-led CSOs to advocate for gender-inclusive policies and amplify the voices of underrepresented groups.

8.2.3 Inclusive Civic Engagement and Grassroots Advocacy in Environmental Justice (Comp. 3)

Outcome: Strengthened civic engagement through grants and participatory approaches targeting vulnerable groups.

Key Strategies

1. Establish gender-inclusive grant schemes:
   - Prioritize funding to grassroots organizations working with vulnerable populations, including women, Roma, and rural communities, to address environmental justice issues.
   - Include criteria to assess the gender impact of grant proposals and require gender-responsive action plans.
2. Support women's and youth leadership in environmental justice:
   - Provide training and mentoring programs to empower women and youth as environmental advocates.
   - Promote success stories of women-led environmental initiatives to inspire broader participation.
3. Facilitate community forums and networks:
   - Create platforms for women and vulnerable groups to share knowledge, voice concerns and influence policies.
   - Support coalitions that connect marginalized communities to policymakers and legal professionals.
4. Develop monitoring tools to track inclusion progress:
   - Implement gender-disaggregated data collection and reporting systems to measure participation and representation in project activities.
   - Regularly assess the impact of interventions on vulnerable groups and adjust strategies based on findings.

9. RECOMMENDATIONS

9.1 Environmental Justice Recommendations

9.1.1 Amendment of Legislation

Amending Environmental Legislation

The AC sets the objective of enabling wide access to justice in environmental matters in article 9. This report provides an in-depth analysis of specific environmental legislation provisions emphasizing the legislative barriers that are expectedly hindering effective access to justice in environmental matters. Consequently, amendments of the Law on Environment and the Law on Waters should be adopted, more specifically:

- Amendments of the provisions related to the environmental reports in view of providing some form of mandatory publishing of information and public participation prior to the approval of the report as well as a clear provision on access to justice relating to the decision to approve the report.
- Amendments of the provisions related to the SEA procedure in light of specifying the moment when the deadline to submit an appeal against the decision of the MoEPP starts.
- Amendments of the provisions related to the EIA procedure in light of providing a longer deadline to submit an appeal against the scoping decision and the submission of an appeal where the final decision on the EIA study hasn't been published.
- Amendments of the provisions related to the Integrated environmental permits in light introducing the suspenseful effect of the appeal against the decision for the A-integrated environmental permit and the start of the deadline for submitting the appeal against the decision for the B-integrated environmental permit
- Amendments of the provisions related to water permits in light of mandatory publication of the decision for issuing the permit and specifying clearly the right to an appeal against the decision including its suspenseful effect.

Amending Procedural Legislation

Taking into consideration the analysis provided in this report as well as the focus group discussions and interviews, the need to amend procedural legislation or adopt special procedural provisions in the environmental legislation is crucial to have effective environmental justice.

More specifically there is a need either to amend the Law on General Administrative Procedure or to introduce special provisions in the environmental legislation that would stipulate shorter deadlines to decide upon a submitted appeal. Amendments reflecting the identical intention should also be reflected in the Law on Administrative Disputes. These amendments would positively influence the effectiveness of the protection of the right to public participation and environmental protection in general.

Improving environmental protection and strengthening the role of the judiciary in that sense would expectedly be achieved by amending the Law on Civil Procedure to

- introduce the *actio popularis* lawsuit in the field of environmental degradation and human rights;
- shift the burden of proof to the polluter; and
- prescribe urgent deadlines for deciding upon submitted environmental lawsuits to the courts.

Considering the challenge of the authorization of the Basic public prosecutor's office for prosecuting organized crime and corruption and the specialized court department established in the Basic Criminal Court Skopje harmonization between the Law on Public Prosecutors and the Law on Courts is needed.

The general stance of the Supreme Court adopted in October 2024 aims to establish jurisdiction of the Administrative Court in case of failure of state institutions to prepare and/or adopt certain strategic documents in the field of environment thus violating the right of healthy environment prescribed in the Constitution. However, this stance is mainly based on special provisions which existed in the previous Law on Administrative Disputes which are no longer in force, while these provisions are not included in the existing Law on Administrative Disputes. Considering this, as well as the ongoing debates related to the question which court should have the jurisdiction to decide on cases related to environmental degradation *vis-à-vis* human rights violations, amendments of the existing Law on Administrative Disputes may be needed, especially on determining clear jurisdiction of the Administrative Court to deal with cases regarding the adoption of strategic documents by state institutions.

9.1.2 Improving Capacities for Publishing Environmental Decisions and Documents

The discussions that took place during the focus group, validation workshop and the interviews revealed a lack of capacities relating to digital literacy and skills, reliable and safe digital systems and sufficient number of IT employees in the MoEPP for timely and regular publication of environmental decisions and documents on MoEPP's website.

Since every deadline to appeal environmental decisions depends on the moment of the publication of the decision, any shortcoming related to the moment of the publication of those decisions affects the effectiveness of the legal remedies and the legal response toward environmental protection.

Consequently, increased funding, continuous training related to digital skills, and a raise in the number of IT employees in the MoEPP is crucial for effective environmental protection through the use of legal mechanisms. Creating a centralized platform where every environmental decision/document would be published would only further improve and ease access to justice in environmental matters.

9.1.3 National and Regional Expert Legal Debates, Counseling and Events

The case studies presented and analyzed in chapter 5.3 of this report show different challenges related to interpretation of the national legislation. The ongoing debates related to the general stance of the Supreme Court adopted in October 2024 show that the question of court jurisdiction is not resolved and further discussions are needed. The same conclusion could be reached from the discussions on the focus group and the validation workshop.

Public prosecutors identify the need for technical legal debates related to environmental provisions and consider this crucial for proper legislation implementation. Sharing best regional practices and experience would be beneficial in situations where limited case law and practice exist in the Republic of North Macedonia.

Considering the above, the organization of national and regional events where legal professionals could discuss on the intention of specific provision and legislation relating to environment as well as share their experience on dealing with cases related to environment would benefit the region and the Republic of North Macedonia in several aspects:

1) clarify the intention and purpose of the specific provisions and defining soft law guidelines for proper interpretation and implementation;
2) create unified interpretation and implementation of environmental legislation which in some degree is similar in every country across the region;

3) increase the knowledge on international environmental legislation and creating unified interpretation and implementation of it in national context and situations; and
4) establish and strengthen communication and cooperation between relevant institutions from different countries.

Considering that Macedonian public prosecutors identify lack of inter-institutional channels of communication between different national stakeholders including environmental inspectors on these events would be an added value and expectedly lead to overcoming the lack of communication.

9.1.4 Trainings for Judges and Public Prosecutors

Information gathered in the process of preparing this report shows that training possibilities on environmental legislation is limited. In parallel, there is low interest among judges and public prosecutors for the training that has been organized. It can further be noted that the training organized on environmental legislation did not cover the specific aspects of the AC and its standards for wide access to justice.

Considering that different stakeholders identify the lack of training on environmental legislation as one of the key challenges in effective environmental protection through legal mechanisms, implementing activities in this regard are needed. The training for the judiciary should put special focus on AC access to justice standards.

Implementing this recommendation should be done with close coordination with other donors in order to avoid overlapping since the Delegation of the European Union, Council of Europe and the United Nations Development Programme are already implementing or planning to implement certain activities related to training to the judiciary.

9.1.5 Increasing the Funds for Implementing Environmental Legislation

In the process of preparing this report, various stakeholders (public prosecutors, MoEPP, inspectors) identified lack of funds as one of the key challenges preventing sufficient environmental protection. This report notes and refers to documents prepared by international organizations that identify the lack of judges and public prosecutors as key challenges in rule of law.

Lack of employees in the respective institutions and lack of equipment seriously impacts the environment and leads to increased environmental pollution. Having this in mind, increased funding not only to increase the number of employees in the respective institutions but also for example for equipment, experts, infrastructure etc. is needed.

9.1.6 Discussions on Systematic Changes in the Governance System

Specialization of police officers, public prosecutors and judges was suggested as a solution to increase the effectiveness of environmental protection. However, it was noted that due to lack of public prosecutors and judges' specialization in the judiciary this would not be feasible in short-term or mid-term.

Furthermore, it was noted in this report that although the State Environmental Inspectorate is an independent institution responsible for inspection oversight over the implementation of the environmental legislation on central level, it is formally an institution within the MoEPP. On the other hand, although the local environmental inspectors are independent in performing

inspection oversight over the implementation of the environmental legislation on local level, they are formally part of the administration within the municipalities.

Moreover, financial independence of the judiciary and inspectors can be questioned since the Ministry of Finance has to approve every decision having fiscal implications (for example for employing new inspectors).

Taking into consideration the above, broad discussions for the introduction of systemic changes in the governance system should take place. Implementation of this recommendation should be done in close coordination with other donors since the European Union had previously in 2021 supported a project for reforming the state governance system while other donors have also planned on undertaking activities relating specifically to environmental governance.

9.2 Public Participation Recommendations

9.2.1 Strengthening of Legal and Policy Framework

Amending the Law on Environment to include detailed provisions for public consultation standards is essential to enable meaningful engagement of the public in environmental decision-making processes. Currently, there are legal frameworks that mandate public participation, but these frameworks lack specificity, creating inconsistencies in implementation and undermining the effectiveness of consultations. Codifying public consultation standards would address these gaps and enhance the quality of public engagement.

One key aspect of this amendment would involve the inclusion of mandatory timelines for public participation in SEAs and EIAs. At present, the timelines for public input are often ambiguous, with some consultations allowing insufficient periods for stakeholders to review complex environmental reports and submit informed comments. By mandating specific and reasonable timelines, such as a minimum of 30 days for public review with the possibility to extend this period, the law would ensure that all interested parties have adequate time to analyze documentation and articulate their perspectives. This provision would align North Macedonia's practices with international standards, including those outlined in the AC.

The amendment should also establish standardized formats for public notifications to ensure consistency and accessibility. Public notices often vary in their content and presentation, with some failing to provide critical details such as project descriptions, potential environmental impacts, or instructions for submitting feedback. This inconsistency can confuse stakeholders and deter meaningful participation. Standardized notification formats, detailing the essential information that must be included—such as timelines, venues for hearings, and avenues for written submissions—would create a predictable and user-friendly process for both the public and implementing agencies.

Explicit requirements for public participation in SEA and EIA processes are another demanding element. While public consultations are a legal obligation in these assessments, the lack of clarity on how they should be conducted leads to tokenistic engagement. The law should specify the stages at which public consultations are required, the methods to be employed (*e.g.*, public hearings, online consultations, or surveys), and the expectations for documenting and addressing public input. This clarity would ensure that consultations are substantive rather than procedural formalities, empowering stakeholders to influence decision-making meaningfully.

Furthermore, codifying these standards would provide a stronger legal basis for holding authorities accountable. Municipalities, institutions, and project holders/investors would be

compelled to adhere to clear guidelines, reducing the risk of arbitrary practices or non-compliance. For instance, failure to meet the notification or consultation requirements could trigger administrative reviews or legal challenges, thereby incentivizing compliance and promoting better governance.

9.2.2 Harmonization of Municipal Practices

Establishing uniform guidelines for municipalities on the conduct of public consultations is a big step forward to ensure consistency, transparency, and inclusivity in environmental decision-making across North Macedonia. While municipalities are mandated to facilitate public participation under various legal frameworks, the lack of standardized practices has resulted in significant disparities in how consultations are conducted. This inconsistency undermines public trust and limits the effectiveness of participation mechanisms. By harmonizing municipal practices through clear and enforceable guidelines, the government can create a fair and predictable system that benefits both authorities and citizens.

One of the key components of these guidelines should be **minimum requirements to notify the public** about upcoming consultations. Currently, public notifications vary widely in content, format, and dissemination methods, making it difficult for stakeholders to access timely and relevant information. Uniform guidelines should specify the essential elements of public notices, such as project descriptions, potential environmental impacts, timelines, venues for consultations, and instructions to submit feedback. Additionally, the guidelines should mandate the use of multiple communication channels, including municipal websites, local media, and public bulletin boards, to ensure broad accessibility.

9.2.3 Further Alignment and Harmonization with Directive 2014/52/EU

Further harmonizing North Macedonia's environmental assessment processes with EU Directive 2014/52/EU shall be carried out toward aligning national practices with European standards, particularly in addressing the environmental priorities such as biodiversity conservation, climate change mitigation, and resource efficiency. The directive emphasizes the need for a comprehensive and integrated approach to EIA to ensure that environmental considerations are fully integrated into decision-making processes.
One of the updated directive's key focuses is the thorough assessment of biodiversity impacts, especially concerning protected areas and species. To achieve this, North Macedonia should update its legal framework and EIA processes to:

- Require detailed baseline studies on biodiversity at the project site and its surrounding areas, including inventories of flora and fauna, habitats, and ecological connectivity.
- Mandate specific measures to assess potential impacts on protected areas, such as Natura 2000 sites, and species of community interest.
- Integrate mitigation hierarchies (avoid, minimize, restore, offset) into project planning, ensuring that irreversible impacts on biodiversity are minimized or compensated for appropriately.
- Expand public consultation requirements to include biodiversity experts and conservation organizations, providing them with a platform to contribute to assessments.

The directive also stresses the importance of evaluating projects' contributions to greenhouse gas emissions and their resilience to climate change. With this regard, North Macedonia's alignment efforts should focus on:

- Including climate risk assessments as a mandatory component of EIA studies, addressing how projects may exacerbate or adapt to climate-related risks such as flooding, droughts, or extreme weather.
- Requiring greenhouse gas inventories for projects, with thresholds for emissions necessitating additional scrutiny or offset measures.

- Encouraging renewable energy developments while ensuring that these projects also meet rigorous environmental standards to prevent adverse impacts on ecosystems or local communities.
- Incorporating life-cycle assessments to evaluate the carbon footprint of projects comprehensively, from construction to decommissioning.

In addition, the Directive calls on promoting resource efficiency and to align with EU priorities in line with the sustainable development goals. In this sense, harmonization should include:

- Embedding circular economy principles into project design and operation, emphasizing resource reuse, recycling, and waste reduction.
- Mandating water and energy efficiency audits as part of the EIA process, ensuring that projects minimize resource consumption and adopt best practices.
- Establishing monitoring frameworks to track resource use throughout the project lifecycle, with adaptive management strategies to address inefficiencies.

Finally, harmonization efforts will require investments in institutional capacity and inter-institutional coordination by providing training of EIA professionals and regulatory staff on EU-compliant assessment methodologies, with a focus on biodiversity, climate change, and resource efficiency. The competent ministry, i.e., MoEPP, shall facilitate cross-sectoral collaboration, ensuring that institutions responsible for environment, energy, transport, and urban planning work together to align afore-stated policies and practices. Last but not least, it should be considered to leverage EU funding mechanisms to support capacity-building efforts and the implementation of aligned EIA policy.

9.2.4 Enhancing of Access to Information

Access to accurate and timely information is a prerequisite for effective public participation in environmental decision-making. Strengthening mechanisms to ensure that information is widely accessible not only fulfills international obligations, such as those under the AC, but also enhances transparency and trust between stakeholders and institutions.

9.2.5 Online Data Platform

The introduction/development of a unified, centralized online platform is essential to consolidate and disseminate information related to environmental decision-making processes and shall be the ultimate goal for the governing institutions. This platform should serve as a comprehensive hub, publishing all relevant documents, including notifications, consultation schedules, EIAs reports, SEA decisions, and final permits. To enhance accessibility and usability, the platform should include a searchable database that allows users to filter information by project type, geographic area, or timeline, enabling citizens, experts, and stakeholders to efficiently locate pertinent information. Additionally, the platform should incorporate automated alerts to notify users about new publications, upcoming public consultations, or changes to project statuses, ensuring that stakeholders remain informed in real-time. To facilitate active participation, the platform should offer feedback mechanisms, such as comment submission portals, allowing stakeholders to contribute directly and conveniently to the decision-making process. Furthermore, providing multilingual support is crucial to accommodate diverse linguistic groups, fostering inclusivity and ensuring equitable access to information for all members of the public.

9.2.6 Standardization of Municipal Websites

To enhance the role of municipalities in disseminating local environmental information and facilitating public participation, it is essential to standardize municipal websites. Standardized

website templates should be developed to ensure clarity and uniformity, with dedicated sections for environmental consultations, public notices, and decision updates. These templates should be designed to be visually accessible and include intuitive navigation, catering to users of varying digital literacy levels. Additionally, technical support should be provided to municipalities, particularly those with limited resources, to ensure their websites are regularly updated and comply with national standards. To maintain consistency and transparency, municipalities should adopt uniform publication practices for environmental documents, ensuring that notifications and consultation details are published in a standardized format across all local government websites. This approach will require the adoption of appropriate secondary legislation which will amend the current laws. By doing so, a more cohesive and user-friendly system will be created, empowering citizens to engage effectively in environmental decision-making processes at the local level.

9.2.7 Promotion of Open-Data Practices

To enhance transparency and public engagement, robust open data policies should be promoted in line with the national efforts for digitalization of public services. These policies must mandate public access to environmental data, such as monitoring reports, assessments, and policy documents, in open data-readable formats. Such formats enable independent analysis by researchers, NGOs, and interested citizens, fostering greater accountability and innovation in environmental management. Proactive disclosure of environmental information should be encouraged, reducing reliance on formal information requests and ensuring timely access for stakeholders. Additionally, clear guidelines for data anonymization are necessary to balance public accessibility with the protection of sensitive personal or proprietary information. Integrating open data portals into a centralized digital platform will further streamline access, linking datasets with relevant EIA and SEA reports to provide comprehensive context. This approach will not only improve the accessibility of environmental data but also strengthen informed public participation in environmental decision-making processes.

9.3 Improve Public Awareness and Engagement

Launching comprehensive awareness campaigns would improve public awareness and educate the public about their rights to access information and participate in decision-making processes. These campaigns should utilize diverse media platforms, including television, internet, social media, and community workshops, as well as disseminate informational brochures in easily understood formats. Special attention must be given to engaging marginalized groups often excluded from these processes, such as rural populations, youth, and minority groups. Targeted outreach programs tailored to the unique needs and challenges of these communities can foster inclusivity and ensure broader participation.

9.4 Capacity Building and Professional Support

Regular training workshops should be organized for municipal officials, focusing on best practices for conducting public consultations, responding constructively to public feedback, and maintaining transparency throughout the decision-making process. These workshops will equip municipal staff with the necessary skills to engage effectively with citizens and other stakeholders.

Additionally, CSOs should play a partner role in bridging the gap between the public and decision-makers. With this regard, appropriate funding and technical assistance to CSOs need to be

provided in order to enhance their ability to act as intermediaries, ensuring that community interests are represented and advocated for in environmental governance.

9.5 Project Roadmap

9.5.1 Strategic Vision and Goals

The Project on Climate and Environmental Justice Convergence in the Western Balkans, financed by the Agence Française de Développement (AFD) and implemented by Expertise France (EF) seeks to improve access to justice and effectiveness of citizen participation in the field of environmental justice, thereby contributing to convergence towards European standards in Albania, North Macedonia and Montenegro. By aligning legislative, institutional, and participatory frameworks with EU legal framework and international conventions such as the AC, the CEJ Convergence Project aims to support these countries in achieving transparent, inclusive, and effective environmental governance while facilitating their EU accession processes and aligning with EU standards under Chapter 27 of the *acquis communautaire* and develop a high level of environmental protection.

9.5.2 Priority Actions and Timeline

Strengthening capacities of legal professionals (2024-2026)
During the Project's 30-month duration, significant efforts will focus on creating a common understanding and coordination in environmental justice, supported by strengthened capacities of legal professionals and improved reporting channels. Additionally, accessible legal remedies will be developed to address systemic gaps.

Public Participation Enhancement (2024-2026)
Public participation practices in environmental decision-making will be strengthened by analyzing existing mechanisms and refining local engagement tools in two municipalities, one in Albania and one in North Macedonia. Local-level consultation tools will be developed based on community needs, ensuring more effective and inclusive participatory processes that align with EU standards.

Civic Engagement and Community Empowerment (2025-2026)
Civic engagement will be advanced by empowering civil society coalitions through grants. These grants will enable organizations to support local communities in accessing environmental justice and participating in decision-making processes. The grant schemes, implemented in Albania and North Macedonia, will also ensure that gender considerations are integrated into all activities. As a Cross-Cutting theme, the CEJ Convergence Project will assist the project's stakeholders in integrating inclusive practices and promoting gender balance in environmental governance frameworks.

9.5.3 Main Project Components

Component 1: Access to Environmental Justice
The CEJ Convergence Project will enhance access to environmental justice by fostering a coordinated governance system across the three targeted countries. Legal professionals will receive specialized training to navigate environmental cases, while improved reporting channels and accessible legal remedies will empower communities to seek justice effectively.

Component 2: Public Participation in Environmental Decision-Making
In Albania and North Macedonia, local authorities' capacities to facilitate public participation will be strengthened. An analysis of local public participation mechanisms will guide the refinement of engagement tools, ensuring they address the needs of communities and encourage meaningful consultation in policy-making processes.

Component 3: Civic Engagement in Environmental Justice
To promote active civic engagement, the CEJ Convergence Project will provide grants to CSOs in Albania and North Macedonia. These grants will enable CSOs to advocate for environmental justice, support local communities in addressing environmental challenges, and foster inclusive and gender-sensitive approaches to participation.

9.5.4 Implementation Framework

Budget and Funding: The CEJ Convergence Project is financed by the Agence Française de Développement with a total budget of 2 million EUR.
Duration: Running from June 2024 to December 2026, the project includes an inception phase (June – December 2024), during which an assessment of environmental justice in the three targeted countries has been conducted.
Project Office: Based in Tirana, Albania, the project office will coordinate implementation efforts and serve as a hub for collaboration among stakeholders in the region.

9.5.5 Key Outcomes and Success Metrics

Short-Term Outcomes (2024-2025)
- Comprehensive assessment of environmental justice systems in Albania, North Macedonia, and Montenegro.
- Enhanced understanding of governance structures and legal frameworks for environmental justice.

Mid-Term Outcomes (2025-2026)
- Improved access to justice on environmental and climate matters and better application of the law. Completion of training programs for legal professionals and use of the legal tools.
- Strengthened capacities of local authorities to encourage citizen participation in environmental issues and take it fully into account in decision-making and investments in two targeted countries (Albania, North Macedonia). Implementation of refined public participation tools in targeted municipalities.
- Enhanced environmental participatory approach achieved by encouraging individuals to exercise their rights and actively participate in two of the targeted Countries: Albania and North Macedonia. Establishment of functioning grant schemes to empower CSOs and communities.

Long-Term Outcomes (Post-2026)
- Improved alignment of environmental governance systems with EU directives.
- Strengthened cross-border cooperation and convergence with European standards in environmental matters.

ANNEXES

Annex I: Environmental Justice Stakeholder Mapping and Roles

Governmental Agencies and Institutions

1. Ministry of Environment and Physical Planning (MoEPP): Responsible facilitating public participation and overall implementation of the environmental legislation, identifying challenges in the environmental legislation implementation process and drafting amendments or new environmental legislation
2. Ministry of Justice: Oversees the implementation of the legislation related to the judiciary and prepares amendments or new legislation for establishing effective and efficient protection of rights.
3. Agency for Protection of the Right to Free Access to Public Information: Implements activities for promotion, reaffirmation and improvements of the right to access to public information and decides upon appeals for failure to exercise the right to access to public information
4. Ombudsman: Independent body addressing environmental rights violations, promoting transparency, and advocating public involvement.
5. Local Self-Government Units: Implement environmental policies on local level, manage waste and urban planning, and facilitate community participation in decision-making.
6. Assembly of the Republic of North Macedonia: Supervises the executive branch of government in the system of checks and balances, adopts and amends environmental legislation and policies.

Judiciary and Enforcement

1. Courts: Handle administrative, criminal, and civil environmental cases, including violations and compensation for damages.
2. Prosecution Office: Investigates and prosecutes environmental crimes, ensuring proper legal action and collaboration with law enforcement.
3. Academy for Judges and Public Prosecutors: Responsible for the overall education of the judiciary (judges and public prosecutors) and conducts the initial training for candidates for judges and public prosecutors.
4. SEI: Performs inspection oversight over the implementation of environmental legislation on central level, issues misdemeanor acts and initiates misdemeanor proceedings before the courts.
5. Local Environmental Inspectors: inspectors within the municipalities responsible for performing inspection oversight over the implementation of environmental legislation on local level.
6. State Commission for decision-making in administrative proceedings and employment proceedings in the second degree: Decides upon submitted appeal from the public, public concerned or investors related to decisions adopted under the environmental legislation.
7. Ministry of Internal Affairs (police): Investigative body which protects the legal order, prevents and detects performed criminal acts and takes measures for investigating performed crimes upon an order by a public prosecutor or ex officio.

Non-Governmental Organizations

NGOs advocate for environmental justice, conduct research, and promote community engagement. They support transparency, monitor government actions, and collaborate with stakeholders to address challenges.

Universities and Academia

Academic institutions contribute through research, education, and partnerships, providing expertise on environmental governance, law, and policy reform.

Media

The media raises awareness, exposes environmental violations, and fosters public discourse, ensuring accountability and transparency in environmental governance.

International Organizations

Organizations like the EU, UNDP, OSCE, and World Bank support North Macedonia with funding, capacity-building, and alignment with international environmental standards.

Business Community

Businesses comply with environmental regulations and contribute to sustainable development through innovation and corporate responsibility. Collaboration with government agencies fosters progress in managing environmental challenges.

Annex II. List of Analyzed Legal Acts, Court Rulings, and Policy Documents

Macedonian national legislation and policies

- Constitution of the Republic of North Macedonia.
- Criminal Code (Official gazette of the Republic of Macedonia no. 37/1996, 80/1999, 4/2002, 43/2003, 19/2004, 81/2005, 60/2006, 73/2006, 7/2008, 139/2008, 114/2009, 51/2011, 135/2011, 185/2011, 142/2012, 166/2012, 55/2013, 82/2013, 14/2014, 27/2014, 28/2014, 41/2014, 115/2014, 132/2014, 160/2014, 199/2014, 196/2015, 226/2015, 97/2017 and 248/2018 and Official gazette of the Republic of North Macedonia no. 36/2023 and 188/2023)
- Decree about the activities for which an environmental report must be prepared which is approved by the authority for performing professional work in the field of the environment (Official gazette of the Republic of Macedonia no. 80/2009, 36/2012 and Official gazette of the Republic of North Macedonia no. 233/2022)
- Decree about the activities for which an environmental report must be prepared which is approved by the mayor of the municipality, the mayor of the city of Skopje or the mayor of the municipality within the city of Skopje (Official gazette of the Republic of Macedonia no. 80/2009, 36/2012)
- Decree about the strategies, plans and programs, including changes to those strategies, plans and programs, for which a procedure for assessing their impact on the environment and on the life and health of people must be carried out (Official gazette of the Republic of Macedonia no. 153/2007 and 45/2011)
- Decree for the determination of the projects and the criteria on the basis of which the need to conduct the EIAs procedure is determined (Official gazette of the Republic of Macedonia no. 74/2005, 109/2009, 164/2012, 202/2016 and Official gazette of the Republic of North Macedonia no. 175/2022)
- Law on administrative disputes (Official gazette of the Republic of North Macedonia no. 96/2019)

- Law on administrative disputes (Official gazette of the Republic of North Macedonia no. 96/2019)
- Law on ambient air quality (Official gazette of the Republic of Macedonia no. 67/2004, 92/2007, 35/2010, 47/2011, 59/2012, 163/2013, 10/2015 and 146/2015 and Official gazette of the Republic of North Macedonia no. 151/2021)
- Law on civil procedure (Official gazette of the Republic of Macedonia no. 79/2005, 110/2008, 83/2009, 116/2010 and 124/2015)
- Law on courts (Official gazette of the Republic of Macedonia no. 58/2006, 62/2006, 35/2008, 150/2010, 83/2018 and 198/2018 and Official gazette of the Republic of North Macedonia no. 96/2019)
- Law on criminal procedure (Official gazette of the Republic of Macedonia no. 150/2010, 100/2012, 142/2016 and 198/2018)
- Law on Environment (Official gazette of the Republic of Macedonia no. 53/2005; 81/2005; 24/2007; 159/2008; 83/2009; 48/2010; 124/2010; 51/2011; 123/2012; 93/2013; 187/2013; 42/2014; 44/2015; 129/2015; 192/2015; 39/2016 и 99/2018 and Official gazette of the Republic of North Macedonia no. 89/2022 и 171/2022)
- Law on extended producer responsibility for the management of specific waste streams (Official gazette of the Republic of North Macedonia no. 215/2021 and 73/2024)
- Law on free access to public information (Official gazette of the Republic of North Macedonia no. 101/2019)
- Law on general administrative procedure (Official gazette of the Republic of Macedonia no. 124/2015)
- Law on General Administrative Procedure (Official gazette of the Republic of Macedonia no. 124/2015)
- Law on Local Self-Government (Official gazette of the Republic of Macedonia no. 5/2002 and Official gazette of the Republic of North Macedonia no. 202/2024)
- Law on management of additional waste streams (Official gazette of the Republic of North Macedonia no. 216/2021)
- Law on management of electrical and electronic equipment and waste (Official gazette of the Republic of North Macedonia no. 215/2021 and 73/2024)
- Law on nature protection (Official gazette of the Republic of Macedonia no. 67/2004; 14/2006; 84/2007; 35/2010; 47/2011; 148/2011; 59/2012; 13/2013; 163/2013; 41/2014; 146/2015; 39/2016; 63/2016 and 113/2018 and Official gazette of the Republic of North Macedonia no. 151/2021)
- Law on ombudsman (Official gazette of the Republic of Macedonia no. 60/2003, 114/2009, 181/2016, 189/2016 and 35/2018)
- Law on protection against noise in the environment (Official gazette of the Republic of Macedonia no. 79/2007, 124/2010, 47/2011, 163/2013 and 146/2015 and Official gazette of the Republic of North Macedonia no. 151/2021)
- Law on public prosecution (Official gazette of the Republic of Macedonia no. 62/2006 and 150/2010)
- Law on the management of batteries and accumulators and waste batteries and waste accumulators (Official gazette of the Republic of North Macedonia no. 176/2021)
- Law on the Organization and the Work of the State Administration Bodies (Official gazette of the Republic of Macedonia no. 58/2000, 44/2002, 82/2008, 167/2010 and 51/2011 and Official gazette of the Republic of North Macedonia no. 96/2019, 110/2019 and 121/2024)
- Law on waste management (Official gazette of the Republic of North Macedonia no. 216/2021)
- Law on waters (Official gazette of the Republic of Macedonia no. 87/2008, 6/2009, 161/2009, 83/2010, 51/2011, 44/2012, 23/2013, 163/2013, 180/2014, 146/2015 and 52/2016 and Official gazette of the Republic of North Macedonia no. 151/2021)
- Rulebook on the requirements regarding the content of the EIAs study (Official gazette of the Republic of Macedonia no. 33/2006)

- Rulebooks and Decrees under the Law on Environment.

International conventions and agreements

- AC (Access to Information, Public Participation, and Access to Justice in Environmental Matters).
- Convention on the Elimination of All Forms of Discrimination against Women
- Directive (EU) 2024/1760
- Directive 2011/92/EU
- Directive n°2008/99/CE
- Espoo Convention (EIAs in a Transboundary Context)
- EU Directives on EIA, SEA, and environmental liability
- Regulation (EC) No 1367/2006
- Regulation 2023/1115
- The European Convention on Human Rights
- Treaty of the Functioning of the European Union

French national legislation

- Code de la Justice Administrative
- Code of the Environment
- Code of Urban Planning

French national verdicts and decisions

- Conseil d'Etat, 5 January 2023, n°448911
- Conseil d'Etat, 19 October 2023, n°466286
- Conseil d'Etat, 18 October 2024, n°498333

Macedonian national verdicts and decisions

- Decision of the Administrative Court У-3 no. 241/2021
- Decision of the Administrative Court У-3 no. 377/2022
- Decision of the Administrative Court У-3 no. 530/2022
- Decision of the Administrative Court УСПИ no. 4/2021
- Decision of the Administrative Court УСПИ no. 4/2022
- Decision of the Appellate Court Bitola ТСЖ no. 59/22 from 20.2.2023
- Decision of the Appellate Court Bitola ТСЖ no. 59/22 from 6.9.2022
- Decision of the Appellate Court Bitola ТСЖ no. 311/22 from 11.7.2023
- Decision of the Appellate Court Bitola ТСЖ no. 427/19 from 26.11.2019
- Decision of the Appellate Court Skopje ГЖ no. 507/21
- Decision of the Basic Civil Court Skopje XXV П4 no. 578/19
- Decision of the Basic Court in Bitola П1 no 119/20
- Decision of the Basic Court in Struga П1 no. 6/21 from 1.11.2021
- Decision of the Basic Court in Struga П1 no. 6/21 from 25.5.2023
- Decision of the Constitutional Court U. no. 121/2024
- Decision of the Higher Administrative Court УЖ-2 no. 384/2022
- Decision of the Ministry of Environment and Physical Planning no. 11-712/1
- Decision of the Ministry of Environment and Physical Planning no. 11-714/2
- Decision of the State commission for decision-making in administrative procedure and employment procedure in the second degree УП no. 0807-5

- Decision of the State commission for decision-making in administrative procedure and employment procedure in the second degree УП no. 0807-4
- Decision of the Supreme Court Рев2 no. 85/2022
- Decision of the Supreme Court УСПИЖ no. 4/24
- Decision of the Supreme Court УСПИЖ no. 9/2022
- General stance of the Supreme Court adopted on 8th of October 2024
- Verdict of the Administrative Court УРП no. 89/2022

International verdicts and decisions

- CJEU judgement C-243/15
- CJEU judgement C-664/15
- CJEU judgement C-197/18/ Burgenland
- CJEU judgement C-664/15 Protect
- CJEU judgement C-404/13 Client Earth and C-237/07 Janecek
- CJEU judgement C-240/09 Slovak Bears
- CJEU judgement C-260/11, The Queen, on demand of David Edwards and Lilian Pallikaropoulos c. Environment Agency and others, 11 April 2013
- CJEU judgement C-530/11, European Commission v. United Kingdom of Great Britain and North Ireland, 13 February 2014
- ECtHR judgement Vides Aizsardzības Klubs v. Latvia, 27 May 2004
- ECtHR judgement Roche v. United Kingdom, 19 October 2005
- ECtHR judgement Vilnes and others v. Norway, 5 December 2013
- ECtHR judgement Costel Popa v. Romania, 26 April 2016
- ECtHR judgement 1er July 2021 Association Burestop 55 Et Autres v. France
- ECtHR judgement Bumbes v. Romania, 3 May 2022
- ECtHR judgement P. C. and S. v. United Kingdom, nº 56547/00, 16 October 2002
- ECtHR judgement Steele and Morris v. United Kingdom, 15 February 2005

Reports and publications

- Analysis of the Operation of Small Hydropower Plants, Macedonian Young Lawyers Association
- Annual report (January – December 2023) on the work of the Administrative Court on cases referring to social rights, Institute for Human Rights
- Annual report on the work of the Academy for judges and public prosecutors for 2019
- Annual reports (2019-2023) on the level of ensuring respect, promotion, improvement and protection of human rights and freedoms, Ombudsman
- Annual reports (2020-2023)
- Annual reports (2020-2023) on the work of the public prosecution offices
- Annual Reports of the Ombudsman of North Macedonia.
- Bobbio, L., "Building social capital through democratic deliberation: The rise of deliberative arenas. Social Epistemology", 2003
- Catalog for trainings for 2022, Academy for judges and public prosecutors
- Catalog for trainings for 2023, Academy for judges and public prosecutors
- Catalog for trainings for 2024, Academy for judges and public prosecutors
- Council of Europe Recommendation on Countering SLAPPs (Council of Europe).
- EU Progress Reports for North Macedonia (2020–2024).
- European Union Agency for Fundamental Rights, FRANET national contribution to the fundamental rights report 2023, North Macedonia
- Final report on compliance audit „Exploitation of water resources for production of electricity", State Audit Office
- First Shadow Report for Chapter 27, Platform 27

- Just Transition as an Evolving Concept in International Climate Law, Vilja Johansson Journal of Environmental Law, Volume 35
- National Implementation Report under AC of the Republic of North Macedonia
- National Implementation Reports for the AC (UNECE Aarhus Clearinghouse).
- Netkova Bojana, Petrovska Natasha, Analysis of free legal aid in the republic of north macedonia: Report on improving access to justice based on analyzed data from the database and the monitoring of court proceedings, 2024
- Open Government Partnership – National Implementation Reports
- OSCE Mission to Skopje: AC-based Needs Assessment Report (2020) (OSCE).
- Report on Environmental Corruption in North Macedonia (2022) (OSCE).
- Reports from domestic and international NGOs (e.g., case studies and thematic assessments).
- Revel, M., Blatrix, C., Blondiaux, L., Fourniau, J.-M., Dubreuil, B. H., & Lefebvre R., Le débat public: Une expérience française de démocratie participative, 2007, Paris, La Découverte
- Roma in the Criminal Justice System of North Macedonia, European Roma Rights Center, February 2023
- Second Shadow Report for Chapter 27, Platform 27
- Semi-annual reports (2020-2024) on the work of the State Environmental Inspectorate
- State Audit Office reports on environmental governance (e.g., 2021 report on hydropower plants).
- Third Shadow Report for Chapter 27, Platform 27
- Training curricula for judges and public prosecutors on environmental justice, 2022, Center for legal research and analysis
- Training curricula for judges and public prosecutors on environmental justice, 2024, Center for legal research and analysis
- UNECE Environmental Performance Review for North Macedonia – 3rd Review (2019) (United Nations (UN) Digital Library).
- UNECE National Environmental Information System in North Macedonia (Link).

Institutional data

- Court case records and judgments from Administrative and Higher Administrative Courts.
- Reports and datasets published by the Ministry of Environment and Physical Planning (MoEPP).
- Statistical data from the State Statistical Office of North Macedonia.

II.1 Review of relevant provisions of EU law and Council of Europe Texts, Recommendations and Conventions,

with a focus on companies and the environment (CSRD and duty of care)
Timeline - European Green Deal and Fit for 55
European Council /Council of the European Union
At 5th of November 2024

2024
5 November
Council adopts law for clean and smart construction products
The Council adopted the revision of the **construction products regulation**.
The new rules will align construction products with the principles of a **circular economy**.
Manufacturers will have to:
- provide environmental information about the life cycle of products
- design and manufacture products in a way that facilitates re-use, remanufacturing and recycling
- give preference to recyclable materials
- make available instructions on how to use and repair products

This is the last step in the decision-making procedure.
Circular economy (background information)
Building materials: Council adopts law for clean and smart construction products (press release, 5 November 2024)

22 July
Chemicals: Council adopts legislation on fertilisers labelling
The Council adopted a regulation for **digital labelling of fertilising products**.
The new rules will:
- promotes the **use of digital labels** on EU fertilising products while keeping physical labels where they are necessary
- improves the **readability** of labels
- simplifies the labelling obligations of suppliers

This is the last step in the decision-making procedure.
Chemicals: Council adopts legislation on fertilisers labelling (press release, 22 July 2024)
Chemicals (background information)

17 June
Council gives final green light to nature restoration law
The Council formally adopted the – **first of its kind** – regulation on nature restoration. This law aims to put measures in place to restore at least 20% of the EU's land and sea areas by 2030, and all ecosystems in need of restoration by 2050.
The regulation aims to **mitigate climate change** and the effects of natural disasters. It will help the EU to fulfil its international environmental commitments, and to restore European nature.
Nature restoration law: Council gives final green light (press release, 17 June 2024)

What is the state of nature in the EU? (infographic)

30 May
Circular economy: Council gives final approval to right-to-repair directive
The Council adopted a directive promoting the repair of broken or defective goods, also known as the **right to repair (R2R) directive**.
The adopted directive creates a set of tools and incentives **to make repair more attractive for consumers**.
These include:
- requiring manufacturers to repair products that are technically repairable under EU law
- the availability of a voluntary repair form with clear information regarding the repair process (deadlines, prices, etc.)
- an online EU platform where consumers can easily find repair services
- the extension of the legal warranty by 12 months if consumers choose repair over replacement

Circular economy: Council gives final approval to right-to-repair directive (press release, 30 May 2024)

27 May
Council gives its final approval to the ecodesign regulation
The Council adopted the **ecodesign regulation**, which sets requirements for s**ustainable products for almost all kind of goods** placed in the EU market.
Those requirements include:
- product durability, reusability, upgradability and reparability
- rules on the presence of substances that inhibit circularity
- remanufacturing and recycling possibilities
- carbon and environmental footprints
- energy and resource efficiency
- a digital product passport

The new regulation also introduces a **ban on the destruction of unsold textiles and footwear** (SMEs will be temporarily excluded).
Green transition: Council gives its final approval to the ecodesign regulation (press release, 27 May 2024)
Circular economy (background information)

27 May
Council gives final approval to the net-zero industry act

The Council adopted a regulation on establishing a framework of measures for **strengthening Europe's net-zero technology manufacturing ecosystem**, better known as the 'net-zero industry act'.
These new rules will facilitate the **conditions for investments in green technologies** by:

- simplifying permit granting procedures
- supporting strategic projects, based on specific criteria contributing to decarbonisation
- facilitating access to markets for net-zero technological products
- defining rules for public incentives
- enhancing the skills of the European workforce

The objective is **to cover 40% of the EU's needs** in strategic technology products, such as solar photovoltaic panels, wind turbines, batteries and heat pumps.

Net-zero industry act: a benchmark for the manufacturing capacity of strategic net-zero technology products (infographic)
Net-zero industry act: a benchmark for the manufacturing capacity of strategic net-zero technology products (infographic)
Industry policy: Council gives final approval to the net-zero industry act (press release, 27 May 2024)
Industrial policy (background information)

24 May
Corporate sustainability due diligence: Council gives its final approval
The Council adopted the **corporate sustainability due diligence directive**.
The directive adopted today introduces obligations for large companies with regard to the adverse **impacts of their activities on human rights and environmental protection**.
If a violation of these obligations is identified, companies will have to take the appropriate measures to prevent, mitigate, bring to an end to or minimise the adverse impacts arising from:

- their own operations
- those of their subsidiaries
- those of their business partners in their chain of activities

Companies can be held liable for the damage caused and will have to provide full compensation.
Companies affected by the directive will also have to adopt and put into effect a climate transition plan in line with the Paris agreement on climate change.
Corporate sustainability due diligence: Council gives its final approval (press release, 24 May 2024)
Corporate sustainability (background information)

12 April
Euro 7: Council adopts new rules on emission limits for cars, vans and trucks
The Council adopted the **Euro 7 regulation**, which lays down rules on emission limits for road vehicles and battery durability.
The text:

- covers cars, vans and heavy-duty vehicles
- aims to further lower air pollutant emissions from exhaust fumes and brakes
- establishes stricter lifetime requirements

This is the last step in the decision-making procedure.
Euro 7: Council adopts new rules on emission limits for cars, vans and trucks (press release, 12 April 2024)

12 April
Towards zero-emission buildings by 2050: Council adopts rules to improve energy performance
The Council formally adopted the revised directive on the **energy performance of buildings**. The directive will help reduce greenhouse gas emissions and energy poverty in the EU.
The revised directive is key for delivering on the 'energy efficiency first' principle as highlighted in the Renovation Wave Strategy, which was published by the European Commission in October 2020.

Fit for 55: making buildings in the EU greener (infographic)
Towards zero-emission buildings by 2050: Council adopts rules to improve energy performance (12 April 2024)

12 April
Industrial emissions: Council signs off on updated rules to better protect the environment

The Council adopted the revised directive on industrial emissions (IED) and the regulation on the establishment of an industrial emissions portal (IEP), two complementary pieces of legislation aimed at regulating and monitoring the environmental impact of industrial activities.
The new rules will offer better **protection of human health and the environment** by reducing harmful emissions from industrial installations, while promoting energy efficiency, a circular economy and decarbonisation.

Industrial emissions directive: key figures (infographic)
Industrial emissions: Council signs off on updated rules to better protect the environment (12 April 2024)

4 March
Packaging: Council and Parliament strike a deal to make packaging more sustainable and reduce packaging waste in the EU
The Council and the European Parliament reached a provisional agreement on a proposal for a **regulation on packaging and packaging waste**.
The proposal aims to:
- reduce the generation of packaging waste
- promote a circular economy for packaging in a cost-efficient way
- harmonise packaging rules across the EU

The deal needs to be formally adopted by both institutions.
Packaging: Council and Parliament strike a deal to make packaging more sustainable and reduce packaging waste in the EU (press release, 4 March 2024)
Packaging (background information)
Circular economy (background information)

20 February
Consumer rights: final approval for the directive to empower consumers for the green transition
The Council adopted a directive to **empower consumers for the green transition**.
Thanks to the new measures, EU consumers will:
- have access to reliable information to make the right green choices, including on early obsolescence
- be better protected against unfair green claims
- be better informed about the repairability of products before purchase

The directive also introduces a harmonised label with information on the commercial guarantee of durability that producers offer.
Consumer rights: final approval for the directive to empower consumers for the green transition (press release, 20 February 2024)
Circular economy (background information)
Consumer protection (background information)

6 February
Net-zero industry act: Council and Parliament strike a deal to boost EU's green industry
The Council and the European Parliament reached a provisional deal on the **net-zero industry act**.
These new rules will **facilitate the conditions for investments in green technologies** by simplifying permit granting procedures and supporting strategic projects.
The objective is to **cover 40% of the EU's needs in net-zero strategic technology products**, such as solar photovoltaic panels, wind turbines, batteries and heat pumps.
The act will accelerate progress towards the EU's 2030 climate and energy targets and the **transition to climate neutrality**, while:
- boosting the competitiveness of EU industry
- creating quality jobs
- supporting the EU's efforts to become energy independent

Net-zero industry act: Council and Parliament strike a deal to boost EU's green industry (press release, 6 February 2024)
EU industrial policy (background information)

Net-zero industry act: a benchmark for the manufacturing capacity of strategic net-zero technology products (infographic)

2 February

Circular economy: Council and Parliament strike provisional deal on the right to repair directive
The Council and the European Parliament reached a provisional deal on the **right-to-repair directive**. The main elements are:

- a right for consumers to **request manufacturers to repair** products that are technically repairable under EU law (for instance, washing machines, vacuum cleaners or mobile phones)
- a free-of-charge **European repair information form**
- an **online repair platform** to connect consumers with repairers
- an extension of 12 months of the **liability period** of the seller after the repair of a product

By creating incentives for producers and consumers to prolong life cycles of products, the new legislation will also reduce waste and promote more sustainable business models.
Circular economy: Council and Parliament strike provisional deal on the right to repair directive (press release, 2 February 2024)
Circular economy (background information)

30 January
Council ready to start talks with Parliament to completely phase out mercury in the EU
The Council adopted its negotiating mandate for talks with the European Parliament on a proposal to phase out the use of dental amalgam and prohibit the manufacturing, import and export of a number of mercury-added products, including certain lamps. The proposal addresses the residual remaining uses of mercury in products in the EU, with a view to establishing a **mercury-free Europe**.
The negotiating mandate, which was agreed at Coreper level, sets out the Council's position for the start of negotiations ('trilogues') with the Parliament to shape the final text of the legislation.
Mercury: Council ready to start talks with Parliament to completely phase out mercury in the EU (press release, 30 January 2024)

29 January
Urban wastewater: Council and Parliament reach a deal on new rules for more efficient treatment and monitoring
The Council and the European Parliament's negotiators reached a provisional political agreement on a proposal to **review the urban wastewater treatment directive**. The revised directive is one of the key deliverables under the EU's zero-pollution action plan.
While the current directive has proven highly effective in reducing water pollution and improving the treatment of wastewater discharges over the last three decades, this revision aims to update the directive by extending its scope and aligning it with the European Green Deal's objectives.
The deal is provisional pending formal adoption by both institutions.
Urban wastewater: Council and Parliament reach a deal on new rules for more efficient treatment and monitoring (press release, 29 January 2024)

29 January
Fluorinated gases and ozone-depleting substances: Council greenlights new rules to reduce harmful emissions
The Council adopted two regulations to phase down fluorinated gases (F-gases) and other substances that **cause global warming and deplete the ozone layer**.
While existing EU legislation has already limited the use of these gases and substances significantly, the new rules will further reduce their emissions into the atmosphere and contribute to limiting global temperature rise, in line with the Paris Agreement.
The two regulations will be published in the EU's Official Journal and enter into force 20 days after.
Fluorinated gases and ozone-depleting substances: Council greenlights new rules to reduce harmful emissions (press release, 29 January 2024)

18 January
Agreement on lower CO2 emissions from trucks, buses and trailers
The Council and the European Parliament's negotiators reached a **provisional political agreement** on CO_2 emission standards for heavy-duty vehicles. The aim is to further **reduce CO_2 emissions** in the road transport sector and to introduce new targets for 2030, 2035 and 2040. The new rules will contribute to fulfilling the EU's 2030 climate ambitions and reaching climate neutrality by 2050.
The proposal also aims to encourage an increasing share of zero-emission vehicles in the EU-wide heavy-duty vehicle fleet, while ensuring that innovation in the sector and its competitiveness are preserved and enhanced.

The deal is provisional pending formal adoption by both institutions.
Heavy-duty vehicles: Council and Parliament reach a deal to lower CO2 emissions from trucks, buses and trailers (press release, 18 January 2024).

2023

14 December
Corporate sustainability due diligence: Council and Parliament strike deal to protect environment and human rights
The Council and the European Parliament today reached a provisional deal on the **corporate sustainability due diligence** directive.
Large EU companies and non-EU companies active in the EU will have to take measures to prevent, identify and mitigate any adverse **impact on human rights or the environment**, caused by:

- their own operations
- the operations of their subsidiaries
- the operations carried out by their business partners

Large companies will also need to ensure their business model is **compatible with the Paris Agreement objective of limiting global warming to 1.5°C**.
Corporate sustainability due diligence: Council and Parliament strike deal to protect environment and human rights (press release, 14 December 2023)
Corporate sustainability (background information)

8 December
Gas package: Council and Parliament reach deal on future hydrogen and gas market
The Council and the Parliament reached a provisional political agreement on a regulation that establishes **common internal market rules for renewable and natural gases and hydrogen**. The purpose of the legislation is to facilitate the penetration of renewable and low-carbon gases into the energy system, in particular hydrogen and biomethane.
The regulation is part of the hydrogen and gas markets decarbonisation package, which also includes a directive. Both the regulation and the directive are part of the Fit for 55 package. They are aimed at creating a regulatory framework for dedicated hydrogen infrastructure and markets and integrated network planning. They also establish rules for **consumer protection** and strengthen **security of supply**. The Council and the Parliament reached a provisional agreement on the directive on 28 November 2023.
Gas package: Council and Parliament reach deal on future hydrogen and gas market (press release, 8 December 2023)
Internal markets in renewable and natural gases and in hydrogen: Council and Parliament reach deal (press release, 28 November 2023)

Fit for 55: shifting from fossil gas to renewable and low-carbon gases (infographic)

7 December
'Fit for 55': Council and Parliament reach deal on proposal to revise energy performance of buildings directive
The Council and the Parliament reached provisional political agreement on a proposal to revise the energy performance of buildings directive.
The revised directive sets **new and more ambitious energy performance requirements** for new and renovated buildings in the EU and encourages member states to renovate their building stock.
The main objectives of the revision are that **by 2030 all new buildings should be zero-emission buildings**, and that by 2050 existing building stock should be transformed into zero-emission buildings.
'Fit for 55': Council and Parliament reach deal on proposal to revise energy performance of buildings directive (press release, 7 December 2023)

Fit for 55: making buildings in the EU greener (infographic)

7 December
Net-zero industry act: Council adopts position to boost technologies for the green transition
EU ministers adopted a common position ('general approach') on the proposal for a **net-zero industry act**.
The act will:

- strengthen the resilience and competitiveness of net-zero technologies manufacturing in the EU

- make our energy system more secure and sustainable

The objective is to **cover 40% of the EU's needs** in strategic technology products, like solar photovoltaic panels, wind turbines, batteries and heat pumps.
This will accelerate the progress towards the EU's 2030 climate and energy targets and the transition to climate neutrality.
Net-zero industry act: Council adopts position to boost technologies for the green transition (press release, 7 December 2023)
EU industrial policy (background information)

Net-zero industry act: a benchmark for the manufacturing capacity of strategic net-zero technology products (infographic)
Net-zero industry act: a benchmark for the manufacturing capacity of strategic net-zero technology products (infographic)

5 December
Products fit for the green transition: Council and Parliament conclude a provisional agreement on the ecodesign regulation
On 5 December 2023, the Council and the Parliament reached a provisional deal on new **ecodesign requirements for sustainable products**.
The new regulation sets new minimum requirements for almost all products sold on the EU market. Those requirements include:
- product **durability**, reusability, upgradability and reparability
- remanufacturing and **recycling** possibilities
- energy and resource **efficiency**

Products fit for the green transition: Council and Parliament conclude a provisional agreement on the ecodesign regulation (press release, 5 December 2023)
Circular economy (background information)

29 November
Industrial emissions: agreement on new rules
The Council and the European Parliament's negotiators reached a **provisional political agreement** on the revision of the directive on industrial emissions (IED) and the regulation on the establishment of an industrial emissions portal (IEP).
The new rules aim to offer better **protection of human health and the environment** by reducing harmful emissions from industrial installations including intensive livestock farms into the air, water and soil and through waste discharges. They also aim to improve **environmental data reporting** by upgrading the existing European pollutant release and transfer register (E-PRTR) in order to establish a more comprehensive and integrated industrial emissions portal.
The deal is provisional pending formal adoption by both institutions.
Industrial emissions: Council and Parliament agree on new rules to reduce harmful emissions from industry and improve public access to information (press release, 29 November 2023)
Industrial emissions (background information)

Industrial emissions directive: key figures (infographic)

22 November
Circular economy: Council adopts position on a directive that enshrines consumers' right to repair
The Council adopted its position on the proposed directive on common rules promoting the repair of goods, also known as the **right to repair directive**.
The proposed text aims to remove obstacles that discourage consumers to repair due to inconvenience, a lack of transparency or difficulty accessing repair services.
The Council mandate:
- clarifies a manufacturer's **obligation to repair**
- limits the requirement to provide a repair form to those who have a legal obligation to fix defective products
- promotes a **European online repair platform**
- protects consumers' freedom of choice between repair and replacement

Circular economy: Council adopts position on a directive that enshrines consumers' right to repair (press release, 22 November 2023)

Circular economy (background information)
Consumer protection (background information)

15 November
Council and Parliament reach deal on new rules to cut methane emissions in the energy sector
The Council and the Parliament reached a **provisional political agreement** on a regulation on tracking and reducing methane emissions in the energy sector.
The regulation introduces new requirements for the oil, gas and coal sectors to **measure, report and verify methane emissions**, as well as put in place mitigation measures to avoid such emissions, including detecting and repairing methane leaks and limiting venting and flaring. It also puts forward global monitoring tools to ensure transparency on methane emissions from imports of oil, gas and coal into the EU.
The provisional agreement needs to be endorsed and formally adopted by both institutions.
Climate action: Council and Parliament reach deal on new rules to cut methane emissions in the energy sector (press release, 15 November 2023)

Fit for 55: cutting methane emissions in fossil fuels (infographic)
9 October
Renewable energy: Council adopts new rules
The Council adopted the new renewables energy directive to raise the share of renewable energy in the EU's **overall energy consumption** to **42.5% by 2030 with an additional 2.5% indicative top up that would allow to reach 45%**. Each member state will contribute to this common target.
All member states will contribute to achieving more ambitious sector-specific targets in transport, industry, buildings and district heating and cooling. The purpose of the sub-targets is to speed-up the integration of renewables in sectors where incorporation has been slower.
Renewable energy: Council adopts new rules (press release, 9 October 2023)

Fit for 55: how the EU plans to boost renewable energy (infographic)

9 October
Council adopts new law to decarbonise the aviation sector
More renewable and low-carbon fuels will reduce the carbon footprint of the aviation sector and create a level playing field for a sustainable air transport in the EU following the adoption by the Council of the new regulation, so-called '**ReFuelEU aviation**' initiative.
The new legislation aims to put air transport on the trajectory of the EU's climate targets for 2030 and 2050 by increasing both demand for and supply of **sustainable aviation fuels**, while ensuring a level playing field across the EU air transport market.
RefuelEU aviation initiative: Council adopts new law to decarbonise the aviation sector (press release, 9 October 2023)

Fit for 55: increasing the uptake of greener fuels in the aviation and maritime sectors (infographic)

9 October
Organic pet food: Council adopts updated labelling rules
The Council gave its final green light on a new EU law that will align the rules regarding the **labelling of organic pet food** to those governing the labelling of organic food intended for human consumption. The new regulation will make it easier for pet owners to purchase organic food for their pets. It also provides an opportunity for farmers engaged in organic production.
Organic pet food: Council adopts updated labelling rules (press release, 9 October 2023)

5 October
Fluorinated gases and ozone depleting substances: Council and Parliament reach agreement
The Council and the Parliament negotiators reached a provisional political agreement to phase down substances that **cause global warming** and **deplete the ozone layer.**
This provisional agreement finalised negotiations on fluorinated gases and confirmed an informal agreement found in June 2023 on ozone depleting substances.
While existing EU legislation already limited the use of these gases significantly, the new rules aim to **further reduce their emissions into the atmosphere** and contribute to limiting global temperature rise, in line with the Paris Agreement.

Fluorinated gases and ozone depleting substances: Council and Parliament reach agreement (press release, 5 October 2023)

25 September
Euro 7: Council adopts position on emissions from cars, vans, buses and trucks
The Council adopted its position on the proposed regulation for the type-approval of motor vehicles and engines, and of systems, components and separate technical units intended for such vehicles, with respect to their emissions and battery durability, better known as **Euro 7**.
The regulation aims to:
- set **more adequate limits for vehicle emissions**
- further **lower air pollutant emissions** from road transport

The Council position strikes a balance between stringent requirements for vehicle emissions and additional investments for the industry, at a time when European car manufacturers are undergoing a transformation towards the production of zero-emission cars.
Euro 7: Council adopts position on emissions from cars, vans, buses and trucks (press release, 25 September 2023)

19 September
Council and Parliament reach provisional agreement to empower consumers for the green transition
The directive to empower consumers for the green transition aims to **fight against unfair commercial practices** that prevent consumers from making the right choices for greener or more circular products and services.
The provisional agreement introduces several improvements:
- the inclusion of **unfair claims based on greenhouse emissions offsetting** on the list of banned practices
- better information on **early obsolescence**
- the introduction of a **harmonised format** to increase the visibility of the voluntary commercial guarantee of durability

Council and Parliament reach provisional agreement to empower consumers for the green transition (press release, 19 September 2023)
Circular economy (background information)

25 July
FuelEU maritime initiative: Council adopts new law to decarbonise the maritime sector
The main objective of the FuelEU maritime initiative, as a key part of the EU's Fit for 55 package, is to increase the demand for and consistent use of **renewable and low-carbon fuels** and reduce the greenhouse gas emissions from the shipping sector, while ensuring the smooth operation of maritime traffic and avoiding distortions in the internal market.
The new legislation aims to put maritime transport on the trajectory of the EU's climate targets for 2030 and 2050 and should play a fundamental role in delivering on the European climate law.
FuelEU maritime initiative: Council adopts new law to decarbonise the maritime sector (press release, 25 July 2023)

Fit for 55: increasing the uptake of greener fuels in the aviation and maritime sectors (infographic)
Fit for 55: increasing the uptake of greener fuels in the aviation and maritime sectors (infographic)
25 July
Council adopts energy efficiency directive
The Council adopted new rules to **reduce final energy consumption at EU level by 11.7% in 2030**.
Member states will collectively ensure the reduction of final energy consumption and will benefit from flexibilities in reaching the target. They will set indicative national contributions and trajectories towards reaching the target in their integrated national energy and climate plans (NECPs).
Council adopts energy efficiency directive (press release, 25 July 2023)

Fit for 55: how the EU will become more energy-efficient (infographic)

25 July
Alternative fuels infrastructure: Council adopts new law for more recharging and refuelling stations across Europe

More recharging and refuelling stations for alternative fuels will be deployed across Europe enabling the transport sector to significantly reduce its carbon footprint, following the adoption by the Council of the **alternative fuel infrastructure regulation (AFIR)**.
The text of the regulation provides for specific deployment targets that will have to be met in 2025 or 2030, including:

- recharging stations for cars and vans need to be installed every 60 km
- hydrogen refuelling stations serving both cars and lorries must be deployed from 2030 onwards in all urban nodes
- users of electric or hydrogen-fuelled vehicles must be able to pay easily at recharging or refuelling points

Alternative fuels infrastructure: Council adopts new law for more recharging and refuelling stations across Europe (press release, 25 July 2023)

Fit for 55: towards more sustainable transport (infographic)

10 July
Council adopts new regulation on batteries and waste batteries
The new regulation strengthens sustainability rules for batteries and waste batteries and will ensure that they are safe, sustainable and competitive.
The rules aim to promote a circular economy by regulating batteries throughout their **life cycle**. They establish end-of-life requirements, including collection targets and obligations, targets for the recovery of materials and extended producer responsibility.
The rules also aim to improve the **functioning of the internal market** for batteries and ensure fair competition thanks to the safety, sustainability and labelling requirements.
Council adopts new regulation on batteries and waste batteries (press release, 10 July 2023)

Towards a sustainable, circular, European battery supply chain (infographic)

30 June
Council adopts position on the regulation for classification, labelling and packaging of chemical substances
The Council adopted its negotiating position on the proposed regulation on the **classification, labelling and packaging of chemicals**, also known as the CLP regulation.
The proposed revised regulation aims to:

- clarify rules on **labelling** chemical substances
- **improve procedures** for providing information on hazards related to chemicals placed on the EU market
- accelerate the procedure for identifying hazardous substances
- develop specific rules for **refillable chemical products**

The Council's position:

- makes labels clearer and easier to understand (including digital labelling)
- ensures a high level of protection against chemical hazards

The revision of the CLP is an important element of the chemicals strategy for sustainability.
Council adopts position on the regulation for classification, labelling and packaging of chemical substances (press release, 30 June 2023)

30 June
Council adopts position on the construction products regulation
The Council adopted its negotiating position on the construction products regulation.
The proposed revised regulation aims to:

- improve the **circularity** and **durability** of construction products
- create common **European standards**
- offer digital solutions to **reduce the administrative burden**, especially on SMEs

Green transition in the building sector: Council adopts position on the construction products regulation (press release, 30 June 2023).
3 May
Council adopts its position on empowering consumers for the green transition

The Council adopted its negotiating mandate on the proposed directive to empower consumers for the green transition, which aims at enhancing consumers´ rights by amending the **unfair commercial practices** directive and the **consumer rights** directive.
The Council position:

- reinforces consumers' right to information
- **bans generic environmental claims**
- introduces a **European Union harmonised graphic format**, to help consumers recognise commercial guarantees of durability

The proposal is one of the initiatives set out in the Commission's 2020 circular economy action plan.
Empowering consumers for the green transition: Council adopts its position (press release, 3 May 2023)

25 April
Council and Parliament agree to decarbonise the aviation sector
The Council and the European Parliament reached a provisional political agreement on a proposal aiming to decarbonise the aviation sector and create a level playing field for a sustainable air transport (**ReFuelEU aviation initiative**).
The proposal aims to increase both demand for and supply of sustainable aviation fuels (SAF), while ensuring a level playing field across the EU air transport market.
It is a major proposal which aims to put air transport on the trajectory of the EU's climate targets for 2030 and 2050, as SAF are one of the key short- and medium-term tools for decarbonising aviation.
Council and Parliament agree to decarbonise the aviation sector (press release, 25 April 2023)

Fit for 55: increasing the uptake of greener fuels in the aviation and maritime sectors (infographic)

25 April
Council adopts key pieces of legislation delivering on 2030 climate targets
The Council formally adopted five laws, part of the Fit for 55 package, which will enable the EU to **cut greenhouse gas emissions** within the main sectors of the economy, while making sure that the **most vulnerable citizens and micro-enterprises**, as well as the sectors exposed to **carbon leakage**, are effectively supported in the climate transition. These include:

- revised EU emissions trading system (EU ETS)
- new carbon border adjustment mechanism
- new social climate fund

The vote in the Council is the last step of the decision-making procedure.
'Fit for 55': Council adopts key pieces of legislation delivering on 2030 climate targets (press release, 25 April 2023)

Fit for 55: reform of the EU emissions trading system (infographic)

30 March
Provisional deal on the renewable energy directive
The Council and the Parliament negotiators reached a provisional political agreement to raise the share of renewable energy in the EU's overall energy consumption to **42.5% by 2030 with an additional 2.5% indicative top up that would allow to reach 45%**. Each member state will contribute to this common target.
The provisional deal includes more ambitious sector-specific targets in:

- transport
- industry
- buildings
- district heating and cooling

The purpose of the sub-targets is to speed-up the integration of renewables in sectors where incorporation has been slower.
This provisional political agreement will now need to be endorsed by both institutions.
Council and Parliament reach provisional deal on renewable energy directive (press release, 30 March 2023).

28 March
Member States set their position on future gas and hydrogen market
The Council agreed on its negotiating positions ('general approaches') on two proposals that set **common internal market rules for renewable and natural gases and hydrogen**.

The purpose of the legislation is to design the transition of the gas sector towards renewable and low-carbon gases, in particular biomethane and hydrogen, in view of reaching the EU's goal of climate neutrality in 2050.
The hydrogen and gas markets decarbonisation package consists of a proposal for a regulation and for a directive. The proposals aim at creating a regulatory framework for dedicated hydrogen infrastructure and markets and integrated network planning. They also set rules for consumers protection and strengthen security of supply.
Gas package: member states set their position on future gas and hydrogen market (press release, 28 March 2023)

Fit for 55: shifting from fossil gas to renewable and low-carbon gases (infographic)

28 March
First part of the Fit for 55 package formally adopted
The Council adopted four sets of rules included in the Fit for 55 package which will **enable the EU to reduce its net greenhouse gas emissions by at least 55% by 2030**, compared to 1990 levels.
This included:
- CO_2 emissions standards for cars and vans
- effort sharing regulation
- land use and forestry regulation
- market stability reserve decision

The Council adoption was the last step of the decision-making procedure. The rules enter into force after publication in the Official Journal.
'Fit for 55': Council adopts regulation on CO2 emissions for new cars and vans (press release, 28 March 2023)
'Fit for 55': Council adopts decision on market stability reserve (press release, 28 March 2023)
Fit for 55 package: Council adopts regulations on effort sharing and land use and forestry sector (press release, 28 March 2023)

Fit for 55: why the EU is toughening CO2 emission standards for cars and vans (infographic)

28 March
Provisional deal on alternative fuel infrastructure
The Council and the European Parliament reached a provisional deal on a proposal which will enable the **transport sector to significantly reduce its carbon footprint**.
The provisional agreement retains the fundamental aspects of the Commission's proposal, but introduces some amendments, including:
- a gradual process of infrastructure deployment set to start in 2025
- more efficiency for investments in hydrogen refuelling and adaptation of technological developments

The provisional political agreement is now **subject to formal approval** by the two co-legislators.
Alternative fuel infrastructure: Provisional agreement for more recharging and refuelling stations across Europe (press release, 28 March 2023)

Fit for 55: towards more sustainable transport (infographic)

16 March
Council reaches agreement on amendments to industrial emissions directive
The Council adopted its negotiating position ('general approach') on a proposal to **review the industrial emissions directive**. The new rules will offer better protection of human health and the environment by reducing harmful emissions from industrial installations and intensive livestock farms into the air, water and through waste discharges.
The industrial emissions directive is the **main EU instrument regulating pollution from industrial installations and intensive livestock farms**, such as nitrogen oxide, ammonia, mercury, methane and carbon dioxide. Industrial-scale installations and farms are required to operate in accordance with a permit, granted by national authorities, using Best Available Techniques (BAT) as a standard.
Council reaches agreement on amendments to industrial emissions directive (press release, 16 March 2023)

Trends in EU industrial emissions (infographic)

10 March
Council and Parliament strike deal on energy efficiency directive
The Council presidency and the European Parliament negotiators reached a provisional political agreement to **reduce final energy consumption at EU level by 11.7% in 2030**.
The agreement concerned:
- headline target
- national contributions and gap-filling
- annual energy savings target
- obligations for public sector

Council and Parliament strike deal on energy efficiency directive (press release, 10 March 2023)

Fit for 55: how the EU will become more energy-efficient (infographic)

2022

19 December
Member States Agree on new rules to slash methane emissions
The Council reached an agreement on the Commission's proposal to **track and reduce methane emissions in the energy sector**. The text is the first of its kind and a crucial contribution to climate action, as methane is the second most important greenhouse gas following carbon dioxide.
The proposal introduces new requirements for the **oil, gas and coal sectors** to measure, report and verify methane emissions at the highest standard. Operators will need to carefully document all wells and mines, trace their emissions and take appropriate mitigation measures to prevent and minimise methane emissions in their operations.
Member States agree on new rules to slash methane emissions (press release, 19 December 2022)

Fit for 55: cutting methane emissions in fossil fuels (infographic)

19 December
Council adopts decision on offsetting requirements for air transport emissions (CORSIA)
The Council adopted the decision on the notification of **CORSIA** (Carbon Offsetting and Reduction Scheme for International Aviation) offsetting requirements, which aims to contribute to world wide's ambitious goals towards climate neutrality.
The decision adopted today enables member states to fulfil their first annual obligation to notify operators based in the EU of their CORSIA offsetting requirements, in line with their international commitments in ICAO.
CORSIA is a **global scheme for offsetting CO_2 emissions from international aviation** adopted by the International Civil Aviation Organisation (ICAO) in 2018, in which EU member states committed to participate from its pilot phase, which began in January 2021.
Council adopts decision on offsetting requirements for air transport emissions (CORSIA) (press release, 19 December 2022)

18 December
Provisional deal on EU emissions trading system and social climate fund
The Council and the European Parliament reached a provisional political agreement on two legislative proposals of the **'Fit for 55' package** that will further reduce emissions and address social impacts, namely:
- EU emissions trading system
- social climate fund

The co-legislators agreed to increase the overall ambition of emissions reductions by 2030 in the sectors covered by the EU ETS **to 62%**.
The deal is provisional pending formal adoption in both institutions.
'Fit for 55': Council and Parliament reach provisional deal on EU emissions trading system and the Social Climate Fund (press release, 18 December 2022)

7 December
ETS aviation: Council and Parliament strike provisional deal to reduce flight emissions

The Council and the European Parliament reached a provisional political agreement on the revision of the EU emissions trading system (EU ETS) rules applying to the aviation sector. The agreement ensures that **aviation contributes to the EU's emission reduction objectives** under the Paris Agreement.
According to the agreement, the EU ETS will apply for intra-European flights (including departing flights to the United Kingdom and Switzerland), while CORSIA will apply to for extra-European flights to and from third countries participating in CORSIA ('clean cut') from 2022 to 2027. When emissions from flights to and from outside the European Economic Area reach levels above 85% of 2019-levels, they will have to be offset with corresponding carbon credits, invested in emissions reductions in countries participating in CORSIA.
The co-legislators agreed to gradually phase out free emission allowances for the **aviation sector** as follows: 25% in 2024, 50% in 2025 and 100% from 2026. This means allowances will be fully auctioned from 2026. As regards the use of revenues, co-legislators agreed to transfer 5 million of allowances from the aviation sector to the innovation fund.
ETS aviation: Council and Parliament strike provisional deal to reduce flight emissions (press release, 7 December 2022)

6 December
Deal to cut down on deforestation worldwide
The Council and the European Parliament reached a provisional deal on a proposal to minimise the risk of deforestation and forest degradation associated with products that are imported into or exported from the European Union. The agreement is provisional pending formal adoption in both institutions.
The provisional agreement sets **mandatory due diligence rules** for all operators and traders who place, make available or export the following commodities from the EU market: **palm oil, beef, timber, coffee, cocoa, rubber and soy**. The rules also apply to a number of **derived products** such as chocolate, furniture, printed paper and selected palm oil based derivates (used for example as components in personal care products). A review will be carried out in two years to see if other products need to be covered.
Council and Parliament strike provisional deal to cut down deforestation worldwide (press release, 6 December 2022)

11 November
Fit for 55: deal on ambitious carbon removal targets for land use and forestry
The Council and the European Parliament reached a provisional political agreement on strengthening the contribution of the land use, land use change and forestry (LULUCF) sector to the EU's increased overall climate ambition for 2030.
Pending formal adoption, the Council and Parliament set an **overall EU-level objective of 310 Mt CO2 equivalent of net removals** in the LULUCF sector in 2030.
The LULUCF sector covers the use of soils, trees, plants, biomass and timber and is responsible for both emitting and absorbing CO2 from the atmosphere. The objective is to progressively increase absorptions and reduce emissions so that the EU-wide objective is reached.
'Fit for 55': provisional agreement sets ambitious carbon removal targets in the land use land use change and forestry sector (press release, 11 November 2022)

Fit for 55: reaching climate goals in the land use and forestry sectors (infographic)

8 November
'Fit for 55': EU strengthens emission reduction targets for member states
The Council and the European Parliament reached a provisional political agreement on stronger emission reduction targets for member states under the so-called effort sharing regulation.
Pending a formal adoption, the provisional deal endorses an EU-level greenhouse gas **emission reduction target of 40% compared to 2005**, for the sectors not covered by the EU Emissions Trading System (EU-ETS), namely:
- road and domestic maritime transport
- buildings
- agriculture
- waste
- small industries

The agreement keeps the **increased national targets** assigned to each member state as proposed by the Commission and adjusts the way member states can use existing flexibilities to meet their targets.

'Fit for 55': EU strengthens emission reduction targets for member states (press release, 8 November 2022)

Fit for 55: reducing emissions from transport, buildings, agriculture and waste (infographic)

27 October
First Fit for 55 proposal agreed: the EU strengthens CO2 targets for new cars and vans
The Council and the European Parliament reached a provisional political agreement on stricter CO2 emission performance standards for new cars and vans. The purpose is to move towards a zero-emission mobility.
Pending a formal adoption, the co-legislators agreed to a:

- **55%** CO2 emission reduction target for new cars and **50%** for new vans **by 2030** compared to 2021 levels
- **100%** CO2 emission reduction target for both new cars and vans **by 2035**

The provisional political agreement reached in trialogue negotiations will now have to be formally adopted by the Council and the Parliament.
First 'Fit for 55' proposal agreed: the EU strengthens targets for CO2 emissions for new cars and vans (press release, 27 October 2022)

Fit for 55: why the EU is toughening CO2 emission standards for cars and vans (infographic)

25 October
Fit for 55: Council agrees on stricter rules for energy performance of buildings
The Council reached an agreement (general approach) on a proposal to revise the **energy performance of buildings directive**. The main objectives of the revision are that:

- all new buildings should be zero-emission buildings by 2030
- existing buildings should be transformed into zero-emission buildings by 2050

Buildings are responsible for over one third of the greenhouse gas emissions in the EU. Reducing these emissions – either through greater energy efficiency or reduced energy consumption – is crucial in order to achieve **climate neutrality by 2050**.
Following the agreement among member states, the next step will be negotiations with the European Parliament (trilogues).
'Fit for 55': Council agrees on stricter rules for energy performance of buildings (press release, 25 October 2022)

Fit for 55: making buildings in the EU greener (infographic)

29 June
Fit for 55: Council reaches general approaches relating to emissions reductions and their social impacts
The Council adopted its negotiating positions (general approaches) on five legislative proposals in the **Fit for 55 package**. The member states adopted a common position on:

- **EU emissions trading system** (EU ETS)
- **effort-sharing** between member states in non-ETS sectors (ESR)
- emissions and removals from **land use, land-use change and forestry** (LULUCF)
- **social climate fund** (SCF)
- new CO_2 emission performance standards for **cars and vans**

The ecological and energy transition will require the contribution of all sectors and all member states, in a fair and inclusive manner.**Agnès Pannier-Runacher, French Minister for the energy transition**
These agreements pave the way for negotiations with the European Parliament.
Fit for 55 package: Council reaches general approaches relating to emissions reductions and their social impacts (press release, 29 June 2022)
Environment Council, 28 June 2022

Fit for 55: how the EU will turn climate goals into law (infographic)

28 June
Council agrees on new rules to drive down deforestation and forest degradation globally
The Council adopted its negotiating position (general approach) on new proposed rules to limit the consumption of products contributing to deforestation or forest degradation.

The Council agreed to set **mandatory due diligence rules** for all operators and traders who place, make available or export the following products from the EU market: **palm oil, beef, timber, coffee, cocoa and soy**. The rules also apply to a number of derived products such as leather, chocolate and furniture.
Council agrees on new rules to drive down deforestation and forest degradation globally (press release, 28 June 2022)

27 June
Fit for 55: EU ministers agree on new 2030 targets on energy efficiency and renewables
The Council adopted its negotiating positions (general approaches) on the two legislative proposals that tackle the energy aspects of the EU's climate transition under the 'Fit for 55' package: the **renewable energy directive** and the **energy efficiency directive**.
Decarbonising our energy systems through a massive deployment of renewable energies and significant efforts in energy savings is essential to achieve our climate objectives. It will also help us to reduce our dependence on Russia for energy, in the context of the war in Ukraine.**Agnès Pannier-Runacher, French minister for the energy transition**
Energy production and use account for 75% of the EU's emissions and the more ambitious targets agreed with the new proposed rules will be a significant contribution towards meeting the EU's overall goal of **reducing net greenhouse gas emissions by at least 55% by 2030** compared to 1990 levels.
"Fit for 55": Council agrees on higher targets for renewables and energy efficiency (press release, 27 June 2022)

Fit for 55: how the EU plans to boost renewable energy (infographic)

17 June
Council takes note of progress report on the revision of the energy taxation directive
Economic and financial affairs ministers **took note of a progress report** on the revision of the energy taxation directive.
Energy taxation can help the EU achieve its climate and environment objectives by encouraging a **transition to cleaner energy and greener industry**.
Member states will continue their discussions within the Council of the EU under the Czech presidency.
Economic and Financial Affairs Council, 17 June 2022

16 June
Council adopts recommendations on fair transition towards climate neutrality and to stimulate learning
In order to soften the social and employment challenges of the **European Green Deal**, a set of policy initiatives to make the EU climate neutral in 2050, and recommendations were prepared.
During the Employment, Social Policy, Health and Consumer Affairs Council, the Council adopted the recommendation which aims to ensure that the EU's transition towards a **climate-neutral and environmentally sustainable economy** by 2050 is fair and **leaves nobody behind**.
The Council also adopted a recommendation to **stimulate learning for the green transition and sustainable development**. This is crucial to ensure learners of all ages acquire the knowledge to live more sustainably, obtain the skills needed in a changing labour market and take action for a sustainable future.
Employment, Social Policy, Health and Consumer Affairs Council (Social), 16 June 2022
Council takes action to ensure green transition is fair and inclusive (press release, 16 June 2022)
Council adopts recommendation to stimulate learning for the green transition and sustainable development (press release, 16 June 2022)

2 June
Fit for 55 package: Council adopts its position on three texts relating to the transport sector
Today, European transport ministers adopted a common position (general approach) on each of the three legislative proposals of the **Fit for 55 package** that relate to the transport sector (alternative fuels infrastructure - AFIR, FuelEU Maritime and ReFuelEU Aviation).
This is an important step in the implementation of the Fit for 55 legislative package, which should enable the EU to meet its climate objectives: reducing net greenhouse gas emissions by at least 55% by 2030 compared to 1990 levels and achieving carbon neutrality by 2050.
For the transport sector in particular, the objective is to **reduce greenhouse gas emissions by 90%** (the sector currently accounts for more than a quarter of EU emissions).

Fit for 55 package: Council adopts its position on three texts relating to the transport sector (press release, 2 June 2022)

Fit for 55: increasing the uptake of greener fuels in the aviation and maritime sectors (infographic)

7 April
Council adopts conclusions on carbon farming
The Agriculture and Fisheries Council adopted conclusions on carbon farming, based on the Commission's **sustainable carbon cycles communication** which was presented in December 2021. The communication aims to encourage agricultural practices that help to capture carbon from the atmosphere and store it in soil or biomass in a sustainable way.
Climate-friendly practices may include:
- planting hedges or trees
- growing legumes
- using catch crops and cover crops
- practising conservation agriculture and maintaining peatlands
- afforestation and reforestation

In the conclusions, ministers recognised the importance of **providing financial support** that offers sufficient incentive to farmers and foresters to encourage them to adopt these climate-friendly practices.
Council adopts conclusions on carbon farming (press release, 7 April 2022)

17 March
Environment ministers discuss Fit for 55 package and global deforestation proposal
The Environment Council of 17 March 2022 held a policy debate on the files in the 'Fit for 55' package that are within its remit. Ministers exchanged views on an **emissions trading system for the road transport and buildings sectors** (ETS RTB) and, in particular, on the effectiveness of the tool in reducing emissions with a view to reaching the -55 % target in 2030.
Ministers also discussed the Commission's proposal to reduce to a minimum the consumption of products coming from supply chains associated with **deforestation or forest degradation**. Ministers exchanged views on how to ensure an efficient and effective due diligence system in order to achieve the traceability needed to ensure that the products included in the regulation have not involved deforestation and forest degradation.
Environment Council, 17 March 2022

17 March
Sustainable batteries: member states ready to start negotiations with Parliament
The Council adopted a general approach on a proposal for a regulation to strengthen **EU legislation on batteries and waste batteries**. The new rules will promote the development of sustainable and safe battery production chains throughout their life cycle and create a level playing field on the internal market.
The Council negotiating position keeps and strengthens the fundamentals of the Commission's original proposal, including:
- the 'battery passport'
- tight restrictions for hazardous substances
- a carbon footprint for batteries
- extended producer responsibility
- the obligation for new batteries to contain recycled materials
- due diligence requirements for supply chains

Sustainable batteries: member states ready to start negotiations with Parliament (press release, 17 March 2022)

Towards a sustainable, circular, European battery supply chain (infographic)

15 March
Carbon Border Adjustment Mechanism (CBAM): Council agrees its negotiating mandate
Today, the Council reached agreement on the text that will form the basis of its position in the future negotiations with the European Parliament on the Carbon Border Adjustment Mechanism (CBAM). It is one of the key elements of the EU's 'Fit for 55' package.
CBAM targets **imports of carbon-intensive products**. The objective of CBAM is to prevent that the greenhouse gas emissions reduction efforts of the EU are offset by increasing emissions outside its

borders through relocation of production to non-EU countries or increased imports of carbon-intensive products.
Council agrees on the Carbon Border Adjustment Mechanism (press release, 15 March 2022)

24 February
Ministers hold a debate on the future of the industrial mobility ecosystem
Ministers addressed the specific challenges that implementing the 'Fit for 55' package would pose for the mobility industries. They discussed **their estimation** of **the scale** and cost of the green mobility transition, but also its **long-term benefits** and the actions required to support the transition.
The member states welcomed the fact that the Competitiveness Council was to **play an important role** in guiding the various policies for speeding up the EU's green transition.
The Council also unanimously adopted a general approach on the proposed **Corporate Sustainability Reporting Directive (CSRD).**
Competitiveness Council (internal market and industry), 24 February 2022

21 February
Council discusses how to reduce global deforestation
During their February meeting, farming ministers held a policy debate on the Commission's proposal for a regulation on deforestation-free products. The aim of the regulation is to ensure that **products consumed on the EU market do not contribute to deforestation and forest degradation** worldwide. It will do so by setting due diligence rules for operators so as to reduce the risk that commodities placed on the EU market, such as soy, beef, palm oil, wood, cocoa and coffee, are associated with deforestation.
On the whole, ministers welcomed the proposed regulation. In particular, they highlighted the need to:
establish clear, unambiguous definitions, in line with the EU's forest policy
avoid disproportionate administrative and financial burdens
ensure that the regulation is implemented consistently across the EU
verify compliance with WTO rules
establish good relations with non-EU countries
Agriculture and Fisheries Council, 21 February 2022

2021

20 December
Environment ministers take stock of progress on the Fit for 55 package
The Environment Council took note of a **progress report** prepared by the Slovenian presidency and held a policy debate on five of the files in the 'Fit for 55' package:
revision of the greenhouse gas emission allowance trading scheme (EU ETS)
revision of the regulation on binding annual greenhouse gas emission reductions by member states (effort sharing regulation)
revision of the regulation on greenhouse gas emissions and removals from land use, land use change and forestry (LULUCF)
revision of rules for CO_2 emission performance standards for new cars and vans
regulation establishing a social climate fund
Ministers exchanged views on the level of ambition needed for further progress on the five climate-related files in the coming months, taking into account the various **interlinkages between the proposals** of the 'Fit for 55' package. Ministers also expressed their views on what they consider as the most sensitive issues in these files.
Environment Council, 20 December 2021

9 December
Fit for 55: EU ministers discuss transport proposals
During their December Council meeting, EU transport ministers discussed progress on the 'Fit for 55' package and its transport-related proposals.
Ministers took note of the overall progress on the Fit for 55 package in different Council configurations, based on a report presented by the Slovenian presidency. Ministers then had their first formal discussion on each of the three Fit for 55 transport proposals – **ReFuelEU Aviation, FuelEU Maritime and alternative fuels infrastructure** – in order to guide further work on these files.
Transport, Telecommunications and Energy Council (Transport), 9 December 2021

7 December
Progress on 'Fit for 55' from an economic perspective
Economic and financial affairs ministers discussed progress made on the 'Fit for 55' package from an economic perspective during their Council meeting in December.
Ministers took note of the progress reached with the Fit for 55 proposals, based on two reports prepared by the Slovenian presidency. In this context, they focused in particular on the proposals for a carbon adjustment mechanism and a review of the energy taxation directive.
Presidency progress report on Fit for 55 package (overview)
Presidency progress report on Fit for 55 package (CBAM, ETD, SCF)

2 December
Energy Council takes stock of progress on Fit for 55's energy proposals
Ministers held a policy debate on the Fit for 55 package, in particular on the two files concerning energy: the directives on **renewable energy** and **energy efficiency**.
They welcomed the progress achieved on the files and took stock of main outstanding issues on the package as a whole and on the two energy-related files in particular.
In order to set a direction for further work ministers discussed the balance between the need to support the potential of renewables as a cost-efficient source of energy and to recognise national circumstances and different starting points.
Transport, Telecommunications and Energy Council (Energy), 2 December 2021

25 November
Internal market and industry ministers take stock of Fit for 55 package
During the Competitiveness Council, EU ministers responsible for internal market and industry were informed by the Slovenian presidency on the 'Fit for 55 package' from an industry perspective, including on **challenges and opportunities for businesses** arising from the transition towards climate neutrality.
Progress report on the Fit for 55 package by Slovenian presidency

15 November
Council adopts conclusions on the new EU forest strategy for 2030
The Commission presented the new forest strategy in July 2021, as a key element of the European Green Deal. In its conclusions approved in November 2021, the Council welcomed the forest strategy and stressed:
- the essential role of forests for **human health**, animal health and a healthy natural environment
- that forestry can play a key role in the EU's **transition** to a green, climate-neutral and competitive circular bio-economy
- the need to **strike a balance** between the environmental, social and economic aspects of sustainable forest management

Council adopts conclusions on the new EU forest strategy for 2030 (press release, 15 November 2021)
Agriculture and Fisheries Council, 15 November 2021

12 October
Fit for 55: Council discusses agriculture and forestry contribution
During their Council meeting, EU agriculture and fisheries ministers held an exchange of views on the potential **contribution of the agriculture and forestry sectors** to the Fit for 55 package. Points raised included:
- possible overlap with the new **common agricultural policy**
- importance of guaranteeing **food security**
- need for the different **starting points of member states** to be taken into account when setting climate objectives

Agriculture and Fisheries Council, 11-12 October 2021

6 October
Environment Council discusses Fit for 55 package
EU environment ministers held a first formal debate on the Fit for 55 package, with a particular focus on initiatives that fall under the remit of the Environment Council.
The debate focussed on the balance and interlinkages between the various proposals, as well as on their contribution to the **EU's increased climate ambition**. Ministers gave their views on the distribution of efforts between and within both Member States and different economic sectors involved, and on

the **impact of the proposals on citizens**. The debate addressed in particular the extension of **emissions trading** to buildings and road transport.
Environment Council, 6 October 2021

Fit for 55: how the EU will turn climate goals into law (infographic)
29 September
Fit for 55 from an industrial perspective
EU ministers responsible for the areas internal market and industry discussed the impact of the **new climate and energy package on the economy and on industry,** including the challenges and opportunities for small- and medium-sized businesses in the transition towards climate neutrality.
Ministers broadly agreed that affordable decarbonised energy is one of the preconditions for the success of the Fit for 55 package. They stressed the importance of the proposed **carbon border adjustment mechanism (CBAM)**, which should prevent carbon leakage.
Competitiveness Council (Internal market and industry), 29 September 2021
Presidency discussion paper: Fit for 55 from an industrial perspective

22-23 September
EU transport and energy ministers meet in Slovenia to discuss the Fit for 55 package
EU transport and energy ministers met in Brdo pri Kranju, Slovenia, for a series of meetings:
informal meeting of transport ministers
informal meeting of energy ministers
informal meeting of transport and energy ministers
They discussed the **common challenges** of the two sectors arising from the transition to climate neutrality and the related goal of cutting EU greenhouse gas emissions by at least 55% by 2030, which is at the centre of the **Fit for 55 legislative package**.
Informal meeting of transport and energy ministers, 22-23 September 2021
Presidency press release

20 July
EU environment ministers discuss the Fit for 55 package.
The Commission presented its 'Fit for 55 package' on 14 July 2021. EU environment and climate change ministers held an **informal meeting organized** by the Slovenian presidency on 20-21 July 2021 to exchange views on the package.
They welcomed the package and stressed that **fairness, solidarity, ambition and efficiency** among the EU member states should be the guiding principles.
Fit for 55 (background information)
Informal meeting of EU environment ministers (Slovenian presidency website)

19 July
Council adopts conclusions on the EU's organic plan
In July 2021, the Council adopted **conclusions** on the action plan on organic farming proposed by the Commission. The main points agreed by EU ministers were:
- organic farming is important for the **sustainability of European agriculture**
- developing organic production helps **secure incomes** and **create jobs**
- **balanced demand and supply** of organic products ensure profitability for the sector
- specificities and **different situations in member states** need be considered when defining targets and interventions
- involving **public and private stakeholders** is crucial to reaching the strategy's goals

Agriculture and Fisheries Council, 19 July 2021
From farm to fork: making Europe's food healthier and more sustainable (background information)

11 June
Council endorses EU renovation wave strategy
Buildings consume 40% of the EU's energy and emit 36% of the EU's energy-related greenhouse gas emissions. The renovation wave strategy aims to **intensify buildings renovation efforts** throughout the EU, in order to make the necessary contribution by the building sector to the EU's 2050 climate-neutrality goal and to deliver a fair and just green transition.
During their meeting in June 2021, ministers approved Council conclusions on the renovation wave strategy. The conclusions endorse the aim of the strategy to **at least double energy-related renovation**

rates in the EU by 2030, while tackling energy poverty, creating new jobs and promoting the circular economy.
Council approves conclusions on an EU renovation wave (press release 11 June 2021)
Transport, Telecommunications and Energy Council (Energy), 11 June 2021

Renovation wave: creating green buildings for the future (infographic)

10 June
Council endorses climate adaptation strategy and discusses zero pollution and batteries proposal
EU environment ministers met in Luxembourg in their first physical Council meeting under the Portuguese presidency. They adopted conclusions endorsing the new **EU strategy on adaptation to climate change**. The strategy outlines a long-term vision for the EU to become a climate-resilient society that is fully adapted to the unavoidable impacts of climate change by 2050.
Ministers took stock of the progress made on the proposal for a **regulation on batteries and waste batteries,** presented by the Commission on 10 December 2020.
Ministers also exchanged views on the Commission's communication on the **EU action plan on zero pollution** which aims to reduce pollution in the air, water and soil and create a toxic-free environment.
Council endorses new EU strategy on adaptation to climate change (press release, 10 June 2021)
Environment Council, 10 June 2021
EU member states have endorsed a new climate adaptation strategy.

7 June
Climate neutrality: Council adopts the Just Transition Fund
The Council adopted a regulation establishing a **€17.5 billion fund** which will contribute towards making the **green transition fair and inclusive**.
The **Just Transition Fund (JTF)** will finance projects that will alleviate the socio-economic costs for communities across the EU that are heavily dependent on fossil fuels or greenhouse gas-intensive industries and need to diversify the local economy.
The total amount of €17.5 billion (in 2018 prices) is made up of €7.5 billion available for budgetary commitment for the period 2021-2027 and €10 billion from the recovery instrument (Next Generation EU) available over the years 2021, 2022 and 2023.
Member states will also contribute towards JTF programmes. In addition, they can transfer resources from the European Regional Development Fund and the European Social Fund Plus. This can potentially mobilise **close to €30 billion in investment**.
Climate neutrality: Council adopts the Just Transition Fund (press release, 7 June 2021)

5 May
EU ambassadors approve compromise text on the EU climate law
EU ambassadors **approved the final compromise text** for the EU climate law, which was agreed between the Council's and the Parliament's negotiators in April 2021.
The final compromise text includes:
- a **55% net emission target for 2030**
- an EU-wide **climate neutrality target for 2050**
- the establishment of a **European Scientific Advisory Board on Climate Change**
- the use of an emission budget for setting a **2040 target**

European climate law: Council and Parliament reach provisional agreement (press release, 5 May 2021)

26 April
Public sector loan facility to support just climate transition – provisional agreement reached
The Council presidency and the European Parliament's negotiators reached a provisional agreement on a new **public sector loan facility** that will support the transition towards a climate-neutral economy in the EU in an **inclusive manner**.
The facility will benefit the regions most affected by the transition towards the EU's 2030 climate targets and the objective of EU climate neutrality by 2050, such as coal- and carbon-intensive regions. It will support a wide range of **sustainable investment projects** that address the development needs of these regions resulting from the climate transition. This includes projects in areas such as energy and transport infrastructure, district heating networks, energy efficiency measures and social infrastructure.
Public sector loan facility to support just climate transition – provisional agreement reached (press release, 26 April 2021)

21 April
European climate law: Council and Parliament reach provisional agreement
The Council's and the European Parliament's negotiators reached a provisional political agreement **setting into law the objective of a climate-neutral EU by 2050**, and a collective, net greenhouse gas emissions reduction target of **at least 55% by 2030** compared to 1990.
The provisional agreement envisages:
- giving **priority to emissions reductions over removals** regarding the 2030 target
- establishing a **European Scientific Advisory Board on Climate Change** to provide scientific advice and reporting on EU measures, targets and budgets
- setting an intermediate climate **target for 2040**, to be proposed by the Commission

The provisional political agreement is **subject to approval** by the Council and Parliament, before going through the formal steps of the adoption procedure.
European climate law: Council and Parliament reach provisional agreement (press release, 21 April 2021)

15 March
Council approves conclusions on the EU chemicals strategy for sustainability
The Council adopted conclusions endorsing the **EU chemicals strategy for sustainability**, presented by the Commission.
The strategy sets out a long-term vision for the EU chemicals policy. With it, the EU and member states want to:
- better protect **human health**
- strengthen the industry's **competitiveness**
- support a **toxic-free environment**

The strategy is an essential part of the European Green Deal and its zero-pollution ambition.
Council approves conclusions on the EU chemicals strategy for sustainability (press release, 15 March 2021)

2020

17 December
Council agrees on full general approach on European climate law proposal
The Council reached agreement on a **general approach** on the proposal for a European climate law, including a new EU greenhouse gas emissions reduction target of at least 55% by 2030 compared to 1990, following the guidance of the European Council given on 10-11 December 2020. The main aim of the European climate law is to set into legislation the objective of a **climate neutral EU by 2050**.
Today we reached an important milestone as regards the proposal for a European climate law. The EU is strongly committed to becoming climate neutral by 2050 and we are sending a strong signal to the world with our reinforced greenhouse gas emissions reduction target of at least 55 % by 2030.**Svenja Schulze, Federal Minister for the Environment, Nature Conservation and Nuclear Safety of Germany**
Council agrees on full general approach on European climate law proposal (press release, 17 December 2020)

16 December
Just transition fund: Council endorses the political deal with the Parliament
On 16 December 2020, EU ambassadors endorsed the **provisional political agreement** reached by the German Presidency of the Council and the European Parliament on the new **€17.5 billion** just transition fund.
The resources will come from the 2021-2027 multiannual financial framework (€7.5 billion) and the Next Generation EU instrument (€10 billion spread over three years).
The just transition fund is an affirmation of our solidarity and political will as a Union to tackle climate change together. It will help to reconcile economy and ecology. We cannot implement the European Green Deal without mitigating the consequences for those most affected by the decarbonisation of our economy.
Peter Altmaier, German Federal Minister for Economic Affairs and Energy
Just Transition Fund: Council endorses the political deal with the Parliament (press release, 16 December 2020)

10-11 December
EU leaders endorse new binding climate target

The European Council endorsed a binding EU target of a net domestic reduction of greenhouse gas emissions by **at least 55% by 2030**, compared to 1990 levels. It called on Council and Parliament to reflect this new target in the **European climate law** proposal and to adopt the latter swiftly.
EU leaders want to increase climate ambition in a manner that will:

- spur **sustainable economic growth**
- create **jobs**
- deliver **health and environmental benefits** for EU citizens
- contribute to the long-term **global competitiveness** of the EU economy by promoting green innovation

European Council, 10-11 December 2020

29 October
Climate finance: EU and member states' contributions continued to increase in 2019
Contributions from the EU and its member states to support developing countries in reducing their greenhouse gas emissions and coping with the impacts of climate change continued to rise in 2019, confirming a steady upward trend since 2013.
The climate finance support provided by the EU and its member states (the UK included) amounted to **€23.2 billion** in 2019, a 6.9% increase compared to 2018. The total without the UK stood at **€21.9 billion**, a 7.4% increase compared to the total for the EU 27 in 2018.
The climate finance contribution is seen as an important step in the implementation of the legally binding climate change agreement reached in Paris in December 2015.
Climate finance: EU and member states' contributions continued to increase in 2019 (press release, 29 October 2020)

Europe's contribution to climate finance (in €bn) (infographic)

23 October
Environment ministers reach partial agreement on the EU climate law and adopt conclusions on biodiversity
EU environment ministers reached agreement on a partial general approach on the proposed **European climate law**. The Council agreed that the Union-wide 2050 climate-neutrality objective should be pursued by all member states collectively. It stressed the importance of promoting both **fairness and solidarity** among member states and **cost-effectiveness** in achieving the climate neutrality objective.
They also endorsed the objectives of the **EU biodiversity strategy for 2030**, including its nature protection and restoration targets, recognising the need to step up efforts by addressing the direct and indirect drivers of biodiversity and nature loss. The conclusions give **political guidance** as regards the implementation of the strategy and reaffirm the EU's determination to lead by example in tackling the global biodiversity crisis and in developing an ambitious new global biodiversity framework at the UN Biodiversity Conference in 2021.
European climate law: Council reaches agreement on large parts of the proposal (press release, 23 October 2020)
Council adopts conclusions on the EU biodiversity strategy for 2030 (press release, 23 October 2020)
Environment Council, 23 October 2020

21 October
Just Transition Mechanism: Council agrees its position on public sector loan facility
Member states' EU ambassadors agreed the Council's position on a new public sector loan facility to be created under the Just Transition Mechanism. It will support public sector investment in the regions that are most affected by the transition towards a climate neutral economy.
The new public sector loan facility will provide €1.5 billion in grants from the EU budget to allow finance partners to support projects addressing the challenges of the transition.
Just transition towards climate neutrality - Council agrees its position on new public sector loan facility (press release, 21 October 2020)

19 October
Council prioritises actions for sustainable food systems: conclusions on the farm to fork strategy
The Council adopted a set of conclusions on the strategy, **endorsing the goal of developing a European sustainable food system**, from production to consumption. The conclusions entail a three-fold political message from the member states who agreed to ensure:

- **sufficient and affordable food** while contributing to EU climate neutrality by 2050

- a **fair income and strong support** for primary producers
- **competitiveness** of the EU agriculture at global level

Council prioritises actions for sustainable food systems: conclusions on the farm to fork strategy (press release, 19 October 2020)

15 October

EU leaders discuss the EU's climate ambition for 2030

The European Council discussed the Commission's communication on 'Stepping up Europe's 2030 climate ambition', including the **proposed emissions reduction target of at least 55% by 2030**, and the actions required to achieve that ambition.

EU leaders consider that the updated target should be **delivered collectively** by the EU in the most **cost-effective manner** possible. All member states will participate in this effort, taking into account national circumstances and considerations of **fairness and solidarity**.

The European Council invited the Council to take work on this forward. Leaders invited the Commission to conduct **in-depth consultations** with member states to assess the specific situations and to provide more information about the **impact at member states' level**.

European Council, 15-16 October 2020

25 June

Aviation emissions: EU chooses more ambitious option to calculate offsetting requirements

The Council adopted a decision to take part in the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) from the start of its voluntary phase on 1 January 2021. This decision lays down the EU position on the method to be used for calculating airplane operators' offsetting requirements during the CORSIA pilot phase 2021-2023. This will likely lead to higher offsetting requirements and therefore be better for the environment.

Today's decision confirms the EU's unwavering support for CORSIA as the worldwide scheme to curb aviation emissions and help address climate change. The environmental ambition of the Green Deal will not be achieved by Europe acting alone, because the drivers of climate change are not limited by national borders.**Oleg Butković, Croatian Minister for the Sea, Transport and Infrastructure, President of the Council**

Aviation emissions: EU confirms its participation in the CORSIA voluntary phase from 2021 and chooses more ambitious option to calculate its offsetting requirements (press release, 25 June 2020)

24 June

Just Transition Fund: Council agrees on its partial negotiating position

The EU is taking steps to achieve its goal of a climate-neutral economy by 2050 in an effective and fair manner. EU ambassadors endorsed the Council's partial position for negotiations with the European Parliament on establishing a Just Transition Fund.

The aim of the fund is to reduce the socio-economic costs for those communities that are less equipped to meet the challenges of the green transition. It will focus, in particular, on regions and territories which need to phase out production and use of coal, lignite, peat and oil shale, or transform carbon-intensive industries.

Just Transition Fund: Council agrees on its partial negotiating position (press release, 24 June 2020)

24 June

European Year of Rail 2021: Council agrees its position in support of the initiative

The Permanent Representatives Committee agreed on a negotiating mandate on the proposal to set 2021 as the European Year of Rail. The initiative will feature a range of events and campaigns to attract more people and goods to railways and it aims to promote rail as a green, safe and innovative mode of transport which is a key element in the shift to sustainable and smart mobility.

Environmentally-friendly and energy-efficient, rail will play a crucial role in helping the EU become climate neutral by 2050. The COVID-19 crisis has also shown how rail transport can facilitate the supply of essential goods such as medical devices, food and fuel in exceptional circumstances.**Oleg Butković, Croatian Minister for the Sea, Transport and Infrastructure, President of the Council**

European Year of Rail 2021 – Council agrees its position in support of the initiative (press release, 24 June 2020)

23 June

Environment ministers: European Green Deal should guide the recovery towards green growth

EU environment and climate ministers held a policy debate on the contribution of environmental and climate policies to the recovery from the COVID-19 pandemic. They agreed that the European Green Deal should guide the recovery towards green growth and a more resilient EU.
We want to build a modern, clean and healthy economy, which will help to secure the livelihoods of the next generations. The recovery plan can help kick-start Europe's economy after the Covid-19 crisis, and it can at the same time boost Europe's sustainability and climate action.**Tomislav Ćorić, Minister of Environment and Energy of Croatia**
Video conference of environment ministers, 23 June 2020

15 June
EU energy ministers discuss EU Green Deal and economic recovery
EU energy ministers had an exchange of views on the economic recovery after the COVID-19 crisis and the European Green Deal, with a focus on innovative energy solutions.
Ministers agreed that innovative energy technologies such as smart grids, hydrogen (particularly from renewable sources) and offshore as well as onshore renewable energy will be of great importance for Europe's job creation, competitiveness and decarbonisation. Several ministers mentioned that a large part of the additional investment needs related to energy, climate and transport were already set out in the member states' national energy and climate plans (NECPs).
Video conference of energy ministers, 15 June 2020
Ministers discussed innovation in the energy sector which has the potential to boost Europe's economic recovery

8 June
Agriculture ministers welcome EU Biodiversity and Farm to fork strategies
EU agriculture ministers held an exchange of views on the Farm to fork and the Biodiversity strategies, which were adopted by the European Commission on 20 May 2020.
Ministers welcomed both strategies and the ambition to strengthen the role of farmers in the food supply chain. They stressed that the ambitious goals of the Farm to fork and Biodiversity strategies had to be matched with an ambitious budget.
The Farm to Fork and Biodiversity strategies will play a crucial role in the implementation of the European Green Deal and the Recovery Plan for Europe. We need to assess the potential contribution of the agricultural, fisheries and forestry sectors to achieving the targets set in both strategies. However, we also need to pay particular attention to the impact on those sectors. Our farmers, fishers and aquaculture producers deserve fair transition, predictable conditions and adequate financial resources.**Marija Vučković, minister for Agriculture of Croatia**
Video conference of agriculture ministers, 8 June 2020

5 March
Environment and climate ministers exchange views on the European Green Deal
Environment and climate ministers had an exchange of views on the Commission communication on the European Green Deal.
Under any other business, the Commission presented its proposal on European Climate Law and on a Just Transition Mechanism under the European Green Deal. The Commission also presented its communication on the European Green Deal Investment Plan.
Environment Council, 5 March 2020

27-28 February
Competitiveness Council discusses transition to climate-neutral EU
The Commission presented its Green Deal communication to ministers in a public session. Ministers held a discussion about the transition to a climate-neutral and circular EU industry based on a note prepared by the presidency.
Competitiveness Council, 27-28 February 2020

27 January
Ministers discuss agricultural aspects of Green Deal
The Commission presented its Green Deal communication to ministers in a public session. Ministers held a discussion about the agricultural aspects of the Green Deal based on a steering note prepared by the presidency.
Agriculture and Fisheries Council, 27 January 2020

21 January
Green Deal: ministers debate financial and economic aspects
Ministers discussed the financial and economic aspects of the European Green Deal. The Commission presented its communication on the Sustainable Europe Investment Plan published on 14 January.
Economic and Financial Affairs Council, 21 January 2020

2019

19 December
Exchange of views on EU environment and climate policy in the next term
The Environment Council had an exchange of views on EU environment and climate policy in the new legislative term, including the European Green Deal.
Environment Council, 19 December 2019

12-13 December
EU leaders endorse 2050 climate neutrality objective
The European Council endorsed the objective of climate neutrality by 2050, though Poland cannot commit to implementing the objective at this stage. EU leaders took note of the communication on the Green Deal by the Commission and asked the Council to work on it.
European Council 12-13 December 2019

20-21 June
Strategic agenda: EU leaders call for a climate-neutral, green, fair and social Europe
The European Council adopted a new strategic agenda for 2019-2024. Building a climate-neutral, green, fair and social Europe is one of its key objectives.
European Council, 20-21 June 2019.

II.2 Public Participation and Environment - EU Rules

The SEA[182] and EIA[183] Directives are two key EU texts for the development of environmental public policies. By involving the public, the EIA and the SEA procedures, that have common characteristics, ensure more transparency in environmental decision-making and, consequently, hope to inspire social acceptance and better decisions to protect the environment.

1. The Environmental Impact Assessment Directive

The EIA Directive is the European Union's instrument for implementing Article 6 of the Aarhus Convention.

1.1 Keys Provisions of the EIA Directive

1.1.1 Screening stage

The Directive sets out the conditions under which a public or private project must undergo an environmental assessment. At this stage, only projects are concerned. They are defined as operations resulting either from "the execution of construction works or of other installations or schemes" or from "other interventions in the natural surroundings or the landscape, including those involving the extraction of mineral resources"[184]. The CJEU concludes that a **"project"** is necessarily accompanied by elements of physical transformation[185].

[182] Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment
[183] Directive 85/337/CEE of the European Parliament and the Council on the assessment of the effects of certain public and private projects on the environment, 27 June 1985 amended by the 2011/92/UE of the European Parliament and of the Council, and by the Directive 2014/52/UE.
[184] Article 1 (2) (a).
[185] CJEU, 28 February 2008, Paul Abraham e.a., Case C-02/07.

Then, the **Directive** distinguishes **two categories of projects: those** which must always be subject to an impact assessment (Annex I; article 4 (1)) and **those** which may be subject to such an assessment when the Member States "determine whether the project shall be made subject to an assessment" regarding to their characteristics (Annex II). The first one corresponds to the list of projects covered by Annex 1 of the Aarhus Convention. The second one is broader than those in Annex I. For example, in the case of infrastructure, heading "(e) Construction of roads, ports and port facilities", including fishing ports (which are note not covered by Annex I of Aarhus Convention) includes all road projects.

For these seconds projects, Member States have a fairly wide margin of discretion when it comes to subjecting **projects** to **assessment**. Member states have to assess them to determine whether they are potentially likely to significantly affect the environment based on the criteria laid down in Annex III. Article 4 offers two possibilities: either the Member State determines *a priori* that projects fall within the scope of the Directive on the basis of certain thresholds criteria from the Annex III of the Directive, or the Member State carries a case-by-case **assessment**. These two approaches may be combined by a Member State. The Court of Justice interprets the **Directive** requires that all projects falling within Annex II, which are likely to have significant effects on the environment, must be subject to an environmental assessment[186]. Similarly, it's clear from Articles 2 and 4 of Directive that the introduction of a threshold below which a category of projects of the Annex II is exempted from environmental assessment is not compatible with the objectives of the Directive[187].

1.1.2 Scoping stage

Articles 3, 5 and 7 describe the scoping stage of the EIA Directive. The developer has to asset the direct and indirect environmental effects of it project on four factors: human beings, fauna and flora (3 (a), soil, water, air, climate and landscape (3 (b)), material assets and the cultural heritage (3(b)) and the interaction between all those factors. The details of which are set out in this article are in Annex IV.

In fact, the Directive takes up the same element of the Aarhus Convention, specifying and developing them. The assessment includes information on "reasonable alternative solutions examined" by the project owner which means that he's required to demonstrate that he has chosen the best option, but the study must include the elements that have been analyzed. Article 7 lays down specific obligations for the project which have transboundary impacts. Article 7 incorporates the Espoo Convention's stipulations particularly regarding mutual information between Member States and public consultation in a transboundary context.

1.1.3 Public Consultation

Article 6 lays down the obligation to consult the public before the **project** begins**.** The consultation period must be at least 30 days. It also imposes an obligation to consult both public authorities responsible for the environmental matter's ant the local or regional authorities affected by the project.

The directive does not specify the conditions for public participation. Reference should therefore be made to Article 6 of the Aarhus Convention, which provides several clarifications. The first stage (art. 6 (2)) consists of informing the public of the decision-making process: the proposed activity, the nature of the decisions taken, the authority responsible for the decision and the timetable for the procedure must be the subject of a public notice at the beginning of the consultation procedure. Article 6(3) specifies that this notification must be given within a reasonable time. This is to ensure that the public affected by the decision is given a genuine opportunity to participate. Article 6(4) states that consultation must take place "when all options

[186] CJEU, 4 May 2006, Commission v United Kingdom, Case C-508/03, ECR I. 3969, §78 and 89
[187] CJEU, 20 November 2008, Commission c/ Ireland, aff. C-66/06 ; CJUE, 5 October 2009, Commission c/ Pays-Bas, aff. C-255/08.

are open, and the public can exercise a real influence". Article 6 (6) sets out in detail the information to be made available to the public, and in particular the items that the **EIA** must cover**.** Comments from the public may be made in writing or orally (6, (7)), although a hearing procedure is not mandatory. Finally, the parties must ensure that the comments are considered when the authorization decision is taken (art. 6, (8)) and that the reasoned decision on whether or not to authorize the project is published (art. 6, (9)). Those provisions are set up in Article 9 which stipulates that the public must be informed of the decision taken, and the opinions collected must be considered in the final decision.

1.2 Strengths and Weaknesses of the Implementation of the EIA Directive

In the last report on the application and effectiveness of the EIA directive[188], the Commission underlined that Member States have transposed and implemented the EIA Directive largely in line with the Directive's objectives and requirements. Even more, some Member States have introduced obligations which go beyond the Directive's minimum requirements. This is the case regarding the key stages of the EIA, such as *"screening"* and *"scoping"*. Several Member States systematically submit projects that do not fall within the scope of Annex I or II to the EIA. During the scoping stage, many States have made scoping mandatory and provided for public consultation during scoping. The report also identifies many concerns about the screening stage, the quality of the EIA and the practices for public participation.

Firstly, at the screening stage, "Member States often exceed their margin of discretion, either by taking account only of some selection criteria in Annex III or by exempting some projects in advance"[189]. Furthermore, there are still several cases in which cumulative effects are not considered, and "salami-slicing" practices continue especially for big investment plans. So, the Commission recommends simplifying and clarifying the European criteria.

Secondly, the quality of the environmental assessment is undermined by the lack of harmonisation between the Member States about the study of alternatives. Some domestic provisions require the developer to examine an alternative, while others do not. For the Commission, "it may be necessary to specify what should be required by introducing the obligatory assessment of alternatives or by specifying a range of alternatives (such as the "do-nothing" alternative) to be studied"[190]. More generally, the lack of sufficient quality in the information used in the EIA documentation is a regular problem. The Commission notes significant differences between Member States, but also within the same state. She recalls of the resources that Member States can implement to ensure the quality of the assessment namely set up a proper accreditation of consultants that undertake EIA work; use the services of independent consultants to prepare the reports; use of independent external review or expert assistance; use of guidelines on specific issues to be taken into account for certain types of projects; keep the data used up to date; make mandatory "scoping"; introduce comitology to update Annex IV.

Finally, despite increasing public participation in the decision-making process, there is still no standard practice across the EU. This is the consequence of the wide margin of discretion left to the Member States to define the arrangements of participation. Firstly, there is no common reference for the beginning of the public consultation. It can be at the screening stage or only at the scoping stage or both). The minimum requirement of the EIA directive corresponds with a public participation on the scoping stage (Article 5). Secondly, timeframes vary considerably

[188]Commission, Report from the commission to the council, the European Parliament, The European Economic and social Committee and the Committee of the Regions On the application and effectiveness of the EIA Directive, (Directive 85/337/EEC, as amended by Directives 97/11/EC and 2003/35/EC), 2013, online https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52009DC0378

[189] Ibid.

[190] Ibid.

between Member States: at the screening stage, the range goes up to 45 days whereas at the stages of scoping and of the consultation on the EIA documentation, the timeframe is between 10 and 60 days. Finally, the arrangements for informing and consulting the public vary widely. However, the Commission notes that public participation is not effective when national arrangements are constricted: this may be the case when the information that needs to be made available to the public is not easily accessible or when participation takes place at a time when the public is not available (e.g. holidays). For the Commission these gaps could be addressed by providing for earlier public and stakeholders consultation at the screening or scoping stages and by establishing minimum timeframes. Guidelines could also be developed on best practices for making the EIA documentation available to the public concerned.

2. The Strategic Environmental Assessment Directive[191]

The SEA directive is the European Union's instrument for implementing Article 7 of the Aarhus Convention.

2.1 Keys Provisions of the SEA Directive

2.1.1 The Scoping Stage

The SEA directive applies to plan or programmes which meet four cumulative criteria.
First, the plan or programme should be subject to preparation and/or adoption by a national, regional or local authority (Article 2 (a)).

Secondly, the plan or programme must be required by legislative, regulatory or administrative provisions (Article 2 (b)). According to the Court of Justice, this provision must be interpreted as applying not only to plans or programmes whose adoption is mandatory but also to those whose adoption is governed by national laws or regulations, which determine the authorities competent to adopt them and the procedure for their preparation[192].

Thirdly, plans or programmes are prepared by any of the sectors listed in Article 3(2)(a) of the SEA Directive and that sets the framework for future development consent of projects listed in Annexes I and II of the EIA Directive (3(2)(b) or the article 6 and 7 of Directive 92/43/CEE (article 3 (2) (b)).
Finally, for the other plans or programmes, the regime applicable is the same regime for projects subject to the EIA directive: a case-by-case examination procedure for submission to environmental assessment is provided (Article 3 (3)(4)). This examination must be carried out based on the criteria defined in Annex II of the Directive.

2.1.2 The Screening Stage

The scoping stage corresponds to the Article 5 of the SEA Directive. The environmental report takes into consideration baseline information and reasonable alternatives. It identifies, describes and assesses the likely significant effects of implementing the plan or programme and reasonable alternatives considering the objectives and geographical scope of the plan or programme (Article 5 (1)).

Annex 1 of the Directive enumerates information required in the report. The precision of the information required is very closely linked to the nature of the text. The report contains only information that can reasonably be required, taking into account existing knowledge and

[191] Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment
[192] CJEU, 12 june 2019, Compagnie d'entreprises CFE SA contre Région de Bruxelles-Capitale, C-43/18, ; CJEU, 8 may 2019, Associazione «Verdi Ambiente e Società - Aps Onlus» e.a., C-305/18.

evaluation methods, but also the content and degree of precision of the plan or programme, in particular (article 5 (2)).

2.1.3 Public and Environmental Authority Consultation

The public consultation process is the same as for projects. Article 6 sets out that the draft plan or programme and the environmental report must be available to the environmental authorities and to the public. Article 7 **of** the **Directive** also provides for measures in the event of transboundary effects[193].

The procedure must give an early and effective opportunity for the public to express their views on the draft (Article 6 (2)) and Member States shall designate the authorities which are to be consulted and which, given their specific responsibility for the environment, are likely to be affected by the environmental effects of the implementation of plan or programme (Article 6 (3)), and define the public affected of likely be affected (Article 6 (4)).

Like with the EIA Directive, Member States have a wide margin of discretion to determine the detailed arrangements for informing and consulting both the authorities and the public (article 6 (5)).

2.2. Strengths and weaknesses of the implementation of the EIA Directive

In its most recent assessment of its implementation, the European Commission made three observations regarding its effectiveness, efficiency, relevance, coherence, added value[194].

This evaluation demonstrates the effectiveness of the directive in ensuring a high level of environmental protection, but also in involving the public in the preparation of these documents. However, different stakeholder groups have highlighted that the influence of the SEA Directive is often limited to the final content of plan or programme due to prevailing (political, social or economic) interests.

Secondly, the report highlights the concerns raised by the Court of Justice of the European Union's interpretation of the concept of plan or programme, which is extensive. In various cases, the Court of Justice of the European Union establish tant the SEA would be applicable to any act, including normative one like a regulatory provision[195], fulfilling the above four criteria. The cost of this wide-ranging interpretation is not yet known. Furthermore, the evidence notes that thanks to its flexibility, the Directive allows the Member States to accommodate the procedure required under the Directive to the different environmental issues at stake and that the SEA Directive is generally coherent with other EU legislation and policy instruments, such as EIA, appropriate assessment, cohesion policy, climate change, biodiversity and transport, as well as EU international obligations.

The flexibility of the SEA Directive explains the diversity of its implementation by the Member States. This table is based on the national reports issued by the Member States as part of the

[193] It should be noted that the Espoo Convention does not cover plans and programmes, but a protocol (the Kiev Protocol) adopted in 2003, and which came into force in 2010, does.

[194] Commission staff working document, Executive Summary of the evaluation of the Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (SWD 2019) 413 final. https://circabc.europa.eu/ui/group/3b48eff1-b955-423f-9086-0d85ad1c5879/library/19a51b54-ae96-43a4-b1dd-19ae3a285767/details?download=true

[195] CJEU, 27 Oct 2016, D'Oultremont and Others, Case C-290/15 ; CJEU, 25 June 2020, A and Others, Case C-24/19, § 79. The Article 3(2)(a) must be interpreted as meaning that a decree and a circular, both containing various provisions relating to the siting and operation of wind turbines, including measures relating to shadowing, safety and noise standards, constitute plans and programmes which must be subject to an environmental assessment under that provision.

European Commission's assessment of the implementation of the directive. It compares the main stages in the implementation of the Directive in Croatia[196], Romania[197] and France[198].

Public participation takes place at different stages of the procedure and in different ways. In all three countries, however, particular attention is paid to informing the public about the various decisions taken at both screening and scoping stages and on the draft of the plan or programme. The time frames vary between Member States. In Croatia and in France the public participation procedure shall last at least 30 days whereas in Romania it depends on the impact of the project (between 45 and 60 days at the scoping stage).

[196] Croatia, Legal and Organisation arrangements, application and effectiveness of the SEA Directive (Directive 2001/42/EC), 2019, online :https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32001L0042&qid=1487172800769.
[197] Romania, Legal and Organisation arrangements, application and effectiveness of the SEA Directive (Directive 2001/42/EC), 2019, online :https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32001L0042&qid=1487172800769.
[198] France, Legal and Organisation arrangements, application and effectiveness of the SEA Directive (Directive 2001/42/EC), 2019, online :https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32001L0042&qid=1487172800769.

Stage of the sea	Croatia	Romania	France
Scoping approach	The competent body has the obligation to obtain the opinion of the bodies or persons designated by special regulation and must coordinate and carry out at least one discussion with representatives of bodies and persons. Public can submit written opinions or proposals determining the content of the SEA study. Once the content of the SEA study is decided, the competent body must issue to the public the decision. The information must be published for 30 days and the competent body will seek the opinion of the relevant environmental and health authorities.	A "Working Group" composed of representatives of the plan or programme owner, the competent environmental and health authorities, other authorities concerned by implementing the plan or programme, identified according to their specific attributions and environmental protection responsibilities, one or more natural or legal persons certified according to the legal provisions, as well as employed experts, as appropriate, are responsible for the detailed level of information that must be included in the environmental report.	The competent body may consult the competent environmental authority on the extent and the degree of accuracy of information to be included in the environmental report. The environmental authority is a body without legal personality composed by experts of the Environmental Minister.
Alternatives and baseline reporting (Article 5 – Annex I)	The SEA describes and assesses the significant effects on the environment including alternative options. In various cases, there are zero alternatives because of the lack of cooperation among the competent body, planning team and practitioner. The baseline reporting is based on the Directive criteria: "relevant aspects of the current state of the environment and the likely evolution thereof without implementation of the plan and programmes.	Alternatives are presented to the "Working Group" and the SEA report must propose the most convincing alternative in terms of environmental protection. A SEA manual defines what reasonable or possible alternatives means to discuss the plan and programme. The number of alternatives is not limited, and the zero alternative must be analysed. The current environmental situation corresponds to the latest annual report of the state of environment in Romania.	There is no legal definition of reasonable alternatives. But legal provisions specify that alternatives should "enable to meet the purpose of the plan, scheme, programme or other planning document in its territorial scope. Each assumption has to mention its advantages and disadvantages". The zero option is also considered as one of the alternatives. But the French SEA experts highlight that the consideration of the zero alternative is more difficult in the context of SEA than it is for EIA. Some reports establish a recurring difficulty in defining a "reference scenario".
Preparation of the environmental report and non-technical summary	The SEA study contains the elements required by the Annex I of the SEA Directive	Idem	Idem

Consultation and public participation	Domestic provisions designate bodies and/or persons that must be consulted. The "public" is defined as one or more natural or legal persons, their groups, associations and organizations in accordance with special regulations and practice. In practice so far, public concern was identified based on the geographical location of the plan or programme and by making the information available to the public and letting them identify themselves as public concern. Public is involved in two stages of the SEA : at the scoping stage and the SEA study draft proposed by the competent authority. The competent body is responsible for public information and must choose the more appropriate way to inform the local community or individual citizens. Specially, during the procedure, the public shall be informed of five decisions and reports : the decision on initiating the strategic assessment and developing the SEA study ; the decision on determining the content of the SEA study ; the decision on submitting the SEA study and the draft proposal of the plan or programme for public debate; the procedure relating to potential transboundary effects of a plan and programme and the procedure of participation in the strategic assessment in another country; the report of the competent body concerning the performed strategic assessment and the adopted plan or programme. The public debate on the SEA report and the draft proposal shall last at least 30 days.	Domestic provision defines public like public with an interest in the decision-making process and for, the relevant NGO's, the environmental authority considers the nature and content of the plan and programme and the area of activities of NGO's or other criteria useful to identify them. Domestic provisions designate bodies and/or persons that must be consulted because of their specific environmental responsibilities. A special Committee[199] is competent to give its opinion which performs the screening stage of plans et programmes. Romanian legislation on public participation goes beyond the requirements of the Directive. Public can participate both during the screening and scoping stages. So, the public is consulted throughout the entire environmental assessments process starting from the first version of the plan or programme is available until finalization by issuing the administrative act for the plan/programme subject to the SEA procedure. The methods used for public consultation include: public announcements in mass-media, display at local authority headquarters, internet announcements, and public debate. A special attention is paid to publicising information: information is published by the owner and the environmental authority, and on official websites and mass media, 2 times at a 3 days interval before the beginning of public participation. The timeframe procedure are ambitious: the public has 15 calendar days from the last announcement to send written comments and	In the French legislation there is no specific definition of the "the public" and "relevant non-governmental organizations", or of the authorities with "specific environmental responsibilities". In fact, the environmental Code identifies the competent environmental authority which can be a national or local body of experts of the environmental minister. Public participation only starts when the opinion on the draft of the plan/programme of the environmental authority is achieved. The methods used for the public consultation is either a public inquiry or an electronic participation procedure. The procedure shall last at least 30 days

Stage of the sea	Croatia	Romania	France
		opinions when the first version of the plan/programme is available; at the screening stage, the public has 10 calendar days from the announcement to send written proposals. Then, when the draft is ready, a public debate is announced at least 45 calendar days before the date of the debate, or 60 days if transboundary effects are identified.	

II.3 Public procurement and the environment

For the last twenty years or so, **public procurement** has been presented as an effective **public** policy instrument for promoting sustainable development objectives. This trend is driven by international law and European Union law.

At international level, the movement was given a boost by the Rio Conference in 1992 with the 'Agenda 21' programme[200]. At a more local level, the Aalborg Charter[201], signed in 1994, envisages that environmental protection could be supported by public procurement. From the 2000s onwards, the movement gained momentum with the Organization for Economic Co-operation and Development (OECD) recommendation on improving the environmental performance of public procurement[202] and the creation of a task force at the Johannesburg World Summit[203].

At European Union level, the European Commission began to address the issue of the relationship between the environment and public procurement in the mid-1990s. Several Commission communications[204] have sought to clarify the way in which environmental considerations can be considered in public procurement law based on existing law[205]. The Court of Justice of European Union played a part in this movement with its famous case *Concordia Bus Finland*[206]. The Court states that an environmental award criterion may be introduced to determine the most advantageous tender and sets out the conditions for the legality of such a criterion. Its soft law recommendations were subsequently transposed into positive law with the adoption of two directives in 2004, reinforced and extended to concessions contracts in 2014[207].

[199] Depending on the specific the plan or program the structure of the Special Committee may widen with representatives of other central public authorities Prefecture, County Council, Department of Public Health, Water Basin Administration, National Environmental Guard, Inspectorate for Emergency Situations, the Sanitary Veterinary and Food Safety Direction.
[200] Anne Rivière-Honegger, "Agenda21", Geoconfluences, 2014, on-line, https://geoconfluences.ens-lyon.fr/glossaire/agenda-21.
[201] European Conference on Sustainable Cities & Towns , Charter of European Cities & Towns Towards Sustainability, 27 May 1994, https://sustainablecities.eu/fileadmin/repository/Aalborg_Charter/Aalborg_Charter_English.pdf. Only a handful of towns in the three countries concerned have signed up to this commitment: Kotor and Herceg-Nov in Montenegro, Ohrid in Macedonia, Shkodra and Tirana in Albania.
[202] OECD, Recommendation of the Council on OECD Legal Instruments Improving the Environmental Performance of Public Procurement, 2002, 6 p. https://legalinstruments.oecd.org/public/doc/46/46.en.pdf.
[203] Marrakech Task Force sur les achats publics durables piloté par le PNUE, http://www.unep.fr/scp/marrakech/.
[204] For example, Commission, Communication from the Commission to the European Parliament, the Council, The European economic and social committee and the committee of the regions
Public procurement for a better environment, 2008,{SEC(2008) 2124}.
[205] Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.
[206] CJEU, 17 Sept. 2002, Case C-513/99.
[207] Directive 2014/24/UE of the European Parliament and of the Council, 26 February 2014, On public procurement and repealing Directive 2004/18/EC and Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts.

Henceforth, the environment may permeate the entire public procurement procedure and concessions contracts.

For the public procurement, to define the requirement, the technical specifications may include environmental characteristics in the terms of reference, using eco-labels where appropriate and subject to certain conditions. Furthermore, the conditions under which a contract is performed may also include environmental considerations. With regard to the selection of tenders, the contracting authority may assess the ability of a candidate to submit a tender in terms of the professional morality of the operator and exclude any candidate who has committed an offence by failing to comply with the environmental legislation of the State in question. Secondly, contracting authorities may require the production of certificates attesting that the operator complies with certain environmental management standards. Finally, when examining tenders, the contracting authority may include environmental criteria among the other criteria for awarding contracts.

For the concession's contracts, first, during the performance of concession contracts, economic operators must comply with the obligations applicable in the field of EU, national and international environmental law.

For the selection of tenders, secondly, at the time of submission of applications and selection of candidates, reasons relating to environmental protection may be imperative reasons in the public interest allowing derogation from the exclusion of operators who, for example, have been convicted or have failed to fulfil certain obligations. Conversely, an operator may be excluded if it can be shown that it has failed to comply with the obligations to respect environmental law. Thirdly and lastly, the environmental condition can be found in the three phases of launching the procedure, performance and conclusion of the contract. First of all, when the procedure is launched, the technical and functional specifications may include levels of environmental and climate performance. Secondly, the tender selection criteria may include environmental specifications. Finally, the operating conditions for concessions may include provisions designed to promote environmental protection and animal welfare.

However, since the introduction of legal regulations in this area, the use of sustainable public procurement so far has not become an effective instrument for the implementation of sustainable development[208]. Several reasons are regularly put forward to explain this difficulty. On the one hand, the provisions of the directives are based on the will of the Member States, which are not obliged to impose consideration of the environment in public procurements and concessions contracts. On the other hand, contracting authorities are finding it difficult to implement environmental criteria for assessing tenders, in accordance with the European law requirements. Guidelines on sustainable public procurements and concessions are needed to ensure the legal certainty of contractual operations and sustainable public procurement schemes can be drawn up to provide a general framework for the development of sustainable procurement. In France, several recommendations were recently issued by the Economic, Social and Environmental Council to strengthen responsible public procurement[209].

[208] Małgorzata Burchard -Dziubińska's Lab"Sustainable public procurement as an instrument of implementation of sustainable development. Theoretical and practical approach", Scientific Papers of Silesian University of Technology Organization and Management Series 2017(104):9-19

[209]Patricia Lexcellent, Responsible public procurement: an insufficiently exploited level, June 2018, on-line https://www.lecesefr/sites/default/files/travaux_multilingue/FI06_commande_publique_responsable%20-%20GB.pdf.

II.4 Ombudsperson in Charge of the Environment

The continuing deterioration in the quality of the environment calls for reflection on the effectiveness of its legal protection and invites us to rethink the institutional conditions for this protection.

National policy making is inherently constricted to short-term thinking by electoral cycles, and waylaid from a sustainable path by the obsession with profit margins. The 'myopia'[210] representative democracies are compounded by their own difficulty in grasping environmental issues. Environmental damage is often diffuse and only reveals the seriousness of its effects over the long term.

To ensure environmental protection is not blinded by short-term interests, electoral distractions, or tempting profiteering and short-cuts, an institution should be created that is mandated to take the longer view. This institution could be an Environmental Ombudsperson. This point of view was supported in particular by the World Future Council to "bring intergenerational justice into the heart of policymaking"[211]. The Ombudsman appears to be a fruitful model for such a defender because of its history and status.

The Ombudsman, a Swedish term meaning "spokesman for grievances", originated in Sweden in 1809. At the time, they were created to replace monarchical absolutism with a new way of regulating political power. In line with this tradition, the Ombudsmen have since developed to ensure that public authorities comply with their obligations from two angles: limiting the powers of the executive and protecting human rights. Although Ombudsmen were not created to ensure the protection of this right, it now seems that they are being called upon to take part in its protection.

First, since the Rio Conference, the right of everyone to live in a healthy environment has been recognised by many states[212] and courts[213]. Secondly, the prerogatives and status usually entrusted to Ombudsmen seems particularly well suited to protecting the environment. Ombudsmen are often responsible for monitoring the administration and are independents. Public administrations are likely to cause irreversible damage to the environment because they play a major role in implementing environmental law. For example, it is they who implement the principles of prevention and precaution by limiting and monitoring private activities likely to have an influence on the environment. This function struggles to be exercised effectively within government departments. Public authorities often must arbitrate between a number of environmental, economic and social interests. This arbitration presents a risk for environmental protection, where the damage may appear minor because it is not always perceptible here and now[214]. The specific nature of environmental issues calls for the creation of an autonomous environmental ombudsman to realize the need to make an institution a genuine body for monitoring the effective application of environmental law and to ensure that all public decisions take sufficient account of environmental protection.

[210] Pierre Rosanvallon, "La myopie démocratique", Commentaire, N°131(3), p. 599.
[211] Alice Vincent, Ombudspersons for Future Generations: Bringing Intergenerational Justice into the Heart of Policymaking, The Future We Want?, June 2012, No. 1 & 2 Vol. XLIX, https://www.un.org/en/chronicle/article/ombudspersons-future-generations-bringing-intergenerational-justice-heart-policymaking?.
[212] David R. Boyd, The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights, and the Environment, Vancouver, University of British Columbia Press, 2012.
[213] CEDH, 6 July 2009, Tatar vs Romania, n°67021/01; CEDH, 8 July 2003, Hatton and others vs United Kingdom, n°36022/97, CEDH 24 June 2019, Cordella and others vs Italy, n°54414/13 and 54264/15.
[214] Julien Bétaille, "Arguments en faveur d'une autorité publique indépendante environnementale, in Marcel Sousse (dir.), Droit économique et droit de l'environnement, Mare et Martin, 2019.

Hungary has already taken this step, creating an Ombudsman for Future Generations in 2007[215] even if the position of Commissioner was downgraded to Deputy Ombudsperson by the Hungarian Constitution of 2011. Since 2011, the Hungarian Parliamentary Commissioner for Future Generations has been one of four Parliamentary Ombudsman. The Hungarian Ombudsman system consists of the "general ombudsman" responsible for civil rights in general and three special ombudspersons including the representation of future generations. Its creation was raises in two observations: "those whose constitutional right to an healthy environment is violated cannot be determined unambiguously and the informational unbalance between those who violate the right and whose right is violated cannot be resolved by providing state assistance to representation in court"[216]. Its responsibilities are defined by Section 27/B. (1) of the Ombudsman Act: he must "monitoring, assessment and control of the enforcement of legal provisions ensuring sustainability and improvement of the environment and nature as well as investigation of any improprieties he becomes aware of relating to these"[217]. The activities of the Commissioner in the above-mentioned fields can be broken down into three categories: investigation, parliamentary advocacy, scientific and strategic research. The Commissioner is mandated to investigate a broad range of environmental complaints, to act as a policy advocate for sustainability issues across all relevant fields of national and local legislation and public policy, and to undertake research projects targeting the long-term sustainability of human societies[218].

In Wales, since the Well-being of Future Generations Act, a public body is required to think about the long-term impact of public decisions[219]. Furthermore, it creates The "Future Generations Commissioner for Wales" to guarantee the future generation's rights. The Commissioner, appointed by Welsh ministers, is tasked with advocating for the needs of future generations in Welsh policy and ensuring that the government takes a long-term view of policy impact. The Commissioner has a wide-ranging mandate to advise, review and assess the work of public bodies from a well-being and sustainable development perspective. When the Commissioner makes recommendations to a public body, it must publish its response, and if the public body does not follow a recommendation it must say why, and what alternative action it will take[220].

In other countries, Ombudsman are taking an increasing interest in environmental issues. For example, recently, France's Children's Rights Ombudsman issued a set of recommendations to ensure that children's right to live in a healthy environment is better taken into account[221]. Recently, a report by the Ministry of the Environment recommended the creation of a new independent authority to guarantee the protection of common goods in the interests of future generations, with the power to act at the request of citizens, and with the power to issue opinions, recommendations and injunctions, including in emergencies, and to guarantee the quality, transparency and impartiality of environmental expertise and the information provided to citizens[222].

According to the authors, there are three questions that need to be asked in order to consider how such an institution could be designed:

[215] Gyula Bandi, "The Hungarian Ombudsman for the future generations", Persona e Amministrazione, Ricerche Giuridiche sull'Amministrazione e l'Economia, 2021, p 807.
[216] Eva, Tóth Ambrusné, "The Parliamentary Commissioner for Future Generations of Hungary and his Impact" , Intergenerational Justice Review, 1, 18-24. https://doi.org/10.24357/igjr.5.1.470
[217] Ibid.
[218] Ibid.
[219] https://www.futuregenerations.wales/about-us/future-generations-act/.
[220] Ann Sherlok, John Williams, Elin Royles, "A welsh model of commissioners?" Cambrian Law Review, 2015, vo. 45.
[221] https://www.defenseurdesdroits.fr/sites/default/files/2024-11/ddd_rapport-annuel-enfants_2024_20241022.pdf
[222] CGEDD, Une justice pour l'environnement. Mission d'évaluation des relations entre justice et environnement, 2019, en ligne. https://www.justice.gouv.fr/sites/default/files/migrations/portail/art_pix/rapport_justice_pour_environnement.pdf. In Great Britain, similar discussions are underway. Victor Anderson, "Protecting the interests of future generations", July 2018, Centre for the Understanding and of Sustainable Prosperity, Working paper n°14. https://www.cusp.ac.uk/wp-content/uploads/Protecting-the-interests-of-future-generations.pdf.

- "Does a body based on an existing institution have sufficient legitimacy to represent the general environmental interest on behalf of people?
- Does a body have the objective and subjective impartiality that would enable it to express its views without suspicion regarding competing interests in environmental disputes?
- Does a body have sufficient technical capacity, combining scientific, economic and legal skills, to defend the interests of people?"[223]

In answering these three questions, the report chose not to recommend strengthening the powers of the French Ombudsman on environmental issues but to create a new independent authority. Finally, in other countries, the task of defending the environment is not yet given to an independent institution, but to an emanation of parliament.

In Finland, for example, a permanent parliamentary committee, the Committee for the Future of Finland was set up in 1993.Made up of 17 members of parliament, it has a number of functions but does not have decision making power or to represent the environment in court. The Commission can deal with initiatives submitted to Parliament, such as the report on the Future, inform the work of other parliamentary committees on long-term strategic issues (e.g. climate, energy, information society), debate questions concerning the factors and models of progress for Finnish society, propose forward-looking analyses of research and technology (particularly information technology), asset technological development and its impact on society.

II.5 On the Legal Reasoning Behind Causality in the Environmental Field: Example of Case-Law

- "Justice pour le Vivant": the causal link between environmental damage and the State's inaction regarding the use of pesticides

In a ruling on 29 June 2023, the Paris Administrative court recognizes the existence of ecological damage resulting from the widespread, diffuse, chronic and long-lasting contamination of water and soil by the active substances of phytosanitary products, the decline in biodiversity and biomass, and the impairment of the benefits derived by man from the environment. It enjoins the State to remedy the situation by June 30, 2024[224]. The administrative judges **establish a link between two faults on the part of the French State ((1) failure to comply with targets for reducing the use of plant protection products[225], and (2) failure to comply with the obligation to protect groundwater[226]) and ecological damage**.

In its decision, the court reasons in two steps: first the link between pesticides and environmental damage, then the link between this damage and the actions of the French public authorities.

Regarding the link between pesticides and environmental damage, the administrative judges **study the available scientific literature and data[227]**. It leads to a slight differentiation in the court's reasoning between the situation of widespread contamination of water and soil and that of declining biodiversity and biomass:

- In the case of water and soil, once again the administrative court's reasoning is twofold: 1. The presence of active substances from crop protection products in water and soil is

[223] Ibid. https://www.justice.gouv.fr/sites/default/files/migrations/portail/art_pix/rapport_justice_pour_environnement.pdf
[224] TA Paris, 29 June 2023, n° 2200534/4-1.
[225] Art. L. 253-6 du code rural et de la pêche maritime leading the State to adopt a plan to reduce the use of pesticides called « plan Ecophyto »
[226] Art. 4 Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, Art. L. 211-1 du code de l'environnement, Art. L. 253-7 du code rural et de la pêche maritime.
[227] See TA Paris, 29 June 2023, n° 2200534/4-1, para. 17-20.

documented and not seriously contested by the public authorities, 2. There is **scientific consensus on the toxicity of some of these active substances and their danger to health and the environment**. Thus, the judges conclude there is ecological damage to water and soil because of pesticides.

- In the case of declining biodiversity and biomass, the court's study is more detailed since phytosanitary products are only one factor amongst many others. But here again, the judges directly rely on scientific studies produced by recognized and reliable sources which are directly quoted in the ruling such as *l'Union internationale pour la conservation de la nature* (UICN), *l'Institut national de recherche pour l'agriculture, l'alimentation et l'environnement* (INRAE), *l'Institut français de recherche pour l'exploitation de la mer* (IFREMER), *l'Office parlementaire d'évaluation des choix scientifiques et technologiques* (OPECST). These sources show scientific consensus on pesticides' negative impacts at least on some animal species (impact on the immune system of some species, on the food resources of other, etc.) and demonstrate that *"plant protection products are one of the main causes of the decline in terrestrial invertebrates, including pollinating insects and pest predators (ladybugs, carabid beetles, etc.), as well as birds"*[228]. **Because of scientific consensus on this subject, the judges conclude there is a causal link** between pesticides and declining biodiversity and biomass resulting in environmental damage.

The second step for the administrative court is to see if there is a causal link between the environmental damages and the French State's actions. The judges found that the public authorities have committed two faults by failing to comply with targets for reducing the use of phytosanitary products and failing to comply with its obligation to protect the ground waters. In order to study if there is a cause / effect link between these two faults and the environmental damages, the judges look at:

- The **reasoning behind setting quantified targets for reducing pesticide use**. The court notes that one of the aims of the Ecophyto plan to reduce pesticide use was to protect the environment: *"when the Ecophyto II plan was published on October 26, 2015, the French government recognized that "reducing the use (...) of plant protection products remains necessary, given the evolution of knowledge since 2008 on their effects on human health (...) but also on the environment, biodiversity and the ecosystem services that depend on them"."*
- **Whether or not public authorities have possibilities to take actions**. In this regard, the court refers to a 2019 report by the court of auditors (Cour des Comptes) on Ecophyto plan which highlights that the State *"could have a greater influence on production methods and sectors through the exercise of its normative, regulatory and information competencies*".
- The **current situation of France regarding the use of phytosanitary products**, concluding that *"the State has not achieved the targets it set itself for reducing the use of plant protection products, and it is a fact that France ranks second among European member states in terms of the quantity of active substances sold, and ninth in terms of use per hectare."*

These three elements are for the judges a clear proof that *"despite the fact that the decline in biodiversity is multi-causal, the **ecological damage defined in points 17 to 20 would not have assumed its current magnitude were it not for the State's failure to meet its targets for reducing the use of crop protection products***". And **thus, that the direct and certain nature of the link between the ecological damage by active substances of phytosanitary products and the State's wrongful failure to act is established**.

This is the first recognition of ecological damage resulting from pesticide contamination by a French court. Nevertheless, the five petitioning associations have appealed the decision that they

[228] Institut français de recherche pour l'exploitation de la mer (IFREMER), Impacts des produits phytopharmaceutiques sur la biodiversité et les services écosystémiques, Rapport de l'expertise scientifique collective, septembre 2022. Quoted TA Paris, 29 June 2023, n° 2200534/4-1, para. 19.

consider insufficient because it does not oblige the French government to correct the flaws in the pesticide risk assessment methodology. The appeal is still pending.

- The causal link between environmental impacts on human health and inaction by public authorities against air pollution

Recently, two appeal decisions dated 9 October 2024 upheld the rulings handed down by the Paris Administrative Court on 16 June 2023, recognizing the State's liability for air pollution and awarding compensation to victims of respiratory pathologies[229].

These decisions follow an initial decision, known as "*avant dire droit*" (preliminary ruling), which had ordered **a judicial expert report to assess the consequences for the applicants' health of exceeding the thresholds for concentrations of polluting gases**. Moreover, these decisions are part of a body of French case-law in which the liability of the French State for its inaction in the face of air pollution has already been recognized on several occasions.
The French State has already been condemned, at national level, for culpable failure to comply with the pollution thresholds[230] set by the Air Pollution Directive[231] . The Court of Justice imposes an obligation of result on compliance with these thresholds[232] . This failure to act stems from a twofold pre-existing obligation: on the one hand, the State has an obligation of result requiring it to ensure that air pollution is below the thresholds. On the other hand, if the thresholds are not respected, the State has an obligation to take all necessary measures - through planned strategies - to ensure that pollution levels fall below the thresholds.

The Court of Justice of the European Union seemed to have closed the door on the individual rights that could give rise to compensation[233] . However, although the principles of liability on the basis of EU law cannot be invoked in this case, this does not prevent the claimants from relying **on the classic administrative liability for fault, which has its origins in the principles of domestic law and presupposes the existence of: a wrongful harmful event, damage and a causal link between the two**.

While it is well-known that air pollution has a negative influence on health, establishing the causal link between a pollution episode and the symptoms suffered by an individual may seem more difficult. The rulings of 16 June 2023 break new ground by recognizing that some of the symptoms - caused by repeated bouts of bronchiolitis and ear infections - were the result of *"the State's fault in exceeding pollution thresholds"*. The Paris Administrative Court then clarified the reasoning to be adopted to examine the existence of a causal link.

The judge first verifies whether it is possible to rule out any liability of the State in the hypothesis of the complete absence of any probability of such a causal link. In this case, the expert opinion shows that while bronchiolitis is not exclusively the result of pollution peaks, the latter do have an undeniable impact on the onset of this illness in the days or weeks following exposure to pollution. **Concretely, this first stage involves a scientific assessment of the contribution of pollution peaks to the onset of bronchiolitis**. By considering that the *"share*

[229] CAA de PARIS, 3rd chamber, 09/10/2024, 23PA03743 and
[230] CE, 12 July 2017, n° 394254, Assoc. Les Amis de la Terre France; JCP A 2017, act. 513
[231] The obligation to comply with thresholds that must not be exceeded for certain pollutants - nitrogen dioxide and fine particles - stems from European Union law and, more specifically, from articles 13 and 23 of Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe. This obligation, transposed into the Environment Code in articles L. 221-1 and R. 221-1, has been regularly mobilised by the Court of Justice of the European Union, which has condemned France for failure to comply with the requirements (See, e.g.: CJEU, 19 Nov. 2014, aff. C-404/13. - CJEU, 5 Apr. 2017, aff. C-488/15. - And CJEU, 22 Feb. 2018, aff. C-336/16)
[232] Ibid
[233] In this respect, in a recent case of 22 December 2022, the Court of Justice held that the provisions of the 2008 directive on air quality "are not intended to confer individual rights on individuals capable of giving them a right to reparation against a Member State under the principle of State liability for damage caused to individuals by breaches of Union law for which it is responsible" CJUE, 22 Dec. 2022, aff. C-61/21, min. Transition écologique et Premier ministre)

attributable to pollution in the onset of severe bronchiolitis" is "30 to 50%", the court recognizes the existence of a scientific consensus between pollution and the onset of certain illnesses. The court also considers that the search for external causes such as parental smoking, allergies or exposure to household chemicals should not be neglected.

Second stage: once the general framework has been established, the administrative court must "individualize" the causal link. The difficulty then increases insofar as the fault of the State results from the inadequacy of the measures taken to limit atmospheric pollution[234] **. However, this pollution is not directly caused by the State; it results from human activities. To get around this obstacle, the Paris Administrative Court innovated by creating a presumption of a causal link based on several indicators: the concordance of scientific studies[235], the temporal proximity between the pollution event and the illnesses, and the absence of external causes**. In this case, the court relied on a range of red flags to find that the respiratory illnesses of the claimant, born in 2015, were characterized by repeated episodes of bronchiolitis and, *ultimately, by* the onset of infantile asthma in 2016. **The Court consequently identified a temporal link between the applicant's aggravation of respiratory pathologies and the pollution peaks.** Furthermore, no external factor was considered to be the cause of the respiratory symptoms, as the parents were not smokers, their flat did not contain anything that could have contributed to the symptoms, and the applicant had tested negative for allergies. Finally, the judge noted an improvement in the applicant's state of health following her move with her parents. Consequently, these elements were sufficient to establish a causal link between the pollution peaks and some of the claimant's symptoms. **This analysis of the causal link is similar to the case-law on medical liability[236] and mandatory vaccination. [237]**

While the court was innovative in its assessment of the causal link, it remained particularly conservative in its assessment of the losses that could be compensated. It considered that such losses justified an award of €3,000 in compensation for moral damage. **This compensation obtained was therefore far from the amounts requested by the claimants (€222,000 and €219,000 respectively). The other claimed losses were not considered to be established by the court (impact on the parents' professional life, anxiety loss etc.).**

[234] S. Brimo, Sur un air nouveau, Note under TA Paris, 16 June 2023, no. 2019924/4-2.
[235] A. Jacquemet-Gauché, Le juge administratif face aux connaissances scientifiques: AJDA 2022, p. 443.
[236] CE, 9 March 2007, no. 267635, Schwartz.
[237] CE, 29 Sept. 2021, no. 435323.

Annex III: Summaries of Stakeholder Interviews and Focus Group Discussions

III.1 Minutes of Focus Group Discussion on Public Participation in the Field of Environment and Environmental Justice

Date: November 1, 2024
Venue: Hotel Solun, Skopje starting at 10:00 AM

Introduction

As part of the **CEJ Convergence in the Western Balkans Project**, financially supported by the **Agence Française de Développement** and implemented by **Expertise France**, a thematic focus group discussion was organized and held on November 1, 2024 in Skopje, North Macedonia. The purpose of the focus group was to facilitate interaction and debate among various societal stakeholders on two specific topics: **public participation and access to justice** in environmental matters.

The focus group discussion commenced at 10:00 AM at Hotel Solun, and. Ms. Entela Pinguli, the Project Team Leader, delivered the opening remarks, providing an overview of Expertise France's mission and the goals of the project. She highlighted the importance of establishing regular cooperation among all societal stakeholders in addressing the key challenges in environmental management in the Western Balkan Region where the principles of environmental democracy shall be promptly applied as a prerequisite for sustainable environmental protection.

The primary goal of the focus group discussion was to provide an enabling environment for thought sharing where participating stakeholders will define key challenges, share best practices, and develop appropriate recommendations for strengthening public participation and access to justice in environmental governance in North Macedonia. Furthermore, the discussion also aimed to assess current mechanisms for public involvement, particularly in the context of EIA procedures, and to pinpoint obstacles that limit effective participation in consultation processes. Further, the event examined the clarity and effectiveness of domestic and international environmental legislation by identifying specific areas that need to be improved in a way that ensures that legislation enables effective public participation. Additionally, the session focused on evaluating access to justice in environmental matters, scrutinizing judicial and administrative frameworks to identify ways to make legal remedies more accessible and transparent for the public and stakeholders.

The focus group discussion enabled insights to be gathered directly from government (central and local) representatives, CSOs, and the judiciary on their experiences with public engagement in environmental issues. By defining key challenges and discussing potential solutions, the group sought to develop practical recommendations to overcome these barriers, emphasizing the need for enhanced institutional capacity and inter-governmental institutions/bodies coordination.

For the needs of the event, participants from different social sectors were identified and invited, thereby ensuring the involvement of CSOs, as well as representatives from the three branches of government—legislative, executive, and judicial (Annex III).
For the discussion, national experts, in collaboration with the project team leader, prepared appropriate invitations and a working agenda (attached as an Annex I to this report) and a

comprehensive PowerPoint presentation (Annex II of this report), which consisted of four thematic units:

1. Presentation of the program and project activities of **Expertise France** and the **CEJ Convergence Project in the Western Balkans**.
2. Presentation of findings from research on public participation in decision-making.
3. Presentation of findings from research on access to environmental justice.
4. Discussion on the findings and definition of conclusions.

At the beginning, the presentation provided a detailed overview of the methodology used to prepare the assessment, followed by a factual display of the current state in both thematic areas. The national experts referred to relevant sources of information and statistical data, which served as a foundation for discussion among participants. Additionally, to facilitate coordination and navigation of the discussion, the national experts prepared a concise questionnaire divided into seven thematic areas:

- **Thematic Area 1**: Quantitative assessment of public participation in the area of environment
- **Thematic Area 2**: Clarity and precision of domestic and international environmental legislation
- **Thematic Area 3**: Access to justice and dealing with environmental protection
- **Thematic Area 4**: Mechanisms for applying environmental justice through public participation in the decision-making process
- **Thematic Area 5**: Assessment of the effectiveness of public participation in EIA procedures
- **Thematic Area 6**: Capacities for dealing with environmental cases
- **Thematic Area 7**: Defining key challenges and possible solutions for overcoming them

Presentations

National Experts **Mr. Kiril Ristovski** and **Mr. Bojan Trpevski** presented an in-depth analysis based on their comprehensive desk research, focusing on critical aspects of public participation in

environmental decision-making and environmental justice. They began by exploring both **international and domestic legal frameworks** that guide public engagement and access to justice in environmental governance. A significant portion of their presentation highlighted key **international instruments** such as the AC, which establishes public rights in environmental matters, and the EU Directives on EIAs and SEAs, which are designed to enhance public input and awareness in projects and policies that impact the environment. Additionally, they emphasized the importance of the UN Framework Principles on Human Rights and the Environment, which underscore the rights of individuals and communities to participate actively and meaningfully in environmental matters.

On the domestic front, the experts provided a deep overview of **North Macedonia's legislative framework** concerning public participation and access to justice, referencing documents such as the Constitution, the Law on Environment, the Law on Local Self-Government, and various decrees and regulations that collectively outline citizens' rights to engage in environmental governance. These domestic laws are the enabling foundation for the involvement of the public in decision-making processes and ensure transparency and accountability in environmental matters.
However, drawing from **findings by international organizations**, as well as statistical data and case studies, Ristovski and Trpevski illustrated key challenges North Macedonia faces in bridging the gap between legal provisions and practical outcomes. Through their research, they uncovered examples where, despite existing laws, **accessibility, transparency, and inclusivity** in environmental decision-making often remain unfulfilled. For instance, while the legal framework is comprehensive, the actual implementation can fall short, particularly when public input and information access are limited or inconsistently applied. The experts underlined that without improvements in the practical application of these laws, the robust legal foundation will struggle to realize its full potential in supporting environmental justice and meaningful public participation.

Overall, their presentation stressed that a well-established legal framework alone is insufficient. For genuine progress, efforts must also address the practical and procedural barriers that hinder inclusive and effective public involvement in North Macedonia's environmental decision-making processes.

Discussion

Access to Information

During the discussion on **Access to Information**, representatives from state institutions and CSOs shared insights and concerns regarding the transparency and availability of environmental data, revealing key challenges in information dissemination and access.

State Institutions' Perspectives highlighted significant barriers to making environmental information widely accessible. **Challenges in Information Dissemination** were brought to light, with state representatives noting that while a large amount of environmental data is collected, limitations in technical capacity and digital literacy among government staff hinder efficient online publication. This lack of expertise creates obstacles in ensuring that essential information is readily available to the public. The importance of enhancing data-sharing processes and establishing more effective systems for publishing information was therefore seen as a priority.

Another issue from the institutional side was the **Lack of Centralized Information Systems**. Currently, no centralized platform exists to house all relevant environmental documents and data, which results in a fragmented and inconsistent online presence. With environmental information

spread across different platforms, public access is impaired, making it difficult for citizens to locate critical information, stay informed, or engage in environmental matters.

CSOs' Concerns further expanded on the barriers to information access, focusing on **Transparency and Accessibility** issues. Representatives of CSOs noted that recent changes to the Ministry of Environment and Physical Planning's (MoEPP) website had removed vital contact information and documents, thereby limiting the public's ability to access necessary resources. CSOs suggested that a standardized layout for municipal websites would greatly benefit the public by providing consistent access points to environmental data across various regions. Such a standardized approach would enable citizens to more easily locate information relevant to their communities and environmental interests.

Selective Publication of Information was another point raised by CSOs, who observed that important environmental data is sometimes published only upon formal requests, and not as part of regular, proactive information-sharing. They expressed a strong need for government bodies to adopt a more transparent approach, ensuring that significant environmental documents and notices are made available to the public by default, without requiring citizens to submit specific information requests. This approach would improve transparency, foster trust, and encourage more active public participation in environmental governance.

Generally, the discussion on access to information underlined a need for better resources, information and communication technology systems, and practices that could enable both government bodies and the public to engage more effectively in environmental matters. The establishment of centralized online and open data platforms along with improved digital competencies, and a commitment to proactive publication of key documents are necessary steps to address the current barriers to transparency and accessibility in environmental information

Public participation

The discussion on **Public Participation** in environmental decision-making highlighted numerous challenges and perspectives from both state institutions and CSOs, identifying the need for more inclusive and accessible approaches to public participation.

Namely, the **State Institutions' Input** focused on structural and contextual challenges that impact effective public participation. **The Impact of the Pandemic** was a critical factor, as the COVID-19 outbreak forced a shift to online public hearings. This transition exposed issues of unequal access to technology and varying levels of digital literacy among the public. Institutions acknowledged these barriers and noted that the shift to digital formats requires more comprehensive strategies and support systems to foster greater inclusivity in future public hearings.

Another complex issue raised by state representatives was the **Challenge in Defining "Public Concerned."** For instance, in cases of major mining projects in the Southeast, where substantial risks to the state budget are involved, it remains unclear whether the "public concerned" should be limited to those directly affected, such as local residents, or extended to all taxpayers who may bear financial consequences. This ambiguity complicates the process of engaging the appropriate audience in the consultation process, calling for clearer definitions within legislative frameworks to determine public concern.

Also, it was stressed that **Legislative Gaps** further constrain public participation, as there is currently no legal provision ensuring reserved seats for public representatives in parliamentary hearings, which limits the inclusivity of the process. Additionally, existing laws do not mandate a proactive approach from institutions, often leaving public engagement as a passive,

optional/reactive component of decision-making. Addressing these legislative gaps and practice in organizing public consultations would be a significant step toward that will enable a well-structured and guaranteed public involvement.

CSOs' representatives offered insight into the practical obstacles that reduce effective public participation. One primary concern is **Scheduling Issues**: for instance, public hearings are frequently held during standard working hours, which prevents many individuals, particularly those employed full-time, from attending. CSOs recommended scheduling hearings at more accessible times, such as evenings or weekends, to broaden participation and allow more diverse community voices to be heard.

Another pressing concern from CSOs was Quality **Control in EIA Processes**. They raised doubts about the effectiveness of oversight mechanisms for EIA studies, noting that while the law permits expert reviews of EIA studies, this provision is seldom exercised. This lack of quality control undermines public confidence in the consultation process, as stakeholders perceive that critical environmental assessments may lack thoroughness and objectivity.

It was noticed that **Public Demotivation** emerged as a recurring issue. CSOs emphasized that prior experiences have shown that public input is often not incorporated into final decisions. This exclusionary practice has discouraged individuals from further engaging in consultations, as they feel their contributions do not influence outcomes. CSOs stressed that for consultations to be meaningful, public concerns must be actively considered and addressed in the early stage of the decision-making process. Without this, public participation risks becoming a formality rather than an integral part of governance.

From the above, it was concluded that the discussion on public participation highlighted the need for systematic improvements to foster a truly inclusive, transparent, and effective process. Addressing legislative ambiguities, improving scheduling accessibility, ensuring rigorous quality control in assessments, and creating pathways for the public's voice to influence final decisions are essential steps in strengthening environmental governance and enhancing public trust.

Access to Justice

The discussion on **Access to Justice and Related Legislation** in environmental matters provided insights into the current legislative framework, its alignment with EU standards, and the challenges in judicial interpretation and access that affect public and civil society involvement. Participants recognized that **North Macedonia's Criminal Code is largely aligned with EU standards on environmental crimes** and has taken progressive steps by criminalizing "ecocide," an act not yet widely adopted in international frameworks. Recent amendments to the Criminal Code have added clarity to definitions, including classifying emissions exceeding legal limits as a crime, which has strengthened legal accountability for environmental harm. This should provide clearer line between crimes and misdemeanours. However, with the anticipated adoption of a **Council of Europe (CoE) convention** on environmental protection through criminal law, there may be a need for minor adjustments in North Macedonia's Criminal Code to maintain full compliance with future standards. Having in mind the statistics relating to the penal policy on

environmental crimes, the Supreme Court should have more active role in establishing unified penal policy. **Inconsistency** in the legislation is noted and actions in this regards should be taken.

Challenges in Judicial Interpretation and Access exposed several barriers affecting the efficacy of environmental justice. One major issue identified was **Procedural Errors** by inspectors in enforcement roles. The Higher Administrative Court's case law has shown that these errors are common, often compromising the integrity of inspection processes. This finding highlighted an urgent need for specialized training for inspectors to ensure procedural accuracy and uphold environmental protections.

The discussion also covered **Jurisdictional Debates** within the judicial system, as participants expressed varying views on the Administrative Court's role. Some argued that the Administrative Court should have jurisdiction over cases where constitutional rights are violated by public institutions, allowing it to address environmental rights more effectively. Others, however, maintained that cases involving compensation for damages should remain under the jurisdiction of civil courts, emphasizing a separation of responsibilities between administrative and civil law frameworks. It was stressed out that the concept of administrative disputes, providing protection of rights and legal interest in cases they are violated by an individual decision, shouldn't be changed. Participants expressed different opinions relating to the general position of the Supreme Court dealing with the question of jurisdiction in cases where determination of a violation of the right to healthy environment is sought, having in mind that it is generally based on the previous Law on administrative disputes which is not in force anymore.

Barriers to Justice for CSOs emerged as a significant concern, as the current judicial framework does not fully empower CSOs to seek justice on behalf of affected communities or the environment. The proposed **Law on Civil Procedure** was discussed as a potential solution, as it includes provisions for "action popularis" (a mechanism allowing public-interest litigation) and shifts the burden of proof in environmental cases, facilitating a more accessible path to justice for CSOs. However, this law has yet to be adopted, leaving CSOs with limited avenues for legal action in environmental cases.

This part of the discussion stressed the need for continued alignment of North Macedonia's legal framework with international standards, enhanced training for judicial and inspection staff, and expanded judicial access for CSOs to advocate effectively for environmental justice. It was concluded that the implementation of these changes could significantly strengthen environmental accountability and public engagement in environmental protection.

Recommendations

At the very end of the focus group, the discussion culminated in a series of recommendations aimed at improving public participation, transparency, and access to justice in environmental governance. These recommendations highlighted specific areas where structural and procedural enhancements could foster a more inclusive and effective consultation and participation process.
One of the primary recommendations was **Improving Technical Capacity** within public institutions. Participants emphasized the need to invest in digital literacy and resources that would improve information-sharing capabilities, enabling public bodies to disseminate environmental data more efficiently and reach a broader audience. Increased digital literacy among institutional staff would also help overcome existing challenges in managing and publishing crucial information online.

With regard to enabling greater access to information, it was proposed that **A Proactive Information-Sharing Model** by the government could effectively enhance public engagement,

transparency, and accountability in environmental matters. This model should integrate centralized data systems, regular updates, digital accessibility, and multi-channel outreach to ensure timely and equitable access to environmental information.

It was also emphasized that **municipal websites should be standardized**, as the current lack of uniformity creates inconsistencies in the availability and accessibility of environmental governance-related data and information. At present, each municipality has its own website structure, which varies significantly in terms of navigation, content, and the types of information provided. This inconsistency hampers effective public access to crucial environmental data and complicates citizens' ability to locate updates, participate in consultations, or access reports.

To address this, a standardized website format across all municipalities could ensure that **environmental information is uniformly presented**, with dedicated sections for public notices, EIA documents, local environmental reports, and public participation opportunities. This unified approach would make it easier for residents across all regions to engage in environmental governance processes and promote greater transparency and accountability at the local level.

The group also suggested **Clarifying Legal Definitions**, particularly redefining terms like "public concerned," which currently lack specificity and create ambiguity in environmental matters with wide-reaching impacts. Clearer definitions would ensure that the right stakeholders are engaged in environmental decision-making, especially for projects with significant national or regional consequences.

Another critical recommendation was **Enhanced Quality Control in EIA Processes**. Participants called for stricter quality standards and greater utilization of existing legal provisions that allow for expert reviews of EIA studies. This would ensure that EIA processes maintain objectivity and accountability, thereby restoring public confidence in these assessments.

In addition, the group highlighted the importance of **Promoting Constructive Dialogue** between CSOs and public authorities. They recommended reframing the relationship between CSOs and institutions to foster a collaborative rather than adversarial approach to public consultation. Such a shift would create an environment where CSOs are viewed as partners in environmental governance, contributing valuable insights and perspectives.

To broaden accessibility, **Flexible Hearing Schedules** were suggested, particularly for public hearings on environmental matters. By scheduling hearings outside regular working hours, a larger and more diverse audience would have the opportunity to participate, allowing for a more representative public input process.

Amending legislation should take place in order to resolve inconsistency relating to access to justice.

Consultations within the judiciary should take place on questions relating to different aspects of access to justice as well as within the process of adopting general positions. This kind of discussion would also benefit **the process of interpreting relevant provisions.**

Finally, the focus group underscored the need for **Judicial Training** tailored to environmental governance. Specialized training for judges and inspectors on the procedural rights involved in public participation would promote consistent legal interpretations and reduce the occurrence of procedural errors. Such training would also reinforce the importance of transparency and inclusivity within environmental justice proceedings.

Conclusions

Need for Centralized and Accessible Information Platforms
The inconsistency in information dissemination, especially across different municipal websites, highlights the need for a centralized or standardized approach to environmental data sharing. Unifying website structures would enable easier access to critical environmental data, enhance transparency, and improve public participation.

Enhancing Technical and Digital Capacities
Many government institutions, particularly at the local level, lack the technical infrastructure and digital skills necessary for efficient information dissemination. Investing in digital literacy and technical resources is essential for improving the quality and accessibility of environmental information for the public.

Clarification of Legal Definitions and Public Concerned
Ambiguities in legal definitions, such as the term "public concerned," hinder effective public participation. Clearly defining these terms within environmental legislation is crucial for ensuring that the right stakeholders are engaged in decision-making processes, especially for projects with broad environmental and financial impacts.

Strengthening Quality Control in EIA Processes
The lack of rigorous oversight in EIA processes, particularly in ensuring quality and thoroughness, undermines public confidence. Implementing stricter quality control measures and utilizing expert reviews more consistently would help ensure objectivity and accountability in environmental assessments.

Promoting Constructive Government-CSO Collaboration
Currently, CSOs are often perceived as adversaries rather than collaborators. Shifting this perception and fostering a collaborative approach in public consultations would allow CSOs to contribute constructively to environmental governance and decision-making.

Improving Access to Justice
Despite alignment with EU standards, access to justice in environmental matters remains limited due to procedural errors, lack of training for judicial and administrative staff, and limited legal empowerment for CSOs. Providing specialized training for judges and inspectors and adopting the proposed Law on Civil Procedure, which includes provisions for public-interest litigation, could address these challenges. Various debates among the legal professionals and the judiciary should contribute in a positive manner towards improving access to justice and interpretation of legal provisions.

Flexible and Inclusive Public Participation Processes
Public hearings and consultations are often held during working hours, limiting participation from employed individuals. Scheduling these sessions at more accessible times and using virtual platforms for public consultations can help broaden participation and ensure that diverse voices are included in environmental decision-making.

Building Public Trust Through Proactive Transparency
The selective publication of environmental information and the lack of timely updates discourage public engagement and undermine trust. Adopting a proactive information-sharing approach, where key documents and updates are regularly published without requiring formal requests, would help foster transparency and encourage more active public participation

Follow-Up Actions

1) Follow-up Individual Meetings and semi structured interviews: The local experts Kiril Ristovski and Bojan Trpevski, be conducting the individual interviews with representatives from the Database of the CEJ stakeholders which is prepared as part of the CEJ assessment Report for North Macedonia. The interviews would address specific issues and gather detailed input tailored to each institution's focus, providing a more targeted approach for the upcoming phases of the project.
2) Assessment Report Completion: The local experts in cooperation with the recently invited French: International experts will finalise the Assessment incorporating the input from this focus meeting discussions. The participants would be kept updated on the progress of the CEJ Convergence Project, specifically regarding the assessment of environmental justice needs in North Macedonia. A CEJ Assessment validation workshop will be conducted in December and feedback by the participants will be very welcome. This assessment is anticipated to be completed by the end of 2023.
3) National Forum in Early 2025: A national forum is scheduled for early 2025, where the results from the CEJ Assessment Report will be presented and discussed in a greater extent. This forum will serve as an opportunity for all stakeholders to review the findings, contribute further recommendations, and align on actionable strategies to advance public participation and environmental justice initiatives in North Macedonia.

Annexes to the Focus Group Report

1. Participants' List
2. Meeting Agenda
3. CEJ Convergence Project Objectives Presentation by Entela Pinguli
4. Public Participation Presentation by Kiril Ristovski
5. Environmental Justice Presentation by Bojan Trpevski

Prepared on 03.11.2024 in Skopje by Mr. **Kiril Ristovski**, National Expert on Public Participation
Mr. **Bojan Trpevski**, National Expert on Access to Justice

III.2 Minutes from Interviews Performed with CSOs

On the 5th of November 2024 interviews with several CSOs from the Polog/Southeast region were conducted on access to information, public participation and access to justice in the field of environment. The region was selected because of the planned mining installations that were and are planned and where citizens and CSOs had and still have undertaken activities against operation of these planned activities. The CSOs were selected based on their previous and current activities in the field of environmental protection.

The following set of questions related to public participation in the decision-making process on environmental issues were part of the interview:

- Identification of key challenges in the field of environment, including the clarity of the legislation
- The level of access to information relating to public participation processes
- The scope and manner of cooperation with institutions on central and local level
- Providing insight into the manner in which public participation processes are implemented on central and local level
- Defining actions that need to be taken to overcome the challenges

The following set of questions related to access to justice in the field of the environment were part of the interview:

- Identification of the level of awareness on the available legal mechanisms
- Defining challenges in access to justice mechanisms, including inspection oversight in the field of environment
- Providing insight into the effectiveness of legal mechanisms in environmental protection, if any mechanisms were used
- Defining actions that need to be taken to overcome the challenges

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The CSOs define the non-existence of a valid Spatial plan for the Republic of North Macedonia as a key challenge in environmental protection because citizens do not have a clear picture on which kind of project are planned/are allowed in different parts of the country. Combining this with lack of prompt information on any public participation processes hinders the effectiveness of the role of citizens and CSOs in environmental protection. The fact that there are two different strategic documents related to the mining industry (one with a vision up to 2040 and another one with a vision up to 2050) and no one knows which of them is applicable as well as that the draft Law on mining and the draft Law on energy are not published on the Unique national electronic register of regulations of the Republic of North Macedonia (the official website for public participation in drafting legislation) only add to the effectiveness of the public participation in the field of environment. Moreover, the lack of official registry of active CSOs is identified as a key challenge in effective public participation and effective dissemination of information to CSOs. Although the CSOs have good cooperation with the municipality (one of them participated in the process of drafting the local strategy on tourism) there is room for further improvements.

Lack of information among CSOs which legal mechanisms are at their disposal as well as the stages of each procedures where certain legal mechanism can be used is noted. Legislative shortcomings are also identified as challenge related to access to justice, for example the opinion of the mayor provided to MoEPP within the EIA and IPPC procedures are not mandatory and there is no possibility to challenge their substantial and procedural legality. The municipality was long time without a local environmental inspector and although there is now a local environmental inspector employed she still hasn't completed the education process in order to be able to perform an inspection oversight while it could be further disputed whether she has the adequate formal education since she has economic science degree. Corruption in the judiciary and inspection is noted as a key challenge for effective protection.

Going into more focused discussion on public participation and access to justice from a point of view of specific processes they were part of, they stated that there wasn't any public hearing organized relating to the Demir Kapija and Miravci windmills or they were not notified of any scheduled public hearing, which raises the question of whether access to the right to public participation is provided. They stated that they have no knowledge of any legal mechanism available to them to remedy this situation and even if they had any knowledge of this, they don't think that it would remedy effectively the situation because the legal proceedings take too much time and they feel that they would have a standing in any proceeding they would initiate. Bearing in mind that no document is published or they are not aware of any document published relating to the project, they are unable to analyze if every environmental aspect has been taken into consideration in the EIA procedure.

When talking about the public hearing about the dam Konjsko they were part of, information about the subject of the hearing and basic information about the dam and the stage of the proceeding was provided to them at the beginning of the hearing, however even though they gave comments on the hearing no answer was provided to them on the hearing or later on. They further noted that no information about available legal mechanisms were provided to them at the hearing, thus they believe that they don't even have any right to an appeal or lawsuit.

Talking about other experiences they have relating to public participation, not adequate manner of sharing information on public hearings/possibility for commenting was stressed out. Although a lot of information is published in the Official Gazette, this is not the adequate manner for disseminating information among citizens and CSOs since the current editions of the Official Gazette are not available to them. Furthermore, there is a practice where notifications are published on institution's bulletin boards, however this is also not an efficient way for effective informing the public since no one has the habit to go to the institution's bulletin board on a daily basis or even at all and check if any new notification has been put. Sharing information on urbanism only through the e-urbanism portal was noted as another inefficient was of effective informing the public. Having this in mind they question how is the municipality of Gevgelija rated as the 4th most transparent municipality in the country.

Talking about the inspection oversight over the small hydropower plants they initiated in the past, they faced with situations where the previous local environmental inspector, which was close to retirement, didn't want to go onto the field and perform inspection because she feared that she'll make enemies and be fired right before going to retirement. They also stated an example from the past when they reported an environmental problem related to the local landfill to the State environmental inspectorate, however when the inspector came to the field the problem was already solved. In this specific situation they suspect that someone told the landfill manager that an initiative for inspection oversight has been submitted thus he was already prepared and took care of the issue, provisionally, before the inspector came. This hinders the effectiveness of the inspection oversight. They further noted they are skeptical on the option to go to the Inspection Council while public prosecutors are reserved for this kind of questions.
One of the CSO noted that couple years ago they were subject of a SLAPP proceeding, however they hired attorneys which helped them and the case finished in their favor.

Talking about the possible solutions for the identified challenges increasing the accessibility to information was stressed out as one of the most important activities that are needed. Having institutions and officials with integrity who act non-partisan and objective would improve significantly the public participation processes and access to justice. Education of officials is needed in order for proper implementation of the existing legislation, however certain legislative amendments for ease of public participation information and access to justice is required. Low level of confidence in institutions hinders interest among CSOs and citizens to participate in any decision-making process or use any legal mechanisms, hence activities in this regard should be taken. Shortening the deadlines for deciding upon submitted appeal or lawsuit should improve the effectiveness of the law related to environmental protection.

Prepared by Kiril Ristovski, National Expert on Public Participation, and Bojan Trpevski, National Expert on Access to Justice

III.3 Report on Interviews with Institution Representatives

Date: 11.11.2024
Venue: Ministry of Environment and Physical Planning of North Macedonia
Time: 10:00 – 12:30

On November 11, 2024, a working meeting/interview was held at the Ministry of Environment and Spatial Planning (MoEPP) with representatives from the Sector of Environment, the Department for Public Communication, and the SEI.

Purpose of the Interview

The general purpose of the interview was to gather relevant and detailed information regarding the state, practices, and challenges faced by institutions in implementing EIA procedures. The interview aimed to collect data that would assist in evaluating the effectiveness of existing public participation mechanisms, as well as to identify areas requiring reform or additional support to enhance transparency and inclusivity in decision-making processes.

The specific objectives of the interview included examining the legal responsibilities of the Sector of Environment, assessing the technical, organizational, and human resources available for conducting EIA procedures, and identifying key challenges in organizing public hearings. Furthermore, the interview sought to pinpoint areas where legal interventions are necessary to improve public information and participation, as well as to gather ideas for improving the quality of environmental reports and encouraging expert engagement in public hearings. Through responses from institutional representatives, the interview aimed to establish a foundation for drafting recommendations that address identified challenges and improve public participation mechanisms and environmental governance.

Methodology

The methodology for organizing and conducting the interview was carefully designed to ensure the collection of relevant and detailed information from institutional representatives directly involved in EIA processes. The approach aimed to secure a structured, inclusive, and results-oriented data collection process.

The process began with the preliminary mapping of relevant institutions and sectors directly involved in EIAs. Key actors identified included representatives from the Department of Environment, the Department for Public Communication, and the SEI. A clear plan for organizing the interview was subsequently developed, including defining objectives, formulating questions, and establishing logistical arrangements.

The preparation phase involved developing a thematic questionnaire specifically designed to cover key aspects of EIA procedures. The questions were formulated to elicit specific responses while allowing room for discussion and detailed explanations. Topics covered included legal responsibilities, technical and organizational challenges, report quality, public participation, and collaboration with local self-government units.

The event was organized through direct communication with the institutions, with invitations sent via official channels. The interview commenced with an introduction outlining the objectives and expectations of the meeting and providing a brief explanation of the context of the questions. Questions were posed in a logical sequence to facilitate the natural flow of conversation and enable detailed and clear responses. Additionally, interviewees were encouraged to share their opinions and recommendations, helping identify potential solutions to the challenges they face.

The interview concluded with a brief summary of key points and an agreement on further communication if additional information was required. All collected data were documented and will serve as the basis for analysis and the preparation of recommendations within the project. This methodology ensured a structured and efficient process that yielded valuable and actionable information.

Description of Responses

1. What are the legal responsibilities of your sector/department and according to which legal act are the responsibilities determined?

The Sector of Environment, as part of the MoEPP, has clearly defined responsibilities outlined in the Law on Environment and related by-laws. One of its primary duties is to implement the EIA procedures. This involves organizing public hearings and ensuring public participation in decision-making processes. Public participation entails actively informing citizens about all relevant aspects of projects that might significantly impact the environment, as well as collecting and reviewing feedback and opinions from stakeholders. In accordance with Article 84 of the Law on Environment, the institution is obligated to consider all submitted feedback when making decisions, and the issued resolutions are subject to appeals, reinforcing principles of transparency and accountability. Additionally, the Sector processes requests for public access to information in line with the Law on Free Access to Public Information. This includes timely responses to citizens' and organizations' requests, as well as proactively publishing relevant information of public interest.

The duty to inform and engage the public is integrated into all legislation under the Ministry's jurisdiction, emphasizing the strategic role of the Sector in promoting transparency and accountability. Regarding transparency, the Law on Environment mandates that the public be informed of all relevant aspects of projects, plans, and programs that might affect the environment. The Sector is tasked with publishing all relevant documents, including reports and resolutions, and ensuring their accessibility through various communication channels.

This obligation is further reinforced by the requirement to engage the public in the early stages of decision-making, a critical factor in fostering transparency and participation. Despite these legal frameworks, the Sector faces challenges related to technical resources, organizational capacities, and human resources, which often impact the overall efficiency of EIA processes and the level of public involvement. Nevertheless, the Sector's clearly defined responsibilities form a strong foundation for advancing transparency, inclusivity, and accountability in environmental management processes.

The Department for Public Communication plays a key role in ensuring transparency and inclusiveness in the operations of the MoEPP. It serves as the main communication channel between the Ministry and the public, providing a regular and effective flow of information of public interest. The Department's work focuses on strengthening public trust and enabling active public involvement in environmental protection processes. Its primary role envisages the distribution of information, including regular publication of updates on the Ministry's policies, projects, and activities. This function is critical for maintaining transparency and keeping the public informed about important aspects of the Ministry's work. Information is disseminated through various channels, including official websites, media, and digital platforms, ensuring it reaches a wide audience. Additionally, the Department manages communication strategies and coordinates public relations. This includes organizing press conferences, preparing and issuing press releases, and managing the Ministry's digital communication platforms. These activities aim to provide timely, accurate, and relevant information to the public and media, which is essential for reinforcing transparency and institutional accountability. Another key task of the Department is to encourage public engagement. It works to establish transparent and inclusive processes through which the public can participate in environmental decision-making.

The SEI is a key body responsible for enforcing environmental legislation. Its specific duties are defined in the Law on Environmental Inspection, the Law on Environment, and associated by-laws. The SEI's core role involves ensuring compliance with ecological standards and regulations through inspections, monitoring, and coordination. One of SEI's primary responsibilities is conducting inspections to monitor the quality of natural resources, including air, water, and soil, as well as biodiversity, flora, fauna, natural resources, and geodiversity. The Inspectorate is tasked with verifying compliance with legal and regulatory requirements, including the conditions outlined in integrated pollution prevention and control permits (A-IPPC and B-IPPC) and

administrative acts issued by the MoEPP. Monitoring is another essential aspect of SEI's work, which includes overseeing the implementation of laws and regulations, especially regarding facilities subject to specific permits. This ensures that all entities impacting the environment adhere to prescribed standards and conditions. The SEI also plays a role in managing protected natural areas, ensuring their conservation aligns with relevant environmental regulations. Coordination with local inspection services is another critical component of SEI's operations. The Inspectorate supervises the work of local environmental inspectors and ensures consistency in implementing inspection procedures across municipalities. This collaboration is fundamental for maintaining uniform application of environmental laws and standards at both national and local levels.

2. What challenges and difficulties does your sector face in its current operations (technical resources, human capacities, poor systematization and organization, etc.)?

The Sector of Environment and the SEI face significant challenges in their current operations, which impact their efficiency and ability to fulfill their legal obligations. A critical technical challenge involves the process of scanning and publishing documents on official websites. This task is administratively burdensome and often results in delays in information dissemination, reducing transparency and limiting public access to relevant data. Additionally, inadequate human resources in the Department hinder the proper execution of public participation processes, which require careful organization and coordination.

One of the most pressing issues for the SEI is the shortage of inspectors. Current data shows that the SEI's staffing plan is only 50% fulfilled, meaning the institution operates with significantly reduced capacity. Furthermore, a substantial number of municipalities fail to comply with the legal obligation under the Law on Environmental Inspection, which mandates each municipality to appoint an environmental inspector. According to available statistics, 81.45% of municipalities in the country have not designated a local environmental inspector, creating a significant gap in the enforcement of inspections at the local level. This shortfall not only diminishes the effectiveness of oversight but also weakens the enforcement of environmental protection regulations.

These challenges, including insufficient technical tools, human resources, and organizational structures, negatively affect the overall process of environmental governance. Addressing these issues requires a systemic approach, including increasing human resources, providing technical support, and enhancing coordination between national and local authorities. Additionally, clear and specific measures are necessary to support municipalities in fulfilling their obligations, ensuring the full implementation of legal provisions and effective environmental protection.

The Public Communication Department within the Ministry of Environment and Physical Planning (MoEPP) utilizes legally prescribed mechanisms to inform the public. However, it emphasizes the need for legislative amendments to facilitate a proactive approach to public information dissemination. This entails not only responding to requests for information but also actively publishing relevant data and updates of interest to citizens and stakeholders. Currently, the MoEPP has developed a dedicated website aimed at enhancing public awareness specifically regarding climate change[238]. Nevertheless, this proactive approach is not uniformly applied across all sectors and departments within the Ministry. This inconsistency highlights the need for improvements in proactive information dissemination in all environmental governance areas. Legislative changes could mandate regular publication of information on the state of the environment, planned projects, protection measures, and other critical data. Such obligations would increase transparency and enable greater public participation in decision-making processes related to environmental protection. By institutionalizing a proactive information-

[238] https://klimatskipromeni.mk/

sharing framework, the Ministry would strengthen trust, accountability, and the overall inclusivity of environmental governance.

3. Where do you think it is necessary to intervene (meaning legal interventions) to enable pro-active information and greater public involvement in EIA procedures? What do interventions mean?

The Environmental Sector has highlighted the need for legislative interventions aimed at enhancing information dissemination, with public involvement in EIA procedures identified as a key priority. Within the proposed amendments to the Environmental Protection Law, full alignment with Directive 2014/52/EU has been suggested to improve transparency, access to information, and active public participation across all phases of the EIA process. These amendments are expected to enhance the quality of procedures by introducing clearer provisions for public information and consultation.

Additionally, it was noted that plans exist to develop a dedicated website exclusively for EIA procedures, providing a centralized and easily accessible platform for publishing related information and documents. This initiative was initially part of the IPA 2 project, which unfortunately was not implemented; however, there is optimism that it will be pursued under IPA 3 projects.

The proposed interventions include establishing clear legal obligations for:

- Nature, climate, soil impact assessments and conflict of interest prevention policy,
- Regular and proactive publication of information, ensuring that every announcement, document, or decision related to EIA is publicly accessible and published on a centralized platform.
- Extending public comment periods from 30 to 60 days to guarantee that the public has sufficient time and information to participate in hearings and provide feedback or suggestions.
- Technical upgrades, including the provision of technical resources and capacities for document digitization and publication, along with the creation of a functional website to streamline access to information.

4. How to prevent plagiarism when preparing EIA reports and studies?

Representatives of the Ministry of Environment and Physical Planning (MoEPP) emphasized that plagiarism in reports and studies for EIAs represents a serious challenge that can undermine the quality and credibility of these documents. Although there are currently no specific legal measures that directly address the prevention of plagiarism in this area, the Ministry is aware of this problem and the need to improve the quality of reports.
It was mentioned in the discussion that one of the possible approaches to prevent plagiarism is the introduction of an obligation to use software tools for plagiarism detection when preparing and submitting reports and studies. In the Republic of North Macedonia, the Ministry of Education and Science (MES) has already established a system for analyzing and detecting plagiarism in academic papers, available through the plagijati.mon.gov.mk platform. This system allows for easy and efficient detection of papers that are plagiarisms of already published, evaluated or presented papers. Although this system is intended primarily for academic papers, its functionality can be expanded or serve as a model for the development of a similar system specialized for EIA reports and studies. The introduction of such a system could be supported by legislative amendments that would provide for mandatory verification of the originality of documents before their approval. In addition, it is necessary to strengthen the capacities of the MoEPP and other relevant institutions to conduct rigorous checks of submitted documents, as well as to establish clear procedures for sanctioning cases of plagiarism.

5. How to encourage the professional public to participate in public hearings organized within the framework of the EIA procedure?

According to the MoEPP, encouraging the professional public to actively participate in public hearings organized within the framework of the EIA procedures is of crucial importance for ensuring quality and transparency in decision-making. The European Directive 2014/52/EU guarantees the right to participation of all concerned citizens, including the professional public, which creates a basis for their active involvement. This right implies that professionals, especially those directly affected by the implementation of a specific project, should be motivated to use their knowledge and expertise to contribute to improving the process. In addition, creating a favorable environment for participation is a key element for encouraging the professional public. Representatives of the environmental sector emphasized that this can be achieved through active information on public debates, including professional associations, universities and research centers, as well as through the organization of thematic panels where experts can express their views and recommendations. In parallel, education and awareness-raising about the importance of participation in EIA procedures will help mobilize the professional public and show how their expert opinions can contribute to better results.

6. How many EIA public hearings were held in 2023 and how do you assess the participation of NGOs (insufficient/sufficient) and whether the proposals by NGOs are sufficiently clear, concise and relevant or their comments are incompetent and do not correspond contextually to the topic of the public hearing?

Regarding the number of public hearings held for EIAs in 2023, accurate data is not available. The number of organized hearings depends on the number of projects subject to the EIA procedure, as well as the number of municipalities affected by the specific projects. This varies depending on the scope and nature of the projects being implemented. When it comes to the participation of NGOs, it has been noted that they most often participate in public hearings for projects financed through grants or in cases where the investor is the Government. However, the participation of NGOs is not always consistent and depends on the specific project, as well as on their capacity and interest in being involved in the procedure. As for the quality of the proposals submitted by NGOs, no general assessment can be made as it largely depends on the type of project and the specifics of the procedure. There are cases where the proposals are clear, concise and relevant, which significantly contributes to improving the decisions and the quality of the EIA procedures. However, in certain situations, the comments may be more than what is foreseen by the national legislation or may not correspond to the context of the specific project. This may create challenges for their integration into the final decisions. Overall, the participation of NGOs and their proposals constitute an important part of the public hearings, but further strengthening of the capacities of the organizations, as well as improvement of the processes for organizing public hearings, is necessary in order to increase their efficiency and relevance.

7. How do you assess the cooperation with local self-government units and in which areas of cooperation do you think there should be improvement?

Cooperation with local self-government units (LSG) within the framework of EIA procedures is assessed as uneven and with room for significant improvement. Although there are municipalities that provide clear guidelines for projects and actively assist in the procedure for better impact assessment, there are also those that reject projects without providing clear and legally established positions or concerns. This variability in approach creates challenges for the consistency and efficiency of the procedures.

The need for continuous capacity building has been identified as a key aspect for improving cooperation. This applies not only to representatives from the MESP, but also to citizens and municipal officials responsible for these processes. The lack of knowledge and resources in some municipalities is one of the main reasons for the failure to provide effective support in EIA procedures.

Points of cooperation to be improved include clearly defining the role of LSGUs in each phase of the EIA procedure. This starts with the notification of the intention to develop a project, through the organization of public hearings, to the final stage of issuing the decision. The involvement of local governments in each phase of the procedure is essential to ensure transparency, inclusiveness and compliance with environmental legislation.

In addition, cooperation can be improved through clearly established communication and coordination mechanisms between the MoEPP and municipalities, as well as through the development of standards and guidelines for their participation. Providing training for local authorities and conducting regular consultations will help strengthen their role and ensure a more effective and harmonized approach to environmental protection at the local level.

Conclusions

The interview highlighted several critical areas requiring attention to enhance the efficiency and effectiveness of EIA procedures. Aligning national legislation with EU Directive 2014/52/EU, establishing a centralized platform for EIA documentation, and addressing resource gaps in institutions were identified as key priorities. Furthermore, improving the quality of environmental reports, promoting expert engagement, and strengthening collaboration with local self-governments are essential steps toward advancing transparency, inclusivity, and accountability in environmental governance.

1. Alignment with EU Directive 2014/52/EU

To align with Directive 2014/52/EU, significant legislative changes are needed to improve the EIA process and ensure a higher level of environmental protection. These changes include a revision of the existing assessment procedures, with an emphasis on the integration of climate change and biodiversity protection, as well as strengthening public consultation and stakeholder participation. In addition, it is necessary to establish obligations for monitoring the impacts of projects after their implementation, as well as to ensure coordination with other relevant EU legislation.

2. Establishing a centralized EIA platform

A separate and functional website dedicated exclusively to EIA processes should be established. This platform should include all relevant documents, notifications and decisions, allowing easy and quick access for the public.

3. Proactive information and public participation

Legal amendments are needed that will enable proactive publication of information, increase the deadlines for public comments and improve access to relevant documents. Obligations should apply to central and local governments. Such amendments will increase transparency and ensure greater inclusiveness in the processes.

4. Need to increase institutional capacities

The lack of human resources, technical support and organizational capacities is a significant problem that affects the efficiency of the implementation of EIA procedures. Continuous strengthening of institutional capacities is needed, including training of employees, improvement

of technical infrastructure and alignment with best international practices. Local self-government units need to be obliged to follow positive practices and standards for effective public participation.

5. Insufficient number of inspectors at national and local level

The plan for systematization of the Environmental Protection Agency has been fulfilled only 50%, and most municipalities have not appointed a local environmental inspector. This creates a gap in inspection supervision, which weakens the implementation of environmental laws.

6. Quality of environmental reports and studies

The poor quality of reports is noted, often caused by plagiarism. It is necessary to introduce mechanisms for prevention, along with legal amendments that will ensure the originality and quality of documents.

7. Encouraging the professional public to participate in public debates

The professional public rarely participates in public debates, although it is a key factor in ensuring quality contributions. Active information, thematic panels and educational campaigns are needed to mobilize experts and get them involved in the processes.

8. Insufficient participation of non-governmental organizations

The participation of NGOs is variable and often depends on the type of project or their capacity. The capacity of NGOs needs to be strengthened so that their comments can be relevant, clear and contextually appropriate.

9. Improving cooperation with local government

Cooperation with local government units is uneven and, in many cases, insufficiently efficient. Clear mechanisms need to be established for communication, coordination and standardization of their obligations within the EIA procedures.

Prepared by Kiril Ristovski, National Expert on Public Participation.

III.4 Report on Interviews with Public Prosecutors

Date: 18.11.2024
Venue: Public Prosecution Office
Time: 10:00 – 11:30

Purpose of the Interview and Methodology

On November 18, 2024, an interview with a public prosecutor was conducted. The purpose of the interview was to collect data and information on current practices relating to environmental crimes including legislative and other types of challenges and barriers that prevent more efficient criminal response to environmental protection.

A semi-structured questionnaire was prepared for the purposes of the interview covering the following topics: clarity of the legislation, challenges and barriers in investigating environmental crimes, financial and human resources for conductive effective criminal investigation, effectiveness of the imposed criminal sanctions, inter-institutional cooperation and needs of the public prosecutors. Combination of closed and open types of questions was used to go into details relating to the already identified challenges and to propose possible solutions for their overcoming.

The interview was based on statistical information and findings from the initial draft of the CEJ Assessment Report on North Macedonia including information gathered during the holding of the focus group on 1st of November 2024 in Skopje.

Description of Responses

1. Is the criminal legislation clear enough? Do you feel that there is a need for further amendments of the legislation in any part?

The Criminal Code is aligned with the EU Directive 2008/99/EC and it goes even beyond the standards of the Directive by incriminating 'ecocide' as a national crime. Generally, the penalties prescribed in the Criminal Code are severe enough to have a general and special prevention effect. The environmental crimes defined in the Criminal Code rely on and refer to terms defined in national environmental legislation. Having this in mind there is a need for better defining of some terms in both national environmental and criminal legislation. There is a need for broad expert consultations and other events where the question of definitions of the terms will be deeply discussed and general positions will be adopted.

It is positive that Macedonian legislation incriminates the ecocide as the most severe environmental crime where life imprisonment can be imposed, however the terms of 'serious', 'widespread' and 'long-lasting damage caused to the environment' are not defined in the Criminal Code. This would expectedly create challenges in implementing the legislation at the very beginning since there is no national case law a practice relating to this crime, however there is no developed international practice and case law relating to the same crime. Furthermore, although the recent amendments of the Criminal Code improve the distinction between misdemeanors and crimes, there are still challenges in that regard and case law or broad expert discussions should take place in order to have clear distinction. Having this in mind there might be many cases that does not reach the public prosecution office since they are dealt with as misdemeanours. The question of distinction is important from the aspects of *non bis in idem* and *res judicata* principles.

Having in mind the challenges that the country faces with, the environmental crimes were never in focus of the legal theory and practice. Discussing the crime 'unlawful hunt' it was realized that different interpretation of the incrimination can be applied in practice. Taking this into consideration it was concluded there is lack of case law that will provide valuable guidelines on how the provisions of the Criminal Code relating to the environmental crimes should be interpreted and implemented as well as lack of interpretation of these crimes provided from the legal theory.

The public prosecution has clearly defined jurisdiction for investigating crimes in the Law on public prosecution, while the courts have its jurisdiction defined in the Law on courts. The Law on public prosecution defines that environmental crimes committed by organized group should be under the jurisdiction of the Basic public prosecutor's office for prosecuting organized crime and corruption. The Law on courts does not define a jurisdiction of the specialized court department competent for trying in organized crime and corruption established in the Basic Criminal Court Skopje for these crimes. Because of the non-harmonization of the two laws, the Basic public prosecutor's office for prosecuting organized crime and corruption practically does not have a *locus standi* for representing cases of committed environmental crimes by organized group, therefore harmonization of the two laws should be done.

2. How can the discrepancy between the number of submitted criminal complaints and the indictments be overcome? Do you have sufficient access to experts for the purpose of

conducting efficient investigations? Do you consider there is sufficient cooperation with the police and the inspectors and how it can be improved?

Lack of capacities in the public prosecution affects the investigations and its efficiency. Recent situation was mentioned where only one public prosecutor was dedicated to conduct the investigation, however the complexity of the case required that at least two public prosecutors be engaged in the case. Having in mind the number of criminal complaints that reach the public prosecutors *vis-à-vis* the number of public prosecutors it is challenging to dedicate two or more public prosecutors to a specific investigation.

The question related to the sufficient number of experts for preparing expert opinion for determining the causality, the severity of the damage and other aspects related to environmental crimes depends on the number of cases and the variety of environmental crimes for which an investigation is conducted. The lack of cases related to environmental crimes prevents a definite answer to this question to be provided, however there were some cases where an academic institution was unable to perform specific expertise and to prepare the specifically required expert opinion. Although the Law on Criminal Procedure allows the public prosecutors to address foreign experts and institutions in situations like this, the prosecution office lacks funds to pay for this kind of expert opinion in every case. It would be crucial that the country allocates sufficient funds for training enough technical experts such as chemists, mechanical engineers etc.

Public prosecutor from Republic of Serbia shared its experience and approach to investigating alleged crime of dumping and burying toxic waste and all of the institutions she had to contact when planning the on-site investigation (contacting police, fire department, the emergency health care unit, the unit for handling toxic waste etc.). Lack of practice among public prosecutors in North Macedonia regarding these types of environmental crimes does not equip them with the necessary practical experience if any similar case reaches the public prosecutors. Having this in mind regional events for the judiciary and public prosecutors for sharing experience and good practices applied in investigating environmental crimes would be very beneficial.

3. Would you say that there is sufficient education on judges and public prosecutors relating to environmental crimes?

The Academy for Judges and Public Prosecutors organizes different trainings/counselling events related to environmental crimes. Still the possibilities for education on environmental crimes and international environmental legislation is limited and further efforts should be taken in that regard. CSOs sometimes organize trainings and workshops for specific environmental crimes, for example recently the Macedonian Ecological Society organized workshops on poisoning of wild animals, however further efforts should be taken in that regard.

Environmental crimes and environmental legislation are not enough represented in the general trainings for the candidates admitted in the Academy for Judges and Public Prosecutors and improvements are needed. It would also be difficult to determine the scope and the topics which should be part of the initial general training for the candidates, so further discussions should be done in this regard. It would be useful if one public prosecutor in each public prosecution office across the country gets continuous training on environmental crime and serves as a focal point/coordinator of investigations related to environmental crimes when such case reaches the public prosecution office.

4. Where do you identify the systematic challenges and an intervention activity should be undertaken aimed at improving the effectiveness of the prosecution of environmental crimes?

It is positive that environmental crimes are set as a focus in different strategic documents, however the progress in that sense is very limited thus various actions should be implemented in order to increase the effective response of the criminal legislation to the environmental degradation.

The statistics presented in the interview, although it only refers to environmental crimes, shows the large number of criminal complaints that reach the public prosecutors. When we also consider the number of criminal complaints that reach the public prosecutors for other crimes as well, together with the number of employed public prosecutors, it would be hard to expect that the current public prosecutors could dedicate enough time to each of the cases they are designated to work on. Bearing this in mind, the number of public prosecutors should be increased in order to have efficient investigations and indictments.

The education on environmental crimes and environmental law, which is limited at the time, should be improved. Raising awareness among public prosecutors on the serious nature of the environmental crimes and the grave consequences they cause on the population, should go hand in hand with the increase possibilities for environmental crimes education. Having this in mind, urbanism should also be a topic that should be closely monitored since it has a serious effect on winds, thus affecting the air quality as well.

As has been mentioned before, public prosecutors already faced with situations where academic institutions couldn't provide for the required expert opinion, thus the country should invest in creating and continuously supporting academic institutions as well as individual experts in order for them to be able to provide the necessary expertise and determining of causal links and harm done. Bearing in mind that the process for creating national experts with sufficient knowledge, certified methods and equipment for providing the necessary expertise takes time, as well as that sometimes it would be economically more feasible to use foreign expertise, funding of the public prosecution office should be increased in order to be able to pay for ordering expert opinions from foreign academic institutions which are certified. Increasing the funds for the public prosecution office, not only for expertise but for other aspects important to the investigations, is also crucial.

Bearing in mind the number of public prosecutors *vis-à-vis* the number of criminal complaints received, it would be unreasonable to expect that specialization of public prosecutors can be done on short-term or even mid-term. In the existing circumstances it would be more feasible to have one public prosecutor in each of the public prosecution offices across the country which will receive basic, advanced and continuous education on environmental law and crimes and will serve as a focal point/coordinator of the work of other public prosecutors when investigations for environmental crimes are conducted.

On the other hand, it is crucial to have a unit or number of police officers which are specialized in environmental crimes since they are discovering if any crime has been committed as well as they are gathering the necessary information and evidence in the pre-investigation stage. Having a specialized police officers would be of great importance for the public prosecutors when the case goes into the investigation stage.

There is excellent cooperation between public prosecutors from North Macedonia and public prosecution offices from other countries in the region or from other European countries, however the facts that people with great power and finances are involved in environmental crimes as well as that transnational environmental crime is hard to follow and investigate, still remains the challenge. There is cooperation and communication between the public prosecutors and the environmental inspectors, however it is mainly based on developed personal connections rather

then by establishing inter-institutional cooperation. Public prosecutors from Skopje have information about the work of the State Environmental Inspectorate and know the inspector they can call if any information is needed, however public prosecutors from other cities face challenges in this regard. Inter-institutional channels for communication and flow of information should be established in order to improve the situation. This would provide public prosecutors with the necessary information who performs inspection oversight over which environmental aspects as well as which is the nearest inspector they can address to when they face with situation when they need information or certain evidences from the inspectors. When discussing the local environmental inspectors, it would be maybe most suitable that the State Environmental Inspectorate serves as a focal point for the inspection oversight in the environment.

Discussing the fact that monetary sentences prevail in the case law, it was pointed out that, although it all depends on the specific circumstances, for the lesser crimes where usually individuals are the perpetrators, monetary sentences would probably have the best effect on reaching the general and special prevention, since the general population is mostly affected financially. On the other hand, for the more severe crimes severe prison sentences should be imposed. Suspended sentences where restitution of caused environmental damage is imposed in combination with prohibition to commit another crime can also have a positive effect on the general and special prevention. It should be mentioned that judges also need education on environmental law and crimes.

Prepared by:
Bojan Trpevski, National Expert on Environmental Justice

III.5 Minutes of Validation Workshop on Public Participation and Environmental Justice

Date: December 20, 2024
Venue: Hotel Holiday Inn, Skopje starting at 10:00 AM

As part of the **CEJ Convergence Project in the Western Balkans**, financially supported by the **Agence Française de Développement** and implemented by **Expertise France**, a validation workshop was organized and held on December 20, 2024 in Skopje, North Macedonia. The general purpose of the validation workshop was to validate the findings on the challenges related to public participation and access to justice in environmental matters and the proposed solutions for their overcoming as well as to get more input on other possible solutions.

However, the event was designed with specific objectives to advance the shared goals of enhancing environmental governance and justice. A central goal of the workshop was to critically examine the preliminary findings and recommendations stemming from the CEJ Assessment Report. This report represents the result of a participatory process that included interviews, focus groups, and desk analyses conducted over three months. By bringing together a diverse group of stakeholders, including local NGOs, institutional representatives, and international experts, the workshop aimed to ensure that the findings reflect the realities on the ground. The validation process sought to confirm the accuracy, relevance, and feasibility of the recommendations proposed, ensuring they align with the local context and European standards. The workshop also sought to deepen stakeholders' understanding of these concepts by presenting both theoretical frameworks and practical applications. Local experts outlined the current challenges and opportunities in North Macedonia, while EU experts provided a comparative perspective based on experiences in other countries.

The discussions emphasized the importance of engaging citizens in decision-making processes and ensuring that judicial and administrative systems are accessible, transparent, and effective.

By fostering a shared understanding among participants, the workshop aimed to equip stakeholders with the knowledge necessary to advocate for and implement improved practices in their respective roles, whether as policymakers, activists, or members of the legal and administrative sectors.

One of the key objectives of the workshop was to provide participants with insight into successful practices from the European Union, offering models that could be adapted to the local context. EU experts shared case studies that illustrated innovative approaches to public participation and access to environmental justice. These examples highlighted both successes and challenges, providing a balanced perspective on what works and what does not.

A particular focus was placed on the integration of gender perspectives in environmental decision-making. Gender experts emphasized the importance of involving women in public participation processes to ensure that diverse viewpoints are considered. By showcasing the intersection of gender and environmental governance, the workshop underscored the value of inclusivity in achieving sustainable outcomes.

The validation workshop commenced at 10:00 AM at Hotel Holiday Inn, followed by a warm welcome and introductory session led by **Ms. Entela Pinguli**, the CEJ Convergence Project Team Leader. Ms. Pinguli moderated the introductions, setting a collaborative and participatory tone for the day.
The agenda was thoughtfully designed to balance expert presentations with interactive discussions, ensuring that attendees had ample opportunity to share insights, ask questions, and provide feedback.

Working sessions:

1. Presentation of Assessment Results

Local experts **Kiril Ristovski** and **Bojan Trpevski** delivered a comprehensive presentation on the findings of the CEJ Assessment Report, focusing on two critical pillars: public participation and access to justice in environmental matters. Their analysis highlighted key gaps and challenges faced in North Macedonia, as well as proposed recommendations to address these issues.

Participants engaged in a dynamic discussion, sharing their experiences and offering additional perspectives to validate and enhance their findings. In the discussion's general concurrence with the findings of the national experts was expressed by the participants. The general conclusion of the discussion was that although the legislation is generally harmonized with EU legislation and international standards, the country is facing serious challenges relating to its implementation.

The following comments and suggestions related to public participation were expressed:

- The faculty of security performs regular research on the implementation of the Aarhus convention which shows that institutions are not familiar with its provisions, thus challenges in its implementation emerge.
- Domestic legislation is inconsistent in some cases, thus certain amends should be made.
- Broadened national discussions should be made on whether, like in other countries, regulating EIA and SEA should be made in a special law and not like now in the Law on Environment. This would increase the knowledge and awareness among stakeholders, including judges, on which provisions are applicable.
- It is proved to be a dilemma whether legislation should be written in a manner where every possible situation is foreseen and regulated or whether legislation should be more general thus leaving room for creativity and interpretation. In some cases, it proved to be better to try

and foresee every possible situation rather than leaving it to the interpretation of the general provisions.
- The environmental reports and the lack of public participation possibilities were mentioned as the most pressing issue since for projects like small hydropower plants an environmental report is needed instead of an EIA study
- The local population has valuable knowledge and can provide substantial comments; however, they lack information for public participation possibilities and when can they participate on a public hearing or submit a written comment.

The following comments and suggestions relating to environmental justice were provided:
- The notifications as real acts are individual administrative acts and courts should deal with cases against them.
- The applicable Law on Administrative Disputes lacks provisions on protecting constitutional rights like the ones that were in the previous Law on Administrative Disputes.
- The Administrative Court is a specialized court distinguished from regular judiciary thus it is questionable whether the lack of authorization in human rights vis a vis environmental degradation cases will be an open question in the near future.
- Amendments of the legislation are not always the solutions to the identified challenges and sometimes debates/counselling for interpretation on provisions should be organized instead.
- Although the participants agree that specialization on environment should be done related to environment, it is only a long-term goal although the Strategy on the reform in the judiciary proposes some reorganization.
- The experience to date shows that there is very low interest among judges and public prosecutors in attending the training courses on environmental justice that were organized so far with only 2-3 public prosecutors coming to the trainings.
- Focus should be put on the criminal legislation while education of young people and university students on the environmental legislation and topics should be performed in parallel.
- Increasing the funding is crucial to achieve proper implementation of the legislation.
- The inspection oversight faces serious challenges: the number of inspectors in the SEI is starting to decrease due to retirements and the number of new inspectors is lower than what is required, while there are 47 municipalities that do not have a municipal inspector on the environment. The Law on the organization and the work of the state administration institutions should be amended in order to completely separate SEI from MoEPP, since according to the current legislation SEI is an institution within MoEPP.

2. EU Case Studies

EU experts **Ms. Laura Monnier** and **Mr. Vincent Delbos** presented compelling case studies on the successes and challenges of access to environmental justice across Europe. Their presentation provided insights into effective judicial mechanisms and cross-sector collaboration.

Additionally, **Ms. Carmen Bouley de Santiago** provide narrowed presentation of the case studies on public participation in France while **Ms. Sofia Azaiez** explored the intersection of public participation and gender, highlighting the role of women in promoting inclusive and equitable environmental governance.

Attendees discussed the applicability of these best practices in the North Macedonian context, focusing on the potential for adaptation and integration. The following questions were part of the discussion after their presentation:
- Is the climate a mandatory part of the French EIA studies?

- What is the basis for argumentation in the judgements determining human rights violations *vis a vis* environmental degradation, is it EU legislation, national legislation, expert opinion and witnesses or combination?
- How does French CSOs overcome the challenge of finding expert witnesses since North Macedonia is a small country where generally everyone knows each other?
- Where in the state hierarchy and system is the independent environmental institution which was mentioned during the presentation?
- How were the claims of the lawsuit formulated and how was the judgement dispositive formulated in the presented air pollution case?
- If clarification can be provided on how was the causal link determined between the omissions of the state institutions and violation of the right?

3. Concluding Remarks

The workshop concluded with a session led by the experts, summarizing the main outcomes of the day. The discussions focused on:

- Consolidating the validated findings and recommendations.
- Outline the next steps to integrate stakeholder feedback into the final CEJ Assessment Report.

Prepared by Kiril Ristovski, National Expert on Public Participation, and Bojan Trpevski, National Expert on Access to Justice, in Skopje on 23.12.2024.

Annex VI: Data from environmental cases

5. Data collections: Observations and measures for action in the field of climate and environmental justice; Some remarks

To measure the impact of processes implemented in the field of climate and environmental justice, it is necessary to have some reliable quantitative data. it's clear that basic data is often lacking or incomplete. This is partly due to the weakness of information gathering systems in the countries concerned.

This note attempts a first approach to this question, by examining the different categories of information data required.

Domain or thematic data
Eurostat has produced a series of statistics on several topics, including waste, air pollution and pesticides use. These series concern the CEJ Convergence Project countries.
They enable us to assess trends in compliance or the approximation of averages observed in EU Member States.

Data on regulatory and compliance controls
There do not appear to be any recent, reliable data on checks carried out to verify compliance with regulations or administrative police measures.

Data related to criminal investigations
There is some data on police activity in criminal matters, but in none of the countries is the granularity sufficient to provide information on investigations carried out in cases of environmental damage (macro category) or more specific areas (such as illegal waste).

Data on justice systems
Data on justice systems are available to enable comparisons to be made, notably in the European Commission for the Efficiency of Justice databases. These enable trends to be assessed based on parameters monitored over a long period.

The World Bank has just produced a fact sheet providing information on North Macedonia[239]. However, in the two sources available, the degree of precision obtained does not allow us to identify the environmental theme, either in general terms or in more specific terms (air pollution, water pollution, etc.). As a result of these observations, a significant amount of documentary work needs to be undertaken to measure starting points and impacts.

All these factors mean that, in parallel with the roundtables, we need to carry out special expertise that is essential for assessing the project's results and measuring its impact.

[239] see World Bank. Prosperity Data360 Justice Country Snapshots: North Macedonia (English). Data360 Justice Factsheets Washington, D.C.: World Bank Group.
http://documents.worldbank.org/curated/en/099559512232442593/IDU14a6ba4761402114e0d1841f1a737e7005779

Annex VII: Additional Resources

VII.1. Some Examples of Local Participation

Local Referendum: A Yet Rare but Promising Process

In environmental matters, the use of local referendums appears to be a fruitful idea. Indeed, it seems appropriate to involve citizens directly in the adoption of decisions that will directly affect their living environment, whether this involves a plan or programme or authorising an infrastructure or equipment project.

International or regional human rights instruments do not contain any explicit standards concerning referendums, whether national or local. However, referendums are indirectly protected by provisions guaranteeing the right to political participation[240]. Similarly, provisions relating to human rights, and in particular the prohibition of discrimination and the protection of freedom of expression, govern the conditions under which referendums may be organized[241]. The only text which expressly mentions the right of citizens to participate in local referendums is the European Charter of Local Self-Government, that the three countries have ratified[242].

In fact, in the article 3 (2) and the article (5), we can read that:
"This right [to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population] shall be exercised by councils or assemblies (…). This provision **shall in no way affect** recourse to assemblies of citizens, **referendums** or any other form of direct citizen participation where it is permitted by statute".
More specifically, the Article 5 determinates that:

"Change in local authority boundaries **shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum** where this is permitted by statute".

So, the European Charter of Local Self-Government states that local referendums as forms of direct participation, may be used to exercise the right of citizens to participate in the management of local affairs, including environmental matters. This provision has been reinforced by the additional protocol to the European Charter for self-government which comes into force on June 2012[243]. The Article 2 (2) (ii) provides for a local referendum as a measure to implement the right for citizens to participate in the affairs of a local authority.

Since then, several legal instruments have encouraged the setting up of local referendums or even suggested that they should be held when decisions of local interest or of interest to a particular community are to be take[244].

To ensure genuine public participation, the rules governing referendums must be clear and like those governing elections (impartial body responsible for organising the referendum, rules governing the funding of the referendum campaign, regulation of speaking time for supporters

[240] For example, International International Covenant on Civil and Political Rights, article 25 (a), December 16, 1966.
[241] The liberty of expression and association guarantees that citizens must have the opportunity to influence public debate or to organize themselves with a view to influencing it.
[242] Albania ratified it in April 4, 2000, and it entry into force on August 1, 2000**;** Montenegro ratified it on September 12th, 2008 and it came into force on January 1n 2009 ; for North Macedonia, the ratification was on June 6, 1997 and it came into force on October 1, 1997.
[243] Council of Europe, Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority, Utrecht, 16.XI.2009. Albania has not ratified this Protocol whereas it entry into force in North Macedonia on January 1 2016 and Montenegro on June 1st , 2012.
[244] CCPR, General Comment N° 25: Article 25 (Participation in Public Affairs and the Right to Vote), The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service, 12 Juillet 1996, CCPR/C/21/Rev.1/Add.7; European Council, Referendums: vers de bonnes pratiques en Europe, 2005, Recommandations de l'APCE ; Venezia Commission, Lignes directrices révisées sur la tenue des référendums, 8 October 2020, CDL-AD (2020)031.
https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2020)031-f

and opponents of the referendum, control of the question submitted to the referendum, control of electoral lists, informing and educating voters).

Recently, new proposals have emerged to limit the risks associated with referendums, particularly when they are initiated by citizens. The risks of manipulating public opinion, or of demagogic or plebiscitary practices, are well known. The development of digital techniques of influence is undoubtedly renewing and strengthening them. Similarly, the complexity of the issues is often perceived as a limit because complex questions rarely call for binary yes/no answers.

To overcome these risks, combining the referendum with an assembly of citizens drawn by lot appears to be a possible solution. This arrangement already exists in various countries. In those cases , the question submitted to a referendum is first examined by an assembly made up of citizens chosen by lot. The role of the citizens' assembly may be to examine the proposal to provide the electorate with an impartial opinion on this proposal[245]. But, in other cases, the citizens' assembly does not issue an opinion. It examines the question submitted to the referendum and, after hearing all the points of view, summarizes all the arguments for and against the proposal and submits its work to the electorate[246].

A local referendum does not necessarily have a decision-making role. It may be a form of public consultation, more demanding than the average.

In France, for example, local consultation on projects likely to have an impact on the environment has been created in 2016[247]. It enables the State, when considering issuing the authorisation required for a project that are likely to affect the living environment, to seek the opinion of the citizens most directly concerned. All municipalities whose environment is likely to be affected by the project are concerned. People registered on the electoral rolls of the municipalities concerned, who are French citizens or citizens of a member state of the European Union, may take part in the consultation. They make their opinion on the project known by answering "yes" or "no" to a question set out in a decree deciding on the consultation, indicating its purpose, date and scope, and convening the electors.

The National Commission for Public Debate (CNDP) prepares an information file on the project that is the subject of the consultation[248]. This file includes a summary document that clearly and objectively presents the project, the reasons for it, its characteristics, the state of progress of the procedures, its impact on the environment and the other effects it is expected to have. It mentions the main documents that may be of interest to voters and includes links to websites

[245] For example, in 2012, the Irish parliament set up an independent constitutional convention with 100 members (66 citizens chosen by lot, 33 parliamentarians appointed in proportion to the groups in the lower house and a magistrate appointed by the government, who chaired the convention). It was asked to make recommendations on a series of constitutional reforms (such as the age of citizenship, the length of the presidential term, the voting system, same-sex marriage and the decriminalisation of blasphemy). The government was not bound by these recommendations but was obliged to respond to them within four months and to indicate whether it intended to put them to a referendum. The recommendations adopted by the convention led, from 2015 onwards, to a series of referendums. The most notable was on same-sex marriage, which was eventually approved. Following this experience, a Citizens' Assembly was set up in 2016, also with 100 members (99 representative citizens chosen by lot and, as chair, a magistrate appointed by the government). Its remit is to make proposals on several subjects, including voluntary termination of pregnancy, the challenges and opportunities of ageing, policies to tackle climate change and referendum procedures. V. D. Courant, « Des Mini publics pour sauver le climat ?Analyses empiriques de l'Assemblée citoyenne irlandaise et de la Convention citoyenne française », Archives de Philosophie du droit, 2020, n°1, t.62, p.485.

[246] It's the case in Oregon, in USA with the Citizen Initiative Review. This is a deliberative assembly of 25 people chosen by lot, whose purpose is to provide the information citizens need before they vote. It therefore takes place after a popular initiative has been drawn up and drafted, and before it is put to the vote. Such assemblies exist in several places, but in the case of Oregon, they are an integral part of the legislative process, and their recommendations appear in the voting material officially provided to voters. Cody Hoesly, « Reforming Direct Democracy: Lessons from Oregon », California Law Review, vol. 93, n° 4, juillet 2005, pp. 1191-1248.

[247] Ordonnance n° 2016-488 du 21 avril 2016 relative à la consultation locale sur les projets susceptibles d'avoir une incidence sur l'environnement

[248] Article L123-26 of the Environment Code.

where these documents can be consulted. The dossier is available online on the CNDP website. Mayors provide voters with an Internet access point where they can consult the documents. A letter of information on the organization of the consultation, together with two ballot papers, is sent by the State to each voter. The consultation is organized by the mayors in accordance with the procedures set out in the Electoral Code. The cost is borne by the State.

This procedure has been used once, in connection with the construction of an airport at Notre Dame des Landes[249]. The scope of the consultation was discussed insofar as it did not restrict participation to residents directly affected by the project. In the end, the government chose not to follow the results of the consultation, which were in favor of building the airport, because of the strong opposition to the project. A few lessons can be drawn from this experience: public consultation must not be used by the State to build social acceptance for a project that has been rejected by the residents most affected. Holding a referendum is not enough to resolve the crisis arising from the rejection of a project by residents[250].

Local Consultation on Projects Having an Environmental Impact

Local consultation under the CNDP

The CNDP, the independent authority granting information and public participation in matters of environment, must be "solicited"[251] for projects that fall into one of the ten categories defined in the table article R.121-2 of the French Environment Code, whose technical or cost characteristics fall between the low and high thresholds defined in the code.

The project manager then has two options:

- Either "refer" the project to the CNDP. In this case, the CNDP decides on the terms and conditions of prior participation: *consultation or public debate*. In these processes, the freedom of third-party guarantors in terms of public information and participation regarding the project and environmental issues is important, and is only loosely regulated by law in terms of deadlines, neutrality and deliverables.

- Or "request the appointment of a guarantor". In this case, the guarantee of the public's right to information and participation is weaker, since the CNDP does not validate the terms and conditions of participation. However, a right of referral for third parties is then opened up, enabling them to refer the matter to the CNDP instead of the project manager, in order to have a stronger guarantee of their rights. Third-party referrals to the CNDP give rise to a decision by the CNDP, as if the project had been referred to by the project manager.

Third parties that can refer to CNDP are:

- 10,000 adult EU nationals resident in France;
- 10 members of parliament (senators or deputies);
- local authorities (at all levels) with responsibility for spatial planning and with a territorial interest in the project, plan or program;
- an approved environmental protection association.

This leads project owners to be more careful and refer more often to the CNDP. Indeed, some projects try to avoid public engagement by decreasing their budget or scope, leading to local contestation from NGOs but also from local authorities. This can end in a full blockage of the project which might be discontinued or, very often, to legal cases and complaints to the

[249] Le Monde, « Référendum pour Notre-Dame-des-Landes: le oui l'emporte à 55,17 % », 26 June 2016, https://www.lemonde.fr/planete/article/2016/06/26/notre-dame-des-landes-premiers-resultats-pour-le-referendum_4958521_3244.html.
[250] Marion Paoletti, « The creation of a new referendum to "solve the crisis" of Notre-Dame-des-Landes », 2017, Revue française de droit constitutionnel, N° 109(1), p. 173.
[251] https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000048247378

administrative courts. Those can also rule against the project, making its implementation longer or forcing the project owner to abandon it.

Local Voluntary Consultation: A Growing Process

Even when projects' size and costs don't fall under the law, more and more industrial or energy project owners decide on their own to organize a local public consultation before the ***Public Inquiry***, mainly to anticipate legal complaints, disturbances and even project blockage.

Indeed, the ZAD phenomenon - Notre Dame des Landes, Bure, A69, the massive demonstrations such as Sainte Soline, combined with the rise of direct-action environmental activists; raise greater concern for project managers, who are more cautious when arriving in local municipalities. To do so they implement a public consultation with their own dedicated team for biggest industries or through specialized consulting firms on the matter. Most of these consultations are designed to involve local stakeholders and authorities, but also the local residents. That is to say any person or legal entity that could make a complaint.

The quality of those consultations can be rightfully questioned and undermined, as the information is mainly provided by the project owner and the EI studies often arrive too late within the process. That being said, one of these volunteer consultations can participate in substantive modification of projects or their cancellation when they're in a "hostile environment". In the latter case, the project owner usually publicizes its decision before the end of the public inquiry.

Whatever impacts those consultation have, their positive impact is to broaden a participatory culture concerning the environment.

Local Authorities' Initiatives

Based on Citizens Conventions or permanent citizens' Assembly, such as th Brussels citizens' assembly[252], a significant number of local authorities implement deliberative processes, on climate change and green transition with randomly drawn and yes demographically and socially diverse, citizens.

The Metropolitan council of Grenoble in France was the first local authority to implement a local citizens' convention on climate[253] with 100 hundred citizens working for a year (2022-2023), given expertise insights on two main questions: How to reduce GHG emissions? How to reach carbon neutrality by 2050?

The Citizens' convention outcome consisted in 219 propositions from which all of them under the scope of the Metropolis were submitted to the Metropolitan Council in April 2023. All the proposals presented were approved by a very large majority. Some of them should be included in the future Metropolitan Climate Air Energy Plan.

These types of citizens' deliberative process have a major political component: most of them in France, if not all, are by cities led by green or left-wing political parties. The case of Grenoble is interesting, not only as a pioneer, but because of the bad air quality. Still in this sad top 10, the air pollution is steadily decreasing and awareness dispositives have been implemented. An example

[252] https://en.agora.brussels/post/guide-to-citizens-assemblies. Citizens' proposals were presented and advocated for by our spokesperson, who is elected to the Brussels Parliament, with the aim of influencing the legislative process and ensuring that the voices of the population are heard. This initiative sought to institutionalize the Brussels Citizens' Assembly, envisioning it as a body with legislative authority that can operate in parallel with the elected Parliament, fostering collaboration and complementarity between the two entities. Such an approach aims to deepen democratic engagement, bridge the gap between citizens and policymakers, and ensure that decisions better reflect the collective will and might have been perceived as too radical within representative democracy. Also it should be highlighted that none of the proposals that Agora submitted to the Brussels parliament were adopted. When push came to shove, Brussels politics did not warm to the proposals that the citizens' assemblies produced. cf. Sampol.

[253] https://www.grenoblealpesmetropole.fr/251-la-convention-citoyenne-pour-le-climat.htm#par1148

is the installation in one of the pylons on the Grenoble-Bastille cable, a light illuminated every evening in function of the air pollution levels. The color represents the quality of the air the inhabitants will be breathing the next day.

In Denmark, the city council of Copenhagen decided on establishing a three-year (semi-permanent) citizens assembly[254] tasked with giving recommendations to the next climate plan for the municipality of Copenhagen. As in "mini-public" citizens convention, randomly drawn participants are at the heart of the process. The citizens assembly started in 2023 and will complete its mandate by 2026 summed up by this question: "*What does a good Copenhagen life look like with far fewer greenhouse gas emissions from the consumption of food, housing and transportation, and how can we best get there together?"*. Similar to France, this initiative of local authorities followed the national citizens assembly on climate issues[255].

We thus can make the hypothesis that successful national deliberative processes on climate and environment issues may be declined at a local level if authorities, political ones, are on board. It might be easier to implement citizens recommendations at a local level too, but literature is not extense on this matter. The main limit of processes is the difficult link to decision making within representative democracies. The main success is to legitimize citizens capabilities and credit to think the future and to give "user expertise", really important at the local level.

Finally, it should be noted that all the cases provided above have an online and offline participatory methodology. The online tool working best for information and vote and the offline ones being applied to co-creation and deliberations. Similarly, most of the processes rely on an assembly or "mini-public" of randomly selected citizens who have access to scientific and technical expertise. These processes and methodology of selection are interesting but start to be contested in the field: each public participation and information process must be tailored to the aims and constraints of the project and planning, especially in matters of climate and environment.

VII.2 Bibliography of Environmental Law in the Western Balkans

Article

1. Climate change in the Western Balkans and EU Green Deal: status, mitigation and challenges
Knez, Sandi; Štrbac, Snežana; Podbregar, Iztok

Energy, sustainability and society, 2022-01, Vol.12 (1), p.1-14, Article 1; Background The European Commission (EC), based on the European Green Deal (2019) and the Recovery plan for Europe (2021), envisages investing 30% of the budget in climate-related programs, projects, and initiatives, which clearly shows Europe's commitment to becoming the first climate-neutral region by 2050. Activities are also planned for countries that are not members of the European Union (EU), which require complex changes in the field of legislation, strategic planning, implementation, and monitoring. To successfully plan short-term and long-term activities on these grounds, it is necessary to have a realistic picture of the state of climate change in each country—as they spill over into the entire region of Europe. The main objective of this paper is to answer the following questions: (i) is climate change observed in Western Balkans? (ii) how are certain sectors vulnerable to climate change in Western Balkans? (iii) what are the climate change adaptation strategies in the six countries of the Western Balkans? The answers to these questions can help in planning activities and initial alignment of Western Balkan countries with the EU plan to achieve net zero greenhouse gas (GHG) emissions by 2050. Main body. The main results of the research show that in all countries of the region, the average annual temperature

[254] https://partizipation.at/methoden/buergerinnenrat-citizens-assembly/
[255] https://www.kefm.dk/Media/637647201779892262/Borgertingets%20anbefalinger_ENG.pdf

increased by 1.2 °C compared to 1970, with stabilization and the beginning of the decline which can be expected around 2040. The main reasons for climate change in the region are: industry, energy, and heating sector based on coal exploitation, low energy efficiency, etc. Conclusions It can be concluded that Croatia as a member of the EU has adopted, and other five Western Balkans countries are in the process of adopting the necessary regulations and strategies towards climate change mitigation, but the implementation of specific activities is at a low level. The reason for this most often lies in the insufficient commitment of decision-makers to make significant changes in the field of climate change transition (lower level of economic development, lack of investment, and preservation of social peace). Finally, this paper provides an overview of climate change by country, scenario analysis, and policy recommendations.

Article De Revue

Article 2. The Impact of ESG Risks on the Economic Growth in the Western Balkan Countries
Delova-Jolevska, Evica; Ilievski, Andrej; Jolevski, Ljube; Csiszárik-Kocsir, Ágnes; Varga, János

Sustainability, 2024-10, Vol.16 (19), p.8487; The economy is significantly impacted by environmental, social, and governance (ESG) risks. The growth of the economy can be sped up by the effective management of ESG risks through sustainable business practices. To promote sustainable development and to secure the long-term welfare of employees, customers, and all other stakeholders in the economy, companies must adapt and reposition their business strategies and organizational cultures. The goal of this paper is to determine how a set of common ESG elements, chosen from the viewpoints of sustainability and well-being, influence economic growth in the Western Balkan countries. For each ESG component, we used different variables. The information pertains to the five Western Balkan countries of North Macedonia, Albania, Montenegro, Bosnia and Herzegovina, and Serbia. Because of a lack of data, Kosovo is excluded from the study. Then, we compared results from the analysis of the Western Balkan countries with a set of countries in Southeast Europe, which are members of the European Union and essentially coincide with the Western Europe countries. We performed multiple regression analysis with applied fixed effects to the data model. According to the study's findings, each of the independent variables had no significant impact on the GDP's annual growth of the Western Balkan countries, but two of the variables, life expectancy at birth and labor force participation, have certain impact on the GDP growth of Southeast Europe countries, which are members of the European Union. The green transition has gained significant importance in the Western Balkan countries as a crucial pathway toward sustainable economic growth, though it introduces a range of new social and economic challenges. Economically, these nations are confronted with considerable funding requirements for development. To build sustainable societies, it would be beneficial for these countries to explore more creative financing strategies. It is advised to establish financing frameworks that not only increase the transparency in policymaking but also ensure greater accountability in their execution.
... strategies and organizational cultures. The goal of this paper is to determine how a set of common ESG elements, chosen from the viewpoints of sustainability and well-being, influence economic growth in the Western Balkan countries...

Livre

3. OECD Development Pathways Multi-Dimensional Review of the Western Balkans Assessing Opportunities and Constraints.
OECD. 2021

The Western Balkans region has come a long way over the last two decades in achieving economic and social progress. With a population of 17.6 million, the region today boasts a combined gross domestic product (GDP) of close to EUR 100 billion, an average GDP per capita of about EUR 5 400 and a comprehensive process of integration with the European Union.

Livre

4. Evolving practice in EU enlargement with case studies in agri-food and environment law
Inglis, Kirstyn. 2010

Following some ten years as a practicing lawyer and consultant, Kirstyn Inglis has been researching the evolving legal practice of EU enlargement for over ten years. This book, succinctly, introduces this evolving practice, covering 'transitional arrangements' in accession treaties, the Treaty of Lisbon, recent European Court case law, the specific governance challenge of incorporating Bulgaria and Romania and the strategy for future enlargements to bring in the Western Balkans and Turkey. In part two, the examples of the environment and the agri-food acquis are explored, including the analysis of the transitional arrangements in practice. Overall, the diversity and complexity of the pre-accession and post-accession challenge of enlargement becomes apparent, as do key challenges for the evolution of the acquis communautaire in an enlarging Union at a time when Croatia is waiting to sign its own accession treaty.

Article

5. Governmental investment in the environmental economy in the Western Balkan
Šogorov-Vučković, Jelena; Piksiades, Dušan; Trifunović, Ivan

European journal of applied economics, 2022, Vol.19 (1), p.121-136; "A Green economy" has been one of the key agendas that governments all over the world have set as a goal to achieve. The last few decades have been critical for the recognition of this major problem, and they played a critical part in reversing the effects brought on to our planet with the acts of people and other natural factors. Governments have devised multiple plans to enforce regulations that would protect the environment we live in, and most of these plans have been spearheaded by the United Nations (UN) and the European Union (EU). They have developed several plans that have a task to minimalize, or escalate, the effects of global warming until 2050. Covered by these plans are almost all of the World's countries, and a majority of these actions are connected with the economy and sustainable development. The Western Balkan region has recently started implementing Eco laws and trying to make the environment more energy efficient. The WB countries have also undergone serious economic improvement in the environmental field. This paper analyses the progress of the Western Balkan countries, its onset and implementation, as well as plans for future economic investment. The countries that will be analyzed are Albania, Bosnia and Herzegovina, Montenegro, North Macedonia, and Serbia. The analyses in the paper include the presentation of legal regulations and the economic perspectives of the plans that need to be implemented in these countries, as well as their investment potential concerning the green economy. Since all of these countries tend to become members of the EU in the future, these results would be compared with the average measures performed by the EU countries. The paper hypothesizes that Western Balkan countries have lower average rates than EU countries, and would have to focus not only on making a more stable legal perspective concerning Eco laws, but also a more environmentally stable economy.

Article

6. The new kids on the block - Building environmental governance in the Western Balkans
Fagan, Adam

Acta politica, 2010-04, Vol.45 (1-2), p.203-228; The influence of the EU over environmental policy frameworks, plus the availability of project funding for environmental NGOs in acceding and candidate states across post-socialist Europe has significantly shaped action repertoires, issue agendas and patterns of mobilisation. It has also been claimed that EU intervention has determined the institutionalisation of 'green' civil society networks by the introduction of, for example, EIA processes and policy-making norms that emphasise intersectoral partnership and

multilevel governance. However, research on the impact of EU assistance for environmental mobilisations in Bosnia and Herzegovina and Serbia reveals the extent to which EU intervention and influence builds professionalism, but only partially institutionalises recipient environmental NGOs; if they are accorded political access at all, it is ephemeral and within less contentious policy areas where they are encouraged to deliver expertise and assistance rather than to act as advocates for community interests or to express political opposition to contentious developments. This article concludes that the professionalisation and increased managerial capacity of a handful of ENGOs cannot be equated with good governance and with the institutionalisation of non-governmental actors. Indeed, increased professionalism is invariably confined to a very narrow spectrum of policy enactment and is insufficient to generate environmental governance in the absence of state or governmental capacity.

The influence of the EU over environmental policy frameworks, plus the availability of project funding for ENGOs in acceding and candidate states across post-socialist Europe has significantly shaped...

Article

7. Open Balkan Initiative: A Contested Issue in The EU Membership Perspective

Tota, Elton; Culaj, Gjon

Journal of Liberty and International Affairs (Bitola), 2023-03, Vol.9 (1), p.312-324; The Open Balkan is the latest regional initiative in the Western Balkans (WB), firstly named as Mini-Schengen and then changed to Open Balkan Initiative (OBI), which aims to increase the regional economic cooperation among the WBs by going beyond the mere objective of creating a Common Regional Market (CRM). This paper using an analytical approach, taking into account data and information, has identified and highlighted the openly declared objectives of the OBI while comparing it with the previous Berlin Process. Also, the paper has shown that the disputes among the WB countries most inherited from the unresolved issues of the past are still present and hinder the progress towards a common future and EU membership perspective. The reactions to the OBI proved that even the creation of mere economic cooperation is hardly achieved in the case of other existing unresolved issues of the past and continues to remain open. This paper has highlighted the existence of mistrust among the WBs, the importance of increasing regional cooperation, and the role that the EU should inevitably play. The paper has concluded that to achieve the targets defined in the OBI, the WBs should enhance regional cooperation and overcome the challenges they have been facing.

The Open Balkan is the latest regional initiative in the Western Balkans (WB), firstly named as Mini-Schengen and then changed to Open Balkan Initiative (OBI...

Article

8. The Ripple Effects of Compliance: Reconfiguring EU Policy Effectiveness in Transboundary Environmental Governance

Lappe-Osthege, Teresa

Journal of common market studies, 2024-05, Vol.62 (3), p.653-670; Research on EU policy effectiveness focuses on implementation and compliance within the EU; however, there is a need for a greater understanding of how and why transboundary socio-ecological issues challenge policy effectiveness beyond the EU's borders. This article introduces the innovative concept of 'ripple effects' of compliance, which are harms perpetuated by structural inequalities, and discusses their implications for EU environmental governance. Contributing to transnational compliance research by integrating political ecology and green criminology, the analysis builds on qualitative data on the illegal bird trade from the Western Balkans into the EU. It demonstrates

that compliance with conservation policies within Member States undermines EU policy objectives through crime displacement and institutional misfit, which externalise environmental harm to the Western Balkans. Increased enforcement and monitoring of policy implementation alone cannot function as a panacea for policy ineffectiveness. Addressing these dynamics requires strengthened multilevel and cross-jurisdictional governance that encompasses entire ecosystems.

.... Contributing to transnational compliance research by integrating political ecology and green criminology, the analysis builds on qualitative data on the illegal bird trade from the Western Balkans into the EU...

Actes de colloque

9. Western Balkans' Environmental Performance Toward EU Integration and Sustainable Development: A Comparative Analysis

Dosti, Bernard; Doci, Silvana; Kule, Ditjona

Economic and Social Development: Book of Proceedings, 2024, p.47-56; This comparative analysis highlights the environmental performance of the Western Balkans region in its path of EU integration and sustainable development. In the framework of European integration, all WB countries have made progress in their policies designed in the direction of environmental protection and climate change. However, due to the complex regional dynamics and the transition process, the environmental performance is far from the average of the countries of the European Union. As a result, Western Balkan countries, which intend to integrate into the European Union, must increase their efforts to approximate their environmental legislation with European standards as soon as possible not only theoretically but also practically. This research paper highlights the achievements and challenges of the countries in improving environmental performance, ensuring their integration into the European Union and promoting sustainable development in the long term.

This comparative analysis highlights the environmental performance of the Western Balkans region in its path of EU integration and sustainable development...

Article

10. A Comparative Analysis of Key Public Service Areas in Western Balkans: Where Do We Stand?

Reianu, Diana-Gabriela

Research and science today, 2021-04, Vol.21 (1), p.15-26; the main aim of this paper is to provide an overview of the state of play and the main recent developments in the field of public administration in the six countries of the Western Balkans (Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, and Serbia), highlighting the similarities and the differences between these countries. The study focuses on key indicators on how governments in this region work and perform, underlining the achievements and the shortcomings in the following three areas: policy making, public service, and service delivery. Although it is clear that the countries of the Western Balkans face challenges and shortcomings in implementing public administration reforms, the results emphasize the existence of formal rules and the steps made towards complying with these standards.

The main aim of this paper is to provide an overview of the state of play and the main recent developments in the field of public administration in the six countries of the Western Balkans...

Article

11. The Constraints on European Institutions' Conditionality in the Western Balkans

Pickering, Paula M.

Europe-Asia studies, 2011-12, Vol.63 (10), p.1939-1944; The essays in this collection bring together recent field research in the Western Balkans to increase the understanding of the conditions under which European and Euro-Atlantic institutions' conditionality contributes to or undermines democratic state building. A key strength of these essays is that they call attention to the often underdeveloped and misunderstood complexities of the domestic political situations which influence multinational corporations' conditionality and vice versa. While quite a few of the authors contend that selected EU strategies have had a negative impact on aspects of political development in the Western Balkans, none of the authors argue that the Western Balkans would be better off without the possibility of accession to the EU or involvement: with other European institutions. Instead, they suggest that the details of EU conditionality deserve greater attention so that they can better cultivate democratic reform that is meaningful both to Western Balkan citizens and that meets European standards.

The essays in this collection bring together recent field research in the Western Balkans to increase the understanding of the conditions under which European and Euro-Atlantic institutions...

Article

12. Western Balkans Regional Common Market. What Lesson Can Be Taught from EEA? - A Case Study of Public Procurement

Kováčiková, Hana

Strani pravni život, 2020, Vol.64 (4), p.133-145; The European Union pursues on the international scene to safeguards its values, support the rule of law, foster the sustainable economic, social and environmental development and support the integration of all countries into the world economy including through the progressive abolition of barriers on international trade.1 Trade agreements are used as an effective tool to this end. Within its present external action, European Union tries to cover its trade relations regionally homogenously. Through regionally homogenous trade agreements, Union can export its values, principles, and rules easier, which is also a way of strengthening its position geopolitically. This paper analyses trade agreements concluded between the European Union and candidate countries from Western Balkans. All these agreements recognise the accession to the European Union as their final goal. To achieve it, candidate countries need to fulfil various conditions, including the approximation and harmonisation of their legal orders with the EU acquis. Just recently (in November 2020), Western Balkans countries' leaders announced the creation of Regional Common Market which shall serve as a tool for approximation with European Union's Internal Market Rules. To this regard, author analysed the European Economic Area, where the export of European Union's Internal Market Rules was successfully realised, and which might therefore serve as an example for pre-accession cooperation between Western Balkans countries and European Union. Author chose the area of public procurement as a model case study.

The European Union pursues on the international scene to safeguards its values, support the rule of law, foster the sustainable economic, social and environmental development and support...

Article

13. The Impact of Sustainable Development on Risk Management in the NPL Portfolio in the Western Balkan Countries

Đalić, Tamara; Barjaktarović, Miljana; Cogoljević, Vladan

Oditor, 2023-12, Vol.9 (3), p.177-214; The concept of sustainable banking is based on the principle of achieving growth and profits for the bank and shareholders, but only by also achieving social goals and caring for environmental preservation. Providing new banking services and

creating new (green) banking businesses that not only generate profits but also broader social and environmental objectives present opportunities for creating a competitive advantage, both in the Western Balkan countries observed in this study and in all countries worldwide. In this study, we will focus on analyzing macroeconomic parameters in the Western Balkan countries to examine the impact of selected indicators on the performance of the banking system, with a particular emphasis on the social and environmental protection components. The results indicate that the unemployment rate is the most significant indicator of potentially risky events for bankers, and banks are not recognized in the current environmental preservation strategies in the Western Balkan countries. Therefore, it is necessary to educate the population first and simultaneously promote green loans as sustainable and more favorable in the long term than traditional loans, while updating the existing regulatory framework in the field of environmental protection.

... opportunities for creating a competitive advantage, both in the Western Balkan countries observed in this study and in all countries worldwide...

Actes de colloque

14. A Systematic Review for Financial Crimes In Western Balkan Countries
Vardari, Luan; Vardari, Dena Arapi

Economic and Social Development: Book of Proceedings, 2023, p.140-148; Financial crimes are a major concern for law enforcement agencies and policymakers in Western Balkan countries due to their potential to cause significant harm to individuals, businesses, and economies. This systematic review aims to provide a comprehensive analysis of the existing literature on financial crimes in Western Balkan countries, including the nature, scope, and impact of these crimes, as well as the measures taken to address them. The review finds that financial crimes, including money laundering, tax evasion, fraud, corruption, and bribery, are prevalent in the region, with varying degrees of severity across different countries. The weak regulatory environment in some Western Balkan countries is identified as a contributing factor to the prevalence of financial crimes. The impact of these crimes on the region's economies can be significant, leading to reduced foreign investment, decreased economic growth, and increased poverty. e findings have significant implications for policymakers and other stakeholders involved in addressing financial crimes in the region. Measures to address financial crimes, including anti-money laundering laws, financial intelligence units, and the strengthening of law enforcement agencies, have been implemented, but their effectiveness varies. Further research is needed to understand the nature and extent of financial crimes in the region, as well as the effectiveness of measures taken to address them, to inform policy and law enforcement efforts in the fight against financial crimes in Western Balkan countries.

Financial crimes are a major concern for law enforcement agencies and policymakers in Western Balkan countries due to their potential to cause significant harm to individuals, businesses, and economies...

Livre

15. Energy in the Western Balkans: The Path to Reform and Reconstruction
Publishing, OECD; Agency, International Energy 2008

The Western Balkans – composed of Albania, Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Montenegro, Serbia and Kosovo – is a complex region facing significant energy challenges. This is the first comprehensive review of energy policies and strategies in the Western Balkan region, and also covers important cross-cutting topics such as co-operation and energy trade, oil and gas transportation, and the links between energy and poverty. It identifies and assesses the reforms that are still needed to deliver efficient,

modernised energy systems that can assist economic development, address energy poverty and reduce the environmental impacts of energy use.

The Western Balkans – composed of Albania, Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Montenegro, Serbia and Kosovo...

Article

16. Alignment of National Forest Policy Frameworks with the EU Timber Regulation Requirements: Insights from Montenegro and the Republic of Srpska (Bosnia and Herzegovina)
Radosavljevic, Maja; Masiero, Mauro; Rogelja, Todora; Comic, Dragan

Forests, 2023-06, Vol.14 (6), p.1157; The Western Balkans represent a priority area for improving forest legality monitoring systems in line with the European Union Timber Regulation (EUTR). However, research on EUTR implementation in Western Balkan countries is still sporadic with a limited geographical scope; therefore, the preparedness of forestry sector actors for the EUTR in the region is largely unknown. The main objective of this study is to determine to what extent the forest policy frameworks of Montenegro and the Republic of Srpska (Bosnia and Herzegovina) are aligned with the EUTR requirements. To achieve this aim, we applied a qualitative content analysis of policy documents identified via an expert-based approach. Our results show that both countries have well-developed policy frameworks addressing illegal logging and preventing illegal activities in forestry, especially through dedicated action plans. Key actors in both countries are public, including the ministries responsible for forestry, public forest enterprises, and forestry inspectorates. The forestry sector in Montenegro is facing significant changes due to the termination of forest concessions and the reorganization of the management of state forests, including forest certification. The Republic of Srpska has relatively well-established institutional bodies for EUTR implementation but, in some cases, insufficient exchange of information and cooperation among them. Our findings indicate that the forestry sectors in Montenegro and the Republic of Srpska (as well as in Serbia, Croatia, and Slovenia, as per previous research) are dynamic, undergoing various changes, so there is room for improvement in terms of capacities (e.g., human, technological, infrastructural), legal responsibilities, and information access and availability. With an increasing focus on “deforestation-free” commodities within the EU and global policy arena, a new, more demanding, and broader regulation is expected at the EU level, replacing the EUTR. The incoming regulation will expand existing EUTR requirements, likely posing severe challenges to many EU member countries. This could be even more challenging for countries with less developed or advanced systems to enforce legality requirements, including Western Balkan countries.

The Western Balkans represent a priority area for improving forest legality monitoring systems in line with the European Union Timber Regulation (EUTR...

Chapitre de livre

17. Environmental Governance in the Western Balkans
Kujundzic, Olivera; Alberton, Mariachiara; Palermo, Francesco
Environmental Protection in Multi-Layered Systems, 2012, Vol.1, p.235-261

Article

18. Environmental Protection Through The Prism Of Enlargement: Time For Reflection
Bogojevic, Sanja; Drenovak-Ivanovic, Mirjana

Common market law review, 2019-08, Vol.56 (4), p.949-977; In the wake of crises and "enlargement fatigue", EU politics deprioritized enlargement. Recently, however, the Commission motioned a reinvigorated enlargement prospect for the Western Balkans, identifying Serbia and Montenegro as the front runners. This paper advises that in going forward, the EU should also look back at its five decades of enlargement. The article focuses on environmental protection -

a key EU public policy - and the way in which it features in the ever-evolving accession conditions and accession acts. It emerges that environmental protection has been marginalized throughout EU's enlargement history. Taking Serbia as a case study, it is shown that this is highly problematic, since environmental protection is linked to safeguarding the rule of law - an essential criterion for EU membership. The role of environmental protection in the EU's enlargement policies should thus be reprioritized.

.... Recently, however, the Commission motioned a reinvigorated enlargement prospect for the Western Balkans, identifying Serbia and Montenegro as the front runners...

Livre

19. Environmental Protection in Multi-Layered Systems: Comparative Lessons from the Water Sector

Alberton, Mariachiara; Palermo, Francesco; Alberton, Mariachiara; Palermo, Francesco 2012

The book aims at understanding the current distribution and use of powers over the environment among various layers of government and their consequences on environmental protection, comparing federal, regional and unitary State models and drawing theoretical and practical consequences.

The book aims at understanding the current distribution and use of powers over the environment among various layers of government and their consequences on environmental protection, comparing federal...

Article

20. Gender Equality as a Goal of the Sustainable Development

Tahiri, Alberta; Kovaçi, Idriz

Calitatea, 2024-09, Vol.25 (202), p.231-241; The purpose of this paper is to shed light on the gender equality in Kosovo. The data shows that there is a very high gender inequality in Kosovo in all aspects of the life. The main reasons for gender inequality in Kosovo are linked to gender stereotypes and patriarchal culture in society and the economy, unequal distribution of family responsibilities, lack of available and affordable childcare responsibilities and also low education levels among women. Although many measures have been taken to reduce gender inequality and empower women in Kosovo, however women empowerment in Kosovo is by far the lowest among the Western Balkan 6 and EU economies with a score of 25.4 out of 100, placing it last in the Women Empowerment Index (ranking in the last 33 th place). The study also contains proposed measures to reduce gender inequality in Kosovo and promote economic empowerment of women.

.... Although many measures have been taken to reduce gender inequality and empower women in Kosovo, however women empowerment in Kosovo is by far the lowest among the Western Balkan 6 and EU economies with a score...

Article

21. Circular economy and its barriers to implementation in the construction sector

Milović, Tiana; Laban, Mirjana; Starčev-Ćurčin, Anka; Bulatović, Vesna

Journal of Applied Engineering Science, 2024, Vol.22 (2), p.279-284; The concept of circular economy has become an important topic during the last decade, because it offers a systems solution framework that creates a closed-loop system to minimize waste and maximize resource efficiency in order to achieve a better balance and harmony between economy, environment and society. The construction industry has significant potential to apply a circular economy model

since this industry is responsible for considerable global natural resource extraction and solid waste production. Worldwide, more than 10 billion tons of construction and demolition waste are produced annually, while the demolition alone is responsible for 50% of all waste produced by the building sector. In Serbia, the sectors of agriculture, forestry and fishing, mining, manufacturing, electricity, gas and steam supply, water supply and wastewater management, construction and service activities generated 56.3 million tons of waste just during 2020. Although 80% of construction waste can be recycled according to the Agency for Environmental Protection reports the waste recycling has not yet been established in Serbia. On the other hand, Serbia adopted the Roadmap for Circular Economy in Serbia, the Law of Waste Management, the Regulation on the Manner and Procedure of Waste Management from Construction and Demolition, and accepted the conditions of the European Union for linking the European Green Deal with the strategic development of the region by signing the Green Agenda for the Western Balkans.

This paper provides a brief literature review that introduces the circular economy by presenting its origin, definition and principles as well as the barriers (five categories: technological, economic, socio-cultural, institutional and regulatory) to its wider adoption in the construction sector.

Chapitre de livre

22. Sustainable Waste Management Practices: Challenges in the Republic of Macedonia

Toshevska-Trpchevska, Katerina; Kikerkova, Irena; Makrevska Disoska, Elena; Renko, Sanda; Pestek, Almir; Renko, Sanda; Pestek, Almir

Green Economy in the Western Balkans, 2017, p.109-140; Abstract Over the last 15 years, all the legislation on waste management in the Republic of Macedonia has been brought in compliance with the European legislation. The major challenge in the economy, however, still happens to be the (non) implementation of the enforced laws on green economy. Major constrains in waste management practices remain to be organization of institutions and human resources; financing of services and investments; stakeholder (non) awareness; and lack of technical management in all phases from collection to final disposal of waste. It is not only that the present situation has negative impact on the public health and the environment, but it also has serious negative economic effects which consequently affects issues related to the total economic growth of the country. The paper has a special focus on managing packaging and packaging waste and analyzes the results of the implementation of the Law of Management of Packaging and Packaging Waste which was enforced in 2009. Positive initiatives in waste management practices were undertaken by PAKOMAK, the first Macedonian company that has been holding the license for selecting and processing of packaging waste since January 2011. The company has a proactive role in promoting the importance of packaging waste and its management, with a special emphasis on projects that increase the awareness of the whole society, especially that of the young population. Some of the projects that increase the eco-awareness of young population will be presented in the paper.

The major challenge in the economy, however, still happens to be the (non) implementation of the enforced laws on green economy...

- le dernier ouvrage dirigé par Christel Cournil, "Expertises et argumentaires juridiques : contribution à l'étude des procès climatiques" publié en décembre dernier (et disponible complètement gratuitement en ligne : Expertises et argumentaires juridiques - DICE Éditions). Certains articles vont au-delà de l'Europe, mais il y a pas mal de choses centrées sur l'Europe, et très intéressantes autour de la preuve, du rôle de l'expertise, le rôle des ONG notamment en tant qu'Amicus curiae mais aussi dans la construction d'argumentaires juridiques, etc.

In English:

- Some chapters from Sindico F., Mbengue Makane M. (eds.), Comparative climate change litigation: beyond the usual suspects, Springer International Publishing, 2021:
  - Lieselot Marien and Leonie Reins "Local Liability for Global Consequences? Climate Change Litigation in Belgium" p. 427
  - Vojtěch Vomáčka and Ilona Jančářová "Climate Change Disputes in the Czech Republic" p. 455
  - Barbara Pozzo " The Italian Path to Climate Change: Nothing New Under the Sun" p. 471
  - Erkki J. Hollo "Climate Change and the Individual in the Finnish Legal System" p. 509
  - Rosa Mª. Fernández Egea, Sofia Simou, and Albert Ruda " Climate Change Litigation in Spain" p. 557
  - Vasilka Sancin and Maša Kovič Dine " Emerging Awareness of Climate Change Litigation in Slovenia" p. 575
- Setzer J., Higham C., Global Trends in Climate Change Litigation: 2023 Snapshot, London, Grantham Research Institute on Climate Change and the Environment, LSE, juin 2023 (Global_trends_in_climate_change_litigation_2023_snapshot.pdf)

VII.3 Directive 2024/2013 on the Protection of the Environment Through Criminal Law

The aim of Directive 2008/99 was to ensure environmental protection through criminal law by establishing a common EU framework for certain environmental offences, mainly by reference to sectoral directives. It already noted that compliance with environmental legislation "*must be reinforced by the existence of criminal sanctions, which reflect a disapproval of society that is qualitatively different from that expressed through administrative sanctions or civil compensation*"[256].

Directive 2024/1203 extends and clarifies this directive, in particular **by defining autonomous offences under European criminal law and setting minimum criminal penalties**, going beyond the usual formula of *"effective, proportionate and dissuasive"* penalties.

Article 3(2) of the directive lists 22 types of behavior that must be made criminal offences (compared with 9 in the 2008 directive). The 2024 directive, which now has the annexes that limited the scope of the 2008 directive removed, paves the way for genuinely general and autonomous offences that criminalize **"unlawful" conduct**. Under the terms of the directive, conduct is unlawful if it violates:

- Union law which contributes to preserving, protecting and improving the quality of the environment, protecting human health, prudent and rational utilization of natural resources and promoting measures at international level to deal with regional or worldwide environmental problems, in particular combating climate change, whatever the legal basis of that Union law; or
- laws, regulations or administrative provisions of a Member State or decisions taken by a competent authority of a Member State which give effect to such Union law.

In addition, such conduct is unlawful **even where it is carried out under an authorization** issued by a competent authority of a Member State *"if such authorization has been obtained fraudulently or by corruption, extortion or coercion"* or *"if such authorization is a manifest breach of relevant substantive legal requirements"* (Article 3 (1), last paragraph). The concept of fraud may be more or less extensive depending on whether it covers administrative and/or criminal practices.

[256] Recital (3) of Directive 2008/99

Most of the offences listed in article 3 (2) are defined by reference to failure to comply with sectoral legislation, but there are also autonomous offences.

This is the case with article 3(2)(a) of the directive, which criminalizes any unlawful discharge into air, soil or water of materials, substances, energy or radiation causing or likely to cause substantial damage to an ecosystem, fauna or flora or to the quality of air, soil or water. **This provision thus creates a general offence of pollution**.

Similarly, article 3(2)(b) of the Directive covers **the placing on the market, in breach of a prohibition or other requirement designed to protect the environment, of a product the use of which on a larger scale results in the discharge, emission or introduction of substances into the air, soil or water and causes or *"is likely" to* cause such damage** (which could be likened to an offence of **endangering the environment**).

Member States have until 21 May 2026 to transpose the directive, and some of them will have to create new offences in order to achieve compliant transposition.

For example, there is **no general offence of soil pollution** in French law, contrary to article 3 (2) (a) of the 2024 directive. Furthermore, **offences relating to greenhouse gas emissions** and more generally to air pollution are probably not adequately criminalised under French law. Finally, the directive classifies at the top of the seriousness threshold the so-called "qualified" offences (referred to in article 3 (2)) when they cause

- *"the destruction of an ecosystem of considerable size or environmental value or of a habitat within a protected site, or extensive or substantial damage that is either irreversible or lasting to such an ecosystem or habitat*";
- *"extensive and substantial damage that is either irreversible or lasting to the quality of the air, soil or water*

The penalties provided for in the directive range from **3 years**[257] (offences of illegal water capture; destruction, trade, etc. of protected species; placing on the market of products that do not comply with deforestation regulation; deterioration of habitats on protected sites, etc.) to **5 years**[258] (emissions; soil pollution; waste trafficking, etc.) of minimum imprisonment for certain offences. Qualified criminal offences must be punishable by a maximum term of imprisonment of at least **8 years**[259] . In fact, environmental damage often results in the kind of damage required by Article 3(3), but this presupposes that **administrative and/or criminal investigations actually establish the damage, in particular through expert reports**. In some cases, nature protection NGOs also have the scientific capacity to document such damage.

In concrete terms, this new directive on the protection of the environment through criminal law aims to provide for criminal law enforcement that is independent of the administrative authorities, entrusted to a judicial judge and whose approach should no longer be purely "regulatory". The Member States have a certain amount of leeway - in particular to go beyond the penalties provided for in the directive - with regard to the general definitions and terminology used in both sectoral offences and autonomous offences.

VII.4 Gender issues and the environment

[257] Offences referred to in Article 3.2 points m), n), o), q) and r).
[258] Offences referred to in Article 3.2 points a) to l) and points p), s) and t) (Article 3.2.d))
[259] These penalties are increased when the offences result in the death of a person (article 5.2.a) and 5.2.c)).

A girl born today will have to wait until her 97th birthday, beyond her expected lifespan to celebrate an equal society.[260]

Women continue to face gender-based violence, remain underrepresented in decision-making positions, have lower salaries and limited opportunities for professional, economic and social advancement.

Gender determines what is expected, allowed and valued in a particular context at a given time, recognizing that this is changeable. In most societies, there are differences and inequalities between women and men in the responsibilities that they are expected to take up, the activities that are considered normal or acceptable, access to and control over resources and participation in decision-making. It encompasses the roles, behaviours and activities that are deemed acceptable for people of different genders and influences the relationships between the people who fall within these groups. These attributes and relationships are socially constructed[261].

The promotion of equality between women and men is a core value of the European Union (EU), a fundamental right[262] and key principle of the European Pillar of Social Rights[263]. Furthermore, gender mainstreaming is clearly reflected in the EU Gender Action Plan III (2021-2025)[264], and it's integral part of the regulations of the EU Instrument for Pre-Accession Assistance (IPA III)[265]: when accessing the EU, candidate countries are required to comply with the "*acquis*" on gender equality and non-discrimination.

Gender disparities are often amplified by environmental challenges, making it crucial to adopt a gender-sensitive approach in environmental policies and governance. The following section explores the intersection of environmental justice and gender equality at the global level (A), then we'll look at specific examples at the local level in Albania (B), in North Macedonia (C) and in Montenegro (D) and we will finish by examining key recommendations to achieve gender equality in environmental justice (E).

A) The Intersection of environmental justice and gender equality at the global level:

We will first explore the main international agreements on environmental justice and gender equality (1), then we will review measures which can drive both social equity and sustainable development by analyzing the main key issues existing on this specific topic (2)

1) Step by step towards the recognition of environmental justice with a gender perspective:

We can mention as example, the main followed agreements (*non-exhaustive list*):

- **The Convention on the Elimination of All Forms of Discrimination Against Women[266]:** This convention obliges states parties to take all appropriate measures to eliminate all discrimination against women including the violence that can emanate from climatic disasters, which we will examine in the following sections. It was adopted and opened for signature, ratification and accession by the General Assembly in its resolution 34/180 of December 18, 1979, and entered into force on September 3, 1981. We will see in the followed sections that all the three countries, Albania, North Macedonia and Montenegro have adopted it.

[260] https://equalmeasures2030.org/2024-sdg-gender-index/
[261] https://www.who.int/health-topics/gender#tab=tab_1
[262] See Articles 2 and 3(3) TEU, Articles 8, 10, 19 and 157 TFEU and Articles 21 and 23 of the EU Charter of Fundamental Rights.
[263] https://commission.europa.eu/system/files/2017-11/social-summit-european-pillar-social-rights-booklet_en.pdf
[264] https://ec.europa.eu/commission/presscorner/detail/en/ip_20_2184
[265] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R0947&from=EN
[266] https://www.ohchr.org/fr/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women

- **The United Nations International Conference on Population and Development (Cairo, 1994)[267]:** This conference marked a milestone in recognizing that achieving women's and girls' rights is central to development. It brought together views on Human rights, population, sexual and reproductive health, gender equality, environment and sustainable development, forming a global consensus that placed individual dignity including the right to family planning, at the heart of development.

- **The Fourth World Conference on Women (Beijing, 1995)[268]:** Organized by the United Nations, this conference emphasized the importance of addressing gender issues within the context of sustainable development and environmental management. It highlighted that women are often excluded from policymaking and decision-making processes in areas such as natural resource management, preservation and environmental protection. It also stressed the need for training women in environmental management and decision-making.

- **Marrakech 2001 (COP7)[269]:** The first step towards gender equality in climate negotiations was taken when parties adopted two decisions related to gender equality and women's participation.

- **Women and Gender Constituency-2009[270]:** This group was established as an observer within the climate convention, advocating for gender-responsive climate action.

- **2011/92/UE EIAs Directive[271]:** This EU directive requires EIAss for certain public and private projects to ensure the respect of gender and of all Human rights.

- **7th EU Framework Programme for Research, September 2017[272]:** This program focused on promoting research related to gender and the environment. It supported studies on the interaction between gender and environmental dimensions in EU-funded projects.

- **European Parliament Resolution on Climate Justice and Gender (2018)[273]:**This resolution recognized the importance of gender equality in combating climate change. It called for integrating a gender perspective into all environmental policies and actions.

- **EU Biodiversity Strategy for 2030[274]:** Adopted in 2020, this strategy includes commitments to incorporate gender considerations into biodiversity and environmental protection policies.

- **European Gender Equality Strategy (2020–2025)[275]:** This strategy underscores the need for gender equality across all EU policies, including environmental policies. It ensures that gender equality considerations are integrated into EU actions and promotes women's empowerment through external actions and financial instruments.

- **The Eighth Environment Action (EEA) Programme (2022)[276]** recognizes the gender-specific impact of environmental changes. It acknowledges the fact that gender differentiated roles cause differentiated vulnerabilities of women and men.

[267] https://documents-dds-ny.un.org/doc/UNDOC/GEN/N95/231/27/PDF/N9523127.pdf?OpenElement
[268] https://perspective.usherbrooke.ca/bilan/servlet/BMDictionnaire?iddictionnaire=1773
[269] https://unfccc.int/event/cop-7
[270] https://womengenderclimate.org/about-us/
[271] https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=celex%3A32011L0092
[272] https://www.europarl.europa.eu/RegData/etudes/IDAN/2017/608697/EPRS_IDA(2017)608697_FR.pdf
[273] https://www.europarl.europa.eu/doceo/document/TA-8-2018-0005_FR.html
[274] https://environment.ec.europa.eu/strategy/biodiversity-strategy-2030_en
[275] https://ec.europa.eu/newsroom/just/items/682425/en
[276] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022D0591&from=EN

The effects of climate change exacerbate existing stressors and inequalities with respect to agricultural land and other land management, food security, water security and more.

Governments and institutions have during long time ignored the problem of **women's access to natural resources** and their roles in managing and preserving the environment.

@ https://www.un.org/en/

Having access to resources is key to building climate resilience. However, in many countries, significant socio-economic inequalities between men and women still limit or prevent women's access to education, property, financial assets, technology, political decision-making, ownership of land and natural **resources and other valuable resources. These gender discriminations put women and girls at a high risk of suffering loss and damage from climate change.**

Some recent analyses demonstrate that:

- Extreme weather events (EWEs) cause higher mortality rates for women and girls[277];
- Women's and girls' health are projected to be disproportionally affected by the impacts of climate change[278] ;
- Women and girls face a higher risk of experiencing gender-based violence, human trafficking and sexual exploitation[279];
- Women and girls face higher loads of care work, resulting in various long-term effects on their education and income generation.

[277] https://www.giz.de/en/downloads/GIZ-GP-%282021%29_Diving%20into%20the%20gap_Genderdimensions%20of%20Climate%20RiskManagement.pdf
[278] https://www.un.org/fr/chronicle/article/le-femmes-dans-le-contexte-des-changements-climatiques
[279] https://www.undp.org/sites/g/files/zskgke326/files/migration/latinamerica/Reduction-des-Risques-de-Catastrophe-et-Relevement---Genre.pdf

We can see from these explanations that environmental issues can impact women more severely than men, for example, pregnant women face greater threats from the pollution of air and water. The impacts of environmental crises are interlinked in terms of Human rights violations and placing people already in vulnerable situations in even greater precariousness, as can be seen below:

@: https://cloresocialleadership.org.uk

Having explored the link between gender and environmental justice, it's now essential to delve deeper into the key issues surrounding this topic.

2) Key issues organized around four priority areas regarding gender and the environmental justice:

a) Right to land, natural resources and biodiversity:

⇒ Land and resource rights: It's estimated that, although women play a key role in global food production (50-80%), less than 20% of the world's landowners are women.[280] This is because they continue to work mainly on farmland, not as owners. On average, women make up 40 percent of the agricultural labour force in developing countries, ranging from 20 percent in Latin America to 50 percent or more in parts of Africa and Asia. On average, 30% of farms across the EU are managed by a woman[281]. Women generally work as subsistence farmers mainly on family farms[282].

⇒ Access to essential resources: Despite their vital role in global food production, women often lack ownership of the land they work on, limiting their access to essential resources such as credit, agricultural inputs and trainings. This structural inequality perpetuates economic dependence and restricts women's ability to improve productivity or achieve financial independence.

There is also other gender-based discriminations at the level of the access to food and to sustainable production, as we will see in the next paragraph.

b) Access to food and to sustainable production:

⇒ Gendered roles in resource management: Women are responsible for 60-80% of food production in low and middle-income countries and half of the world's food production.[283]

[280] https://www.unwomen.org/fr/news/in-focus/commission-on-the-status-of-women-2012/facts-and-figures#:~:text=Moins%20de%2020%25%20des%20propriétaires,comptent%20pour%2015%25%20en%20moyenne.
[281] https://eu-cap-network.ec.europa.eu/news/women-new-cap_en
[282] https://www.fao.org/rural-employment/work-areas/data-and-knowledge/en/
[283] https://www.wfpusa.org/articles/women-in-crisis-top-ways-women-are-hungrier/

More than 60%[284] of the world's hungriest people are women and girls. This inequality often exists in a context of discrimination and unequal power relationships. Thus, it's been reported[285] that many women will reduce the amount of food they eat or skip meals entirely to make sure that their partners and children don't go hungry.

⇒ Unpaid Labor: Most work done by women (domestic, care and on the farm…) is unpaid or underpaid, causing economic pressures and time poverty[286].

c) Health and well-being:

⇒ Health vulnerabilities: Beyond immediate crises, women's health is affected by rising temperatures: air pollution and heat exposure are associated with preterm birth, low birth weight and poorer maternal health and complications during pregnancy, such as gestational diabetes[287]. The use of some chemicals and pollutants, such as persistent organic pollutants (POPs), has resulted in environmental degradation and water and air pollution, all of which have gendered impacts on health and well-being. Pregnant and lactating women are, once again, particularly vulnerable when it comes to chemical pollution[288].

d) Women in environmental decision making at all levels:

⇒ Gender gaps in decision-making: Despite international commitments, women remain underrepresented in environmental leadership, with less than one-third of decision-makers being women[289]. Just 26.8 % of government ministers responsible for policies on environment and climate change are women in the EU members states, while 73.2 % are men[290].

⇒ Gender-based violence in disasters: Following a disaster, women and children face a higher risk of gender-based violence (GBV), human trafficking and sexual exploitation[291]. Although domestic violence remains the highest risk, increasing assaults by strangers are reported after disasters, particularly when women and girls are separated from their family, friends and other networks[292].

B) *key international and national legal frameworks on gender equality in North Macedonia: Insights and case study*

1) *key international and national legal frameworks on gender equality in* North Macedonia

[284] https://www.wfpusa.org/articles/10-facts-child-hunger/
[285] https://www.care.org/media-and-press/care-analysis-150-million-more-women-than-men-were-hungry-in-2021/
[286] https://ilostat.ilo.org/topics/unpaid-work/measuring-unpaid-domestic-and-care-work/
[287] https://www.ifc.org/en/home
[288] https://wecf-france.org/limpact-des-polluants-chimiques-sur-la-sante-des-femmes/
[289] https://eige.europa.eu/gender-statistics/dgs/data-talks/decision-making-environment-and-climate-change-women-woefully-under-represented-eu-member-states
[290] https://eige.europa.eu/gender-statistics/dgs/data-talks/decision-making-environment-and-climate-change-women-woefully-under-represented-eu-member-states
[291] https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2021-02/1297700-Gender-based%20Violence%20in%20Disasters-EN-LR.pdf
[292] https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2021-02/1297700-Gender-based%20Violence%20in%20Disasters-EN-LR.pdf

North Macedonia has a global rank of 62 out of 139 countries regarding the gender equality from the equal measures 2030.

Article 9 of **the Constitution of North Macedonia**[293] provides equality for all citizens regardless of sex, race, skin colour, national and social origins, political and religious beliefs, property and social status.

The Republic of North Macedonia has set up **a strong framework for enhancing gender equality**. North Macedonia is indeed part of all major gender equality-related international policy frameworks, like the followed: **UN's Convention on the Elimination of all Forms of Discrimination against Women** (CEDAW),[294] **UN's Beijing Platform for Action** (1995),[295] the **Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms** (ratified in 1997)[296] and **the Convention on Preventing and Combating Violence against Women and Domestic Violence** (Istanbul Convention, ratified in 2018)[297] and it is also committed to the implementation of **UN Security Council Resolution 1325 – Women, Peace and Security.**[298]

We can also mention key legal and strategic documents to promote equal opportunities between women and men like with **the law on the prevention and the protection against discrimination (2020),**[299] **the national strategy for anti-discrimination** (2022-2026)[300] which incorporates gender-responsive budgeting (GRB), **the national strategy for gender equality (2022-2027),**[301] the **implementation of the Istanbul Convention** (2018-2023).[302]

The Republic of North Macedonia has made significant efforts to advance gender equality and to integrate **gender-responsive budgeting** into national planning and policymaking.[303] The country was the first in the region to adopt a Government Strategy for Introducing GRB in 2012, which instigated changes in the budget circular issued by the Ministry of Finance obliging pilot line ministries to develop gender budget statements to increase the level of involvement of women in various sectors, like in military and in diplomacy.

[293] https://www.sobranie.mk/the-constitution-of-the-republic-of-macedonia-ns_article-constitution-of-the-republic-of-north-macedonia.nspx
[294] https://www.un.org/womenwatch/daw/cedaw/
[295] https://www.unwomen.org/en/digital-library/publications/2015/01/beijing-declaration
[296] https://www.echr.coe.int/european-convention-on-human-rights
[297] https://www.coe.int/en/web/istanbul-convention
[298] https://www.un.org/shestandsforpeace/content/united-nations-security-council-resolution-1325-2000-sres1325-2000
[299]https://www.mtsp.gov.mk/content/Закон%20за%20спречување%20и%20заштита%20од%20дискриминација.pdf
[300]https://www.mtsp.gov.mk/content/pdf/2022/strategija_/Национална%20стратегија%20а%20еднаквост%20и%20недискриминација%20%20%202022-2026.pdf
[301]https://www.mtsp.gov.mk/content/pdf/2022/strategija_/Стратегија_за_родова_еднаквост_2022_2027.pdf
[302] https://mtsp.gov.mk/pocetna-ns_article-nacionalniot-plan-za-sproveduvanje-na-konvencijata-za-sprecuvanje-i-borba-protiv-nasilstvoto-vrz-zen.nspx
[303] https://eige.europa.eu/sites/default/files/documents/20233289_PDF_MH0323262ENN_002.pdf

The Law on Equal Opportunities for Women and Men (LEOWM) from 2012, introduces an obligation for central (article 11)[304] and local (article 14)[305] governments to incorporate the principle of equal opportunities of women and men in the strategic plans and budgets and follow the effects and impact of their programs on women and men.

In 2021, the Government endorsed a new organic budget law, which includes **gender equality** as **one the key budget principles** and foresees specific provisions aimed at ensuring effective application of gender-responsive budgeting.

The following example from North Macedonia helps to better understand how gender equality between can be promoted thanks to equal opportunities and access to natural resources.

Case Study of Gender Equality Initiatives from North Macedonia

Roma Women and Youth Association "LULUDI" project to support for roma women and girls on combating gender-based violence

The situation of Roma women in North Macedonia highlights the critical intersection of gender and environmental justice. Marginalized communities, such as Roma women, often experience compounded vulnerabilities due to systemic discriminations and socioeconomic barriers, which are further exacerbated by environmental challenges.[306] In rural areas, where financial independence is limited, the lack of access to resources and services not only heightens the risk of gender-based violence but also restricts their capacity to address environmental injustices that disproportionately affect their livelihoods.

The efforts of organizations like "Luludi" demonstrate the importance of an integrated approach that addresses both gender inequality and environmental vulnerabilities. By promoting Human rights, inclusion and access to protection mechanisms, such initiatives contribute to empowering Roma women and fostering their resilience in the face of intersecting social and environmental injustices. It will reach 240 Roma women and girls living in eight local municipalities of North Macedonia.

[304] https://faolex.fao.org/docs/pdf/mac207712.pdf
[305] https://faolex.fao.org/docs/pdf/mac207712.pdf
[306] https://www.undp.org/eurasia/publications/nowhere-turn-gender-based-violence-against-roma-women