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Other relevant rules on appeals, remedies and access to justice in environmental matters

Besides the appeal against administrative environmental decisions, there are other legal remedies.

1. Remedies against the silence of the administration (the administrative passivity).

Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters provides for each party (state) to ensure that members of the public have access to administrative or judicial procedures to challenge, *inter alia*, omissions by public authorities which contravene provisions of its national law relating to the environment. According to the case law of the Supreme Court, Aarhus Convention and Art.115 of the Constitution grant a right to the public to demand from the competent state authorities to really carry out measures lying within the competence of those authorities and a right to request it at the court. Such omissions may include the silence of the institution (for example, failure to take decision when such decision would be expected), but also insufficiently effective measures, for example, a failure to properly enforce any decision already delivered before^[1]. This is the only measure that can be used also if an individual aims to prevent or to rectify damage to the environment made by other private individuals or entities, i.e., a person may request the competent supervising administrative authority to issue an administrative decision against another private person, to bring an action before the administrative court if the competent authority does not issue any decision or the decision is not effective, and to ask for real enforcement of any issued decision. To the extent that complaints are grounded in environmental law and allege a damage or imminent threat to the environment in the case of a further lack of action, any natural or legal person has standing at the competent administrative authority and at the court since *actio popularis* applies in environmental law (see above 1.4.1. about *actio popularis*).

If the competent authority does not respond to a submitted application for effective measures, a person has a possibility to appeal to a superior administrative authority and to the administrative court. General rules of administrative procedure apply (see above 1.3.1.-1.3.4. for more information about the system of administrative and judicial appeals, and 1.7.1. for information about applicable time limits).

If the appeal is accepted by the court, a person may ask for injunctive relief within the boundaries of the appeal. For example, an applicant may plead for immediate measures to prevent possible harm to the environment.

2. Measures for effective enforcement of administrative and judicial environmental decisions.

Administrative Procedure Law provides for measures that could be used to achieve full enforcement of administrative decisions, and decisions or judgments of the court, i.e., the rules on compulsory execution. The law regulates both the compulsory measures used by administrative authorities and by bailiffs, as well as by the police.

There are different compulsory measures used by administrative authorities (Sect. 367, 368 of the Administrative Procedure Law): executive orders, replacing measures carried out by the institution at the addressee's expense, pecuniary penalties (applied repeatedly if needed), direct force. The court may impose pecuniary penalties to the officials responsible for the enforcement of the court's decision, and those pecuniary penalties also may be applied repeatedly (Sect. 374 of the Administrative Procedure Law).

If, taking into account the content of the decision, a court bailiff can execute the decision, all the usual measures may be used according to the Civil Procedure Law.

A person in whose interests the administrative decision or judicial decision has been delivered has a right to appeal against omissions or inaccuracies regarding the execution. Also, a person against whom the administrative or judicial decision has been delivered has a right to appeal against inaccuracies regarding the execution.

Criminal liability may be applied in the event of severe environmental offences, and also for avoidance of

enforcement of judicial decisions requiring certain actions.

During the court proceedings, the administrative court may also impose procedural sanctions to succeed in guaranteeing fair procedure and fair decisions. Such measures include warning, expulsion from the courtroom, pecuniary penalties, and forced conveyance. Pecuniary penalties may be applied (also repeatedly), for example, against state officials not complying with a court's requests for information, and to any party to the case not complying with requests for evidence.

[1] The Supreme Court, judgment of 01.07.2011. in case No. SKA-215/2011.

■ Last update: 28/07/2021

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