Access to justice in environmental matters - Romania

I. Constitutional Foundations

Article 35 of Romanian Constitution regulates the right to a healthy environment http://www.cdep.ro/pls/dic/site.page?den=act2_2&par1=2#t2c2s0a35

Article 35 of the Constitution ensures the development of an entire environmental legislation block in order to achieve a healthy, well preserved and balanced environment. The principles and the general framework are set out by the Emergency Governmental Ordinance no. 195/2005 on environmental protection, approved by Law no 265/2006, as amended.

The Constitution sets rules also for the natural and legal entities – they will be bound to protect and improve the environment.

Article 21 on access to justice of the Constitution shows that:

- Every person is entitled to bring cases before the courts for the defense of his/her legitimate rights liberties and interests.
- The exercise of this right will not be restricted by any law
- All parties are entitled to a fair trial and a solution within a reasonable term
- Administrative special jurisdiction is optional and free of charge.

The interpretation of the two above mentioned articles concludes that you have access to justice concerning the protection of the environment and that this right cannot be restricted.

In accordance with the Romanian legal system, the Constitution is the legal act to be found on top of the legal pyramid. All the other normative acts have to be consistent with the Constitution provisions.

The constitutional right to environment can be invoked directly in courts. However, there are laws further developing the right to environment. On the other hand, sometimes the courts and the administrative bodies will not apply the Constitution alone stating that it is a general Act that cannot be applied alone.

According to Article 11 paragraph 2 of the Constitution, treaties ratified by the Parliament become part of the national law. That means that you can rely directly on the international agreements. All the information from question 3 is applicable.

The Aarhus Convention is an international treaty for human rights. According to Article 11 of the Constitution it is part of the national law. According to art 20 if there are any discrepancies between the treaties on the fundamental rights, as Aarhus Convention is, and the national laws, then the international treaty is applied, unless the national law has more favorable provisions.

Once it is ratified, the international law has effects automatically in the national law, thus giving the right for the interested parties to invoke it directly or in conjunction with other normative acts which may detail the implementation framework, if it is the case, and imposing the obligation for administrative bodies or courts to take into account its provisions. The Aarhus Convention has been ratified by Law no. 86/2000.

II. Judiciary

Romania has three levels of jurisdiction both in civil and criminal cases:

- 188 Courthouses, several in each county, hearing cases as the first court
- Tribunals that are in each county – 42, hearing cases on appeal
- Courts of appeal, 15, hearing cases on second appeal
- High Court of Cassation and Justice – special competence

There are exceptions prescribed by law where the first court instance is the Tribunal, The Court of Appeal or even the High Court of Cassation and Justice, and cases where we have only two levels of jurisdiction, the first court and one appeal.

Prosecution is organized next to the above-mentioned courts.

Each court, except the courthouses, has different sections, such as:

- Civil section, hearing only civil cases,
- Criminal section, hearing only criminal cases,
- Administrative section, hearing only cases derived from administrative law, etc
- Teritorial Military Tribunal
- Mlitary Tribunal

There are no special courts on environmental matters. Generally, these cases start in the administrative section of the Tribunal and then to the administrative section of the Court of Appeal on appeal. The third level of jurisdiction, the second appeal does not exist in this case. If the administrative act is issued by a central authority, then the first court will be The Court of Appeal and the second will be High Court of Cassation and Justice.

Environmental cases are to be solved not only in administrative sections of the courts, but also in other sections, whenever the subject of the litigation is not an administrative act.

There is no possibility for forum shopping. Competences of the court are binding and clearly stated.

In cases with three levels of jurisdiction, there are two appeals:

- one - that represents a second trial of the case and that suspends the decision of the first court;
- second - there are only limited motives that can be invoked and does not suspend the previous decisions in general, with some exceptions provided by law.

In cases with two levels of jurisdiction, as the administrative procedure, on appeal the court has the possibility to analyze the case in all aspects. The appeal in such cases suspends the decision of the first court.

In criminal law, the first and second instances are ordinary remedies and the decision may be enforceable when it becomes final, in accordance with the law.

The extraordinary remedies are:

- “The Appeal for Annulment” not aiming to retrial the case, but to correct some obvious mistakes, procedural or material;
- “The Review” – it aims to see the case again when some new evidence was found, like: a judge was convicted for a crime related to the case, or some new evidence and that couldn’t be found during the original trial, or a new decision of the court was pronounced, given on the same problem, between the same parts, etc.

Article 18, Law no 554/2004 regarding the administrative court procedure shows that they also have both cassation and some reformatory rights.

The court can:

- Decide that an administrative act is annulled totally or partially;
- To oblige the authority to issue a new administrative act, a document or to execute a certain administrative procedure;
- Decide if the administrative procedures that were done to issue the administrative act on trial, are legal or not;
- Decide regarding the damages, if requested by the plaintiff;

Regarding an administrative contract, the court can:

- Decide the annulment totally or partially;
- Oblige the authority to sign the contract if the plaintiff has the right to that contract;
- Impose some obligations for the parties;
- Replace the consent of one party if the public interest requests so;
- Decide on moral and material damages;

The Environmental Protection Law, Governmental Ordinance no 195/2005, art 5, stipulates that any person has the right to go to court or address the administrative authorities to protect the right to a healthy environment, without having to prove an impairment of a right. The environmental NGOs have also standing in court in any environmental matter.

There are no other special provisions regarding environmental law. The judicial procedure is regulated by the Code for Civil Procedure.

The court could never act on its own motion in Romania. However, the courts can ask the European Court of Justice for a preliminary ruling

III. Access to Information Cases

The FOIA, 544/2001 stipulates that

- If you are not satisfied with the answer received or did not receive an answer to the request of information, you can make an administrative complaint to the public authority and ask that the public clerk responsible for the wrong answer/lack of answer, be sanctioned;
- You can ask the court to oblige the authority to disclose the information requested, and to receive moral damages. In practice the damages are very difficult to prove and therefore are very rarely obtained.

The normative act which regulates the environmental information is Governmental Decision no. 878/2005 on public access to environmental information. This piece of legislation is completed, whenever thare are situations not regulated especially for the environmental information, with the provision of Law no. 544/2001 on access to public information.

Article 15 (3) of the GD 878/2005 stipulates if the environmental information request is rejected it should also provide justification for the reasons of doing so and also provide information concerning access to justice.

The request of information can be oral or in writing.

If you request the information orally, then, if the information is available you will receive it immediately. If not, you will be instructed to make a written request.

You should receive the answer to the written request within 10 days. You should receive a refusal of information, motivated in 5 days. If the information that you requested is too complicated, in 10 days you should receive a letter informing you about this situation and prolonging the term to 30 days.

Environmental information shall be made available to the applicant, in compliance with the specified deadline, as soon as possible or no later than one month from the reception by the public authority. Should the requested information's volume or complexity be so large that the one month deadline cannot be respected, it is extended to two months from the application reception at the public authority. In such cases, the applicant shall be informed as soon as possible or at least before the one month deadline expiry, regarding the extension of the deadline for response and the extension reasons.

If you are not satisfied with the answer received, you can:

- File an administrative complaint to the chief of the public authority in 30 days since you received the answer or from when the answer should have been received (after 10 days). The public authority must organize a commission who will analyze the situation and will send you a response within 15 days;
- You can directly ask the court to oblige the public authority to give you the information and also ask for damages in 30 days since you received the wrongful answer or since the answer should have been received (after 10 days).

If the information is classified, the court will not have access to the information unless the judge has an authorization from The National Registry Office for the Classified Information. If the information is not classified the court has full access. -. Confidential information can also be established in contracts. In this case the court will not have access to the confidential information.

If the courts will find that the information is public, and it is not classified, then the court can order the information to be disclosed. If the information is classified, the court will not be able in an access to information trial to do so. You can either invoke the exception of the illegal classification, and another file will be formed and another judge (authorized by The National Registry Office for the Classified Information) will solve this case, or start another trial asking either for the declassification or for the annulment of the classification. In these cases, the judges authorized by The National Registry Office for the Classified Information will try the case.

IV. Access to Justice in Public Participation

There is no appeal against administrative decisions to a superior administrative body. They can only be contested in court after you send an administrative complaint to the institution that took the administrative decision you dislike.

The administrative complaint is free of charge. It is regulated by Law 554/2004 regarding the administrative court procedure. Anybody who considers that his/her rights or interests were breached by the decision has the right to file an administrative complaint to the authority which issued the administrative act or its superior body if there is one. The request has to be submitted within 30 days from the moment you became aware about the administrative act

- 6 month from the moment you become aware of the administrative act if it was addressed and concerned another person;
- if your case concerns an administrative contract, 6 month since the contract was issued, modified, since one of the obligations from the contract was disrespected, since the day the contract expired, or since you became aware that one of the stipulations in the contract is unclear;

First instance administrative decisions can be taken directly to court only in special administrative jurisdictions. In environmental matters there are no special jurisdictions.

The administrative complaint is mandatory with a few exceptions:

- If you made a request regarding a right of your own or a legitimate interest to the authority and you received no answer in 30 days, or were refused;
- If you are attacking an administrative normative act;
- If you are attacking a Governmental Ordinance or an Emergency Governmental Ordinance;
- Exceptions of illegality;
- If you are or represent the Prefect, The Ombudsman, The Public Prosecution, The National Agency for Public Clerks;

The judicial remedies entail procedural and substantive control. For the technical issues the judge may dispose a technical report /expertise elaborated by a judicial expert. The technical report/expertise has the same value as other proof material/evidence.

Courts can review any administrative act, including land use plans, zoning plans, environmental permits, etc.

There are no special regulations for environmental cases. They are all common with the regular administrative procedure in court:

- Any person has standing in court according to the environmental protection law, Governmental Ordinance 195/2005. If you are a natural person you have to justify an interest to pursue the case. If you are an NGO protecting human rights or only the environment, then you are presumed to justify a legitimate public interest;
- Administrative complaint is mandatory:
    - regarding administrative normative acts, as land use plans, or other, as decisions/orders of the local county, of the Government, etc the administrative complaint can be done any time;
    - if you are the beneficiary of the act you have to send the within 30 days since the act was communicated to you;
    - if you are a third party, you have to send the administrative complaint in 6 month since the act was communicated to you,
- The competent court is the court from your headquarters or from the authority's headquarter, you can choose which one;
- You can prove your claims with documents, interrogation, witnesses, judiciary expertise; you can ask, and the court will decide what evidence is relevant for the case;
- The court will not review the substantive legality of the acts, but the law allows also this possibility; it depends entirely on the understanding of the judge regarding the case;
- If you will go against a planning certificate, the court might reject your case because Romanian courts' case-law is not unanimous on this topic.;

EIA[1] screening decisions can be attacked in court under the same conditions mentioned above. There are no specific regulations.

Courts can review scoping decisions under the same conditions as mentioned at the previous chapters.

At the moment the screening and the scoping decisions in Romania are in fact one and the same act, as screening and scoping are done in the same stage.

The judicial remedies entail procedural and substantive control. For the technical issues the judge may ask for a technical report /expertise elaborated by an judicial expert. The technical report/expertise has the same value as other proof material/evidence.

Participation in the public consultation phase is not a condition to stand before the courts.

Injunctive relief is regulated by art 14 and 15 of Law no 554/2004 regarding the administrative procedure in court. Injunctive relief can be filed in court immediately immediately after the administrative complaint is sent to the public authority, or together with the main request. To be granted, there are two conditions that must be fulfilled:

- To have a well-documented case
- To prove an imminent damage

There are no special regulations for IPPC[2] decisions or authorizations. They will be analyzed the same as any other administrative act

The same standing rules apply for IPPC administrative act as for any other act.

The same requirements will apply for injunctive relief in IPPC procedures as for EIA and any other administrative act.

V. Access to Justice against Acts or Omissions

In civil proceedings any person can go to court against private individuals or legal entities asking that their substantive right to a healthy and balanced environment be respected. According to Article 5 d) of the Governmental Emergency Ordinance no 195 /2005 – environmental protection law, "any person has the right to address to the administrative and/or judicial authorities any environmental matter, directly or through the environmental NGOs, regardless of an impairment of a right". So, you can ask for any act or omission that would ensure the respect of your right to a healthy and balanced environment, as stated under the Romanian Constitution, even if you did not directly suffer any harm. If, however, your rights is not impaired, according to Article 5 e), you have the right to compensation.

If the subject of your claim would be an administrative act that was issued or should have been issued (omission), then the case will be handled by the administrative courts, and you should also file your complaint against the administrative body, along with the beneficiary of the administrative act. However, in administrative procedures, you would also have to prove a violation of your

substantive rights – private legitimate interest. You will not have standing in court if you will only invoke the general protection of human rights or of the environment - public legitimate interest. Only the NGOs (interested social organisations including also both association and foundations) can invoke in court a violation of the public legitimate interest.

Administrative courts also try cases against state bodies according to The Law no 554/2004 regarding the administrative court procedure. According to art 1 of this law any person can file a complaint in court against an administrative body if a private or public legitimate interest or a substantive right was impaired by an administrative act that is issued by that authority, by not resolving a request in time, according to the deadlines mentioned in different laws. For example a reply to a petition has to be given in 30 days. If you suffered any damages you can also ask for compensation.

According to Article 8 of the same law, if you consider that:

- your legitimate interests or your legal rights were violated by an administrative unilateral act,
- you were not content with the response to the administrative complaint or if you didn't receive any answer to the administrative complaint,
- your request was not solved in the term prescribed by the law
- the administrative body refused to solve your request

the administrative body refused to execute an administrative operation that is necessary for the exercise or the protection of your right or legitimate interest you can ask the court:

- Partial or total annulment of the administrative act
- Remedies for the prejudice that you suffered
- Compensation for moral damages

If you are an NGO you can ask the court all mentioned above provided you are protecting a public legitimate interest.

If you are not, then you can invoke the legitimate interest only if the violation of the public legitimate interest is a logical result of the impairment of the substantive right or of the private legitimate interest.

The competent authorities in environmental liability matters are:

- The County Environmental Protection Agency (Article 6 from the Governmental Emergency Ordinance no 68/2007 that transposed the Environmental Liability Directive no 2004/35/EC);
- The National Environmental Guard (art 9 from the Governmental Emergency Ordinance no 68/2007) that has the power to control and give fines to the ones violating the environmental legislation;

According to Article 20 from the Governmental Emergency Ordinance number 68/2007, any person, affected or possibly affected by an environmental harm, or considers that a right or legitimate interest was affected, can:

- send observations to the National Environmental Guard
- ask the County Environmental Protection Agency to take measures according to the Governmental Emergency Ordinance no 68/2007

According to Article 20 paragraph 2, it is considered that the environmental NGOs' rights and legitimate interests are violated, and they can address, in any situation, the above-mentioned authorities.

The decisions are administrative acts and are being tried by administrative courts according to the general rules described by Law number 554/2004 regarding the administrative court procedure (Article 25 from the Governmental Emergency Ordinance no 68 /2007). You can file an administrative complaint against the decision of the authority within 30 days , or act in court against the lack of response to your request of action. If you receive no answer to the administrative complaint or the answer is not satisfying, you can ask the court to review the decision within 6 months of the omission or receiving the negative reply.

The decision of the authority can be attacked in court as described before, according to Law 554/2004 regarding the administrative court procedure. Also, according to Article 5 of the Emergency Governmental Ordinance 195/2005 regarding protection of the environment, , any person can go to court against environmental harms and ask the court to take measures against the polluter.

The ombudsman does not have any specific environmental powers. He has competences in defending the rights and liberties of any individual. The ombudsman can inter alia:

- Resolve complaints sent by the people;

- issue advice at the request of The Constitutional Court;
- Initiate proceedings in administrative court according to Law no 554/2004 regarding the administrative court procedures (see next paragraph);
- File an appeal in the interest of the law to The High Court of Justice and Cassation;
- Present reports to The Parliament. The reports can recommend amendments to the legislation;
- Present reports to The Parliament or to the Prime Minister if, during his research, he encounters legislation that violates the rule of law;

According to the administrative law the ombudsman has standing in court against any illegal administrative act, including the act regarding environmental matters. According to art 1 of the Law number 554/2004 regarding the administrative court procedure, the ombudsman can act only if she/he is requested by a petitioner. If the ombudsman files the case to the administrative court then you as the petitioner become the plaintiff. If you refuse, the court will cancel the case.

Public prosecutors

According to Article 1 paragraph 4 of the Administrative Law number 554/2004 the public prosecutor has the power to ask the court to cancel unilateral individual administrative acts that are violating the rights, interests and legitimate interests of the persons who will became plaintiffs into the case before administrative court. The public prosecutor can start such a case only with previous agreement given by the party whose right, freedom or interest was breached.

When the public prosecutor finds that a legitimate public interest was violated by an administrative normative act, she/he can act against it in front of the administrative court. In this case, if the functioning of an administrative public service would be seriously disturbed, she/he can also ask for an injunctive relief.

The prosecutor has no other special competences in environmental matters. She/he can prosecute environmental crimes as prescribed by law.

The public authority who issued an administrative act can ask the court for an annulment if the act produced effects and it can't be revoked by the authority. The court will analyze the legality of the acts issued according to it and also the effects produced by these acts.

There is no private criminal prosecution in Romania.

According to Article 3 (12) of the Governmental Decision 57/2009 regulating the attributions and functioning of the Ministry of Environment, this institution insures the control and respect for environmental law, on the national level, of individuals and legal entities, therefore, also of the administrative bodies.

The minister has a direction of inspection and control to perform this task.

The abilities of the ombudsman and the prosecutor to ask the court to cancel illegal administrative documents were described above.

The prefect also can attack in court the administrative decisions taken by the local counties, exercising a legality control, as a general competence.

VII. Legal Standing

1. Describe legal standing rules applicable for different types of procedures and different actors. Describe how the concepts of impairment of right, sufficient interest, etc. are construed in your country.
   (use the below table)

Legal Standing	Administrative Procedure	Judicial Procedure
Individuals	X	X
NGOs	X	X
Other legal entities	X	X
Ad hoc groups	X	X
foreign NGOs	X	X

Any other#_ftn3[3]	X	X

The public prosecutor, ombudsman and public authorities as described in chapter VI point 2.

A public authority can act like any other person against acts issued by another public authority if its rights or legitimate interests are breached. However the administrative bodies are hardly using this power.

Governmental Ordinance 195/2005 regarding the protection of the environment also states that the environmental NGOs have legal standing in court in cases that have as object environmental protection. There are no special rules for different levels of environmental protection.

The court actions in administrative courts is subject to the norms provided by Law number 554/2004, described above. The private natural or legal persons may challenge the administrative act invoking the public legitimate interest, insofar as this is a consequence of the infringement of the individual right or private legitimate interest.

Other state institutions or bodies have standing as described in chapter VI.

The same rules apply for standing of individuals/NGOs for EIA and IPPC procedures as described in Chapter V.

VIII. Legal Representation

The lawyers represent the interests of a party in court. The legal counsel is not compulsory in environmental matters or in any matter except criminal cases, in accordance with the Code of Criminal Procedure. In criminal cases, including in environmental crimes, the accused must be assisted by a lawyer.

In accordance with the New Code for Civil Procedure, parties must be assisted by a lawyer at the second instance.

In Romania there are more and more lawyers are interested in defending the environment, as it ensures a kind of popularity and public recognition of the respective lawyer. This is much needed recognition because any kind of advertising for lawyers is illegal in Romania.

IX. Evidence

There are no special rules in environmental matters. According to Article 13 of the Law number 554/2004 regarding the administrative court procedure, the court has to order the administrative authority to submit all documents that were considered when they issued the act whose annulment is being asked for. The plaintiff can provide any evidence to prove the allegations: documents, interrogatories, judiciary expertise, and/or witnesses.

In civil and criminal proceedings the court has no obligation to force the defendant to provide documents. However there is a procedural regulation that would allow the court to consider that the party, who refused to show certain documents, recognized the allegation of the other party, only in civil cases.

The evidence is proposed by the parties at the beginning of the court procedure, immediately after all other procedural exceptions were ruled by the court. The court can order evidence on its own if it considers that the truth can be established, according to the active role of the court. However, this role, applicable only in civil cases, is limited by the right of the plaintiff to dispose of his/her own action in court. The evidence must be first allowed by the court and then actually taken to the court. There are no differences between civil procedure and administrative procedure.

However, *the civil procedure* has three jurisdictional steps: the first court, and two appeals. In the first court and in the first appeal any evidence can be proposed to the court, and the court will only allow the evidence that is useful for the case. In the second appeal only documents can be provided as evidence. The appeal itself can only be admissible on limited motives specified in the civil procedural code.

In *the administrative procedure* there is only the first court and one appeal. In the appeal only documents can be allowed as evidence, but the court can analyze the case on all aspects, to compensate the missing appeal in this procedure.

Judicial experts provide judicial expertise. Their fee is paid by the party who requested the expertise. The parties can ask the court to allow their own experts that will participate to the expertise done by the judicial expert. The court can also order that the expertise is done by an institute or specialized laboratory.

If no one on the list of the judicial experts has the specialty requested by the case, then the court can order a well-known scientist or personality in the needed area of expertise, like a professor from the university. These provisions are regulated by the Civil Procedural Code.

Regarding the technical conclusions of the expert, the court must consider these conclusions. However, the court can disregard the expertise if it was done in violation of the procedural norms regarding the judicial expertise or if the conclusions contradict the object of the case.

There are no differences in administrative procedure and civil procedure, and there are no special provisions for environmental matters regarding the judicial expertise.

X. Injunctive Relief

The main rule is that there is no suppressive effect in any circumstances. In all cases the court must be asked for an injunctive relief. The effects of the act will be suspended only if the injunctive relief is admitted by the court. The appeal against the decision of the court to grant the injunctive relief will not suspend the execution of this decision.

In expropriation procedures the administrative decision is immediately executed. The right of property is transferred from the private owner to the state through a unilateral administrative act immediately after the money offered by the expropriator are consigned into a bank account (the private owner can receive the money only if he is not taking legal actions against the expropriator asking for more money). An injunctive relief with the object to suspend this transfer is inadmissible according to the Expropriation Law number 255/2010.

Other administrative acts also produce effects regardless of an annulment action in court. The only suspensive effect is provided by the injunctive relief.

Injunctive relief is possible both in administrative procedure and also the civil procedural code.

In administrative procedures the injunctive relief regards only suspension of the effects of an administrative unilateral act.

In civil proceedings the court can grant an injunctive relief to ensure the protection of a right, to prevent an imminent damage, and to remove the obstacles of an execution of a court order. The injunction is given only in urgent matters and only for a limited period of time.

According to Article 14 from the Law 554/2004 regarding the administrative court procedure, you can ask for the injunctive relief immediately after submitting the administrative complaint to the public authority that issued the act, before submitting to the court the request for the annulment of the act.

According to Article 15 of the Law 554/2004 regarding the administrative court procedure, injunctive relief can be also asked for together with the annulment request or through a separate request that can be introduced until the first instance court reached a decision regarding the annulment of the act.

To be granted, you have to prove that the case is well justified and that without the injunctive relief an imminent damage would be suffered.

In civil procedure the injunctive relief is granted in urgent cases and for a limited period of time as described above.

Both in administrative procedure and civil procedure an appeal can be filed within 5 days of the written decision of the court.

XI. Costs

1. What are the cost categories an applicant faces when seeking access to justice in environmental matters? (5-10 sentences)

The cost categories are:

- The fee of the court
- The fee of the lawyer
- The fee of the judicial expert
- The costs of the other party according to loser pays principle

2. Give an estimation of the court fee (fee for starting a case at court, in different types of procedures) and fee for appeal applicable in your country. (3-5 sentences)

The courts' fees are regulated by Emergency Governmental Ordinance number 80/2013.

The fee for administrative court it varies approximately between 11 euro (50 RON) and 66 euro (300 RON).

The fees for civil court are established according to the value of the case. There are several criteria given by certain values established by law.

- if the value of the case falls under 111 eur (500 RON), the court fee is 8% but no less than 4 eur (20 RON)
- if the value of the case falls between 111.1 (501 RON) eur and 1111 eur (5000 RON), the fee of the court is 8 EUR (40 RON) plus 7% for the amount higher than 111 eur (500 RON);
- if it falls between 1111 eur (5000 RON) and 5555 eur (25000 RON) , the fee of the court is 78 eur (355 RON) plus 5% for the amount higher than 1111 eur (5000 RON);
- if it falls between 5555,1 eur (25001 RON) and 11111 eur (50000 RON), the fee of the court is 301 eur (1355 RON) plus 3% for the amount higher than 5555 eur (25000 RON)
- if it falls between 11111,1 eur (50001 RON) and 55555 eur (250000 RON) the fee of the court is 467 eur (2105 RON) plus 2% for the amount higher than 11111 eur (50000 RON)
- higher than 55555 eur (250000 RON) – 1356 eur (6105 RON) plus 1% for the amount higher than 55555 eur (250000 RON)

The fee for appeal as second grade of jurisdiction is half of the fee at the first court but not less than 4 eur (20 RON):

The fee for the appeal as third grade of jurisdiction the fee is 22 eur (100 RON) for the cassation motives regulated in art 488 para 1 points 1 – 7 from the new Civil Procedural Code. If the motives relating to the application of the substantive law in cases that can be valued in money, the fee of the court is 50% from the amount paid in the first court but no less than 22 eur (100 RON). For the cases that can't be valued in money the fee of the court is 22 eur (100 RON).

If the appeal is filed against a decision of the court concerning:

- suspension of the trial proceedings, the fee is 4 eur (20 RON)
- annulment of the trial because the fee of the court was not paid, or other cases when the case was not trialed, the fee of the court is 11 eur (50 RON).

3. Give an estimation of expert fees, lawyer fees and other fee categories typical in environmental matters. (10 sentences)

There is no criterion to estimate a fee of the expert or lawyer. A fee for an expert was about 2000 eur and a fee for a lawyer that is not working for environmental NGOs, was at least 1000 eur.

Very few lawyers work in NGOs so that access to lawyers is very difficult.

4. What is the cost of an injunctive relief/interim measure? Is a deposit/cross-undertaking in damages needed? (3 sentences)

The fee to apply for injunctive relief in civil court is 4 eur (20 RON), if it is not valued in money. If it is, the fee of the court is valued in money, the fee is 11 eur if the value is established under 444 eur (2000 RON) and 44 eur (200 RON) if the value established is higher then 444 eur (2000 RON).There is no deposit needed.

The injunctive relief in administrative court is not mentioned, therefore it should apply art 27 that refers to any other cases that can' t be valued in money. For such cases the fee of the court is 4 eur (20 RON).

5. Does the 'loser pays principle' prevail? How is it applied by courts? What are the exceptions when this rule does not apply? (5-10 sentences)

The loser pays principle applies every time the other party is asking for the costs that he had to support during the trial. If the other party does not ask for such costs then the principle will not apply. The court could also compensate the expenses if only a part of your request was admitted and the rest rejected. In this case, the court could compensate the expenses, so that either one party will pay the remaining part or nothing if the entire sum would compensate.

XII. Financial Assistance Mechanisms

1. Can the courts provide exemptions from procedural costs, duties, filing fees, taxation of costs, etc. in environmental matters? What are the conditions of this? (10 sentences)

The legal aid can be provided according to the Emergency Governmental Ordinance no 51/2008, applicable only in civil cases, for:

- The fee of a lawyer;
- Fee of an expert or interpreter;

- The fee of the legal executor;
- Of the court's fees - exemptions, reductions, deferrals, delays;

The maximum amount granted as legal aid in one year can be equal to 10 minimum gross salaries established in the year when you made the request for legal aid.

Legal aid can be granted if your medium net income per family in the last two months since the request of legal aid was made is under approximate 70 eur (300RON). In this case the fees will be covered entirely by the state.

If the income is under approximate 145 eur, the fees will be 50% supported by the state.

The Emergency Governmental Ordinance no 80/2013 introduced the possibility that the legal persons are eligible for legal aid for the court's fees (exemptions, reductions, deferrals, delays), if:

- the fee of the court is more than 10% of the average net income for the last 3 month of activity;
- the legal entity is under dissolution or liquidation or the goods are seized;
- the court, analyzing the overall economic and financial situation, feels that amount of the court fee would adversely affect the activity of the legal person;

XIII. Timeliness

Depending on the type of the decision, there are various time limits prescribed by law. An answer must be supplied within 30 days to a petition an administrative organ or an administrative complaint. The administrative act has to be issued in 30 days. If the authority took no decision in this term, the act is considered issued tacitly by the authority. This rule does not apply to the environmental permits. There are no deadlines for issuing the permits. For EIA permits, if the beneficiary of the project does not provide all the information necessary to issue the environmental permit in two years since the request was made, then the request for environmental permit will be rejected.

There are no sanctions against administrative organs delivering decisions in delay prescribed by law.

In accordance with Article 22 of Law 544/2001 the court of law may oblige the public authority or institution to provide the requested information and to pay damages.

There are no special regulations for time limits of judicial procedures in environmental matters.

An injunctive relief in administrative court could be tried in the first instance court between two months and one year and in appeal another two months and one year. The law specifies that such cases are urgent and should be tried urgently.

An injunctive relief in civil court has to be tried urgently. The decision should be delivered in 24 hours and the written decision should be given in 48 hours since the decision was pronounced.

An annulment request in first instance could take at least two years, and the same for the appeal. Communicating the written decision to the party takes a very long time. Until this is communicated, an appeal cannot be filed.

After the judiciary research is over, the delivering of the decision can be delayed for 7 days, several times. There is no regulation regarding how many times the court can postpone the delivering of the decision. The written decision should be delivered to the parties within 30 days. This term is only a recommendation for judges.

There is no deadline for the court to deliver a judgment.

There are no sanctions against courts delivering decisions in delay prescribed by law. This might count for the evaluation of the judges if it is proved that they had no reasonable motive to disrespect the terms. The judges are disciplinary liable.

XIV. Other Issues

Environmental permits are administrative acts and can be challenged in administrative courts after they are issued. As the public is a third party in these procedures, the public can file the administrative complaint within 6 months from the time the public finds out about the existence of the act. The complaint to the court can be filed in 6 month since the answer from the administrative authority was received or should have been received.

Information in environmental matters is not well structured. On environmental protection agency's websites the information is not organized for each project but by major categories: environmental reports, environmental permits, public announcements, etc, so that if you want to gather information for one project you must search in all categories among documents belonging to hundreds of

other projects. That makes the information in environmental matters very difficult to identify. There are no well organized data bases with the projects being evaluated or that were evaluated in the previous years. The following is the website of all environmental protection agencies in the country: http://www.anpm.ro/

There is no ADR (Alternative Dispute Resolution) in Romania accessible for the public in environmental matters. However Law 192 /2006 on mediation may be applicable.

Mediation is regulated by Law 192/2006 and Law 115/2012 . Starting with October 12 2012, in civil, commercial or criminal cases (consumer's protection, family law, neighborly relations, professional liability, civil cases with a value under 11111 EUR and in criminal matters for offenses that are investigated only in case of prior complaint), the information on the advantages of mediation is mandatory.

XV. Being a Foreigner

Anti-discrimination is regulated by Governmental Ordinance 137/2000.

There are no specific anti-discrimination clauses in procedural rules, but people not speaking Romanian have the right to an interpreter and to translated documents.

Article 16 of the Romanian Constitution and Article 4 (1) of Law 303/2004 oblige the judges and district attorneys to ensure the equality before the law and an equal treatment of all the participants in the judicial procedure, regardless of their status.

An interpreter must be allowed by the court if a party cannot speak Romanian. The defendant has the right, in criminal cases, to use its mother language.

The party that intends to use certain documents to prove the allegations made in court must pay for the necessary translation. The translation has to be made in Romanian for the court and the language of the other party.

The Government supports such costs in environmental matters only according to the legal aid emergency Governmental Ordinance 51/2008.

In criminal cases, the parties who do not speak or understand Romanian have the right, free of charge, to take note of the file, to address the court and to submit conclusions to the court, by means of an interpreter.

XVI. Trans-boundary Cases

There are no special procedural rules on cases that involve environmental issues in another country. If the public from a neighboring country wants to launch a proceeding in Romania either an administrative body or a company, the public must follow the Romanian rules on procedure. Romania ratified the Espoo Convention so that the procedure regulated by Espoo Convention will apply for the projects and plans falling under Espoo and SEA protocol.

In the Romanian legislation anybody can be considered as public concerned.

The regulation for standing was described in chapter IV, V, VII.

In conclusion if you are an NGO or an individual you will have standing to go in Romanian Courts against environmental damages, as interested public. Regarding legal aid, if you are an EU citizen, you can make such requests. According to Governmental Emergency Ordinance 51/2008, excepting the legal aid described in Chapter XII, EU citizens can also ask legal aid for:

- Interpreter expenses;
- Translations of documents;
- Travel to Romania if your presence is mandatory;

Regarding standing for interim measures and injunctive relief, these are described into the previous chapters. There are no other special provisions of the law.

[1] Environmental Impact Assessment

[2] Integrated pollution prevention and control

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