



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

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

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

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

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

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

### **I. INTRODUCTION**

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

Does it include -

- constitutional protection of the environment YES
- a general law protecting the environment YES
- a code or compilation encompassing all or a substantial part of the laws relating to provisions on environmental protection? NO

## II. TRAINING AND INFORMATION

### A - Training

#### 1. *General training arrangements*

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

- for initial training before taking office?

- for continued training?

**Training of judges and future judges is organized by Croatian Judicial Academy. Trainers are mostly judges who are trained to be trainers.**

(b) How is *initial training* arranged?

Where and by whom is it conducted, for example –

- universities,
- other specialised training establishments
- organised by government or by judicial bodies?

Initial training is arranged by Croatian Judicial Academy and is conducted by judges.

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

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

**Future judges work at courts (mentored by senior judges) and attend workshops as a part of their initial training.**

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

Where and by whom is it conducted?

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

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

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

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

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

**Continuing training is organized by Croatian Judicial Academy and it's conducted by judges. It's organized through workshops which, in general, last one day (6 hours). There are a few workshops which last two days. Training is also organized through e-learning courses. Continuing training is organized in Zagreb (for judges from Zagreb and nearby places) and in regional centres of Croatian Judicial Academy in Varaždin, Osijek, Rijeka and Split. It's voluntary, not compulsory. Training is not supervised. –After workshops participants are ask to fulfil evaluation form. Topics of the courses are determined by Programme council of the Croatian Judicial Academy and working materials for the courses are done by judges who are also trainers. There are no training fees. Judges are entitled to leave from work for the training. This training is not given weight in decisions on career choices or appointments to particular responsibilities, because it's judges' duty to educate themselves (although it's not compulsory).**

## *2 Training in environmental law*

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

- for initial training
- for continuing training?

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

In particular –

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

**So far Croatian Judicial Academy has not organized special training in environmental law. This year, two trainings were organized for the first time; on Aarhus Convention and on EU Environmental law in the form of one day workshop.**

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

**Programme Council of the Croatian Judicial Academy proposes every year topics of interest for workshops, taking into account training needs of judges.**

Have you already made use of training material prepared at EU level (e.g. within the framework of DG ENV programme for cooperation with national judges and

prosecutors: <http://ec.europa.eu/environment/legal/law/judges.htm>). Do you have any suggestions for improvements? **No**

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

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

- in paper form
- on the Internet?

**No**

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

- national databases
- European databases
- international databases?

**Judges are equipped with computers giving them free access to all databases.**

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

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

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

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

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

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

Specific topics, e.g. -  
Freshwater Pollution,  
Protection of the Seas  
Nature Protection

Landscape and Monuments – Natural Sites  
Air pollution  
International trade in protected species  
International transfer of waste  
Genetically modified organisms  
Polluting or Dangerous Industries  
Environmental procedural requirements, in particular impact assessments relevant for spatial planning, energy and transport

Other topics?

**All listed topics are very interesting and useful and EJTN and ERA organize workshops on such topics.**

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

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

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

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

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

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

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

- criminal penalties
- orders or injunctions to remedy environmental damage
- awards of financial compensation or compensation in kind?

Others?

**In my countries, environmental law disputes are dealt by civil, criminal and administrative courts, depending on the issue (if there is criminal act, or lawsuit for damages...). There are no specialization for environmental issues.**

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

- (i) By civil courts or tribunals;
- (ii) By criminal courts or tribunals;
- (iii) By administrative courts or tribunals;

(iv) By the constitutional court

(v) By specialist environmental tribunals.

**As I am civil judge, I had cases concerning environmental damage (compensation for air pollution, for example).**

(c) Are there available statistics on environmental cases handled by the different categories of court and tribunal? If so, please summarise the figures for the most recent year available. **NO**

**B – Specialised jurisdictions**

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

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

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

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

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

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

**C - Criminal violations**

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

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

(b) What special arrangements do the police or customs have for ensuring that those involved have expertise in environmental law? Do they have specialised units, organised locally or nationally? **No**

(c) If a specialised environmental agency is responsible for prosecutions –  
- how is it organised, and under what authority

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

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

(e) Are there available reports or statistics of criminal sanctions imposed in environmental cases? If so, please give examples from recent cases. **NO**

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

Does the public prosecutor's office have services specialising in environmental area ? **NO**

Is this specialisation created by law or by internal organisational rules?

Is its jurisdiction national or local?

Does it relate to all environmental law violations or particular violations only?

Is it exclusive or concurrent with the office's general jurisdiction?

How are conflicts over jurisdiction resolved?

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

How are these assistants recruited?

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

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

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

In what circumstances are civil courts involved in environmental law cases? **If lawsuits are lodged.**

Can they award remedies other than orders for damages ? **Yes, for example prohibit some actions which harm to the environment**

Are there civil courts specialised in environmental law ? **NO**

## **F. Standing**

Do environmental NGOs have standing in the different courts?

- What requirements apply for the grant of standing?
- Must they have obtained formal recognition or accreditation by the authorities, or is the right to standing assessed on a case by case basis ?