

# EU Case Law in Environmental Matters in Slovenian Judicial Practice

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**2021 EU FORUM OF JUDGES FOR THE  
ENVIRONMENT ANNUAL CONFERENCE  
17-18 SEPTEMBER 2021 — ONLINE**

**COOPERATION BETWEEN  
CJEU AND NATIONAL JUDGES  
IN ENVIRONMENTAL CASES**



**REPUBLIC OF SLOVENIA  
MINISTRY OF JUSTICE  
JUDICIAL TRAINING CENTRE**

# Introducing Slovenian environment

- Almost 60% of Slovenia is covered by forests;
- Slovenia has one of the largest density of brown bear population in Europe (with 2,5-fold increase in last 20 years);
- Population of wolves has doubled in the last five years and expanded to areas not inhabited for more than a century,
- National parks, regional parks, Natura 2000 areas...

# Introducing Slovenian legal environmental protection

- Special Constitutional provision protecting the environment as a constitutional right, detailed legislation **implementing both the Constitution and European law.**
- Specialized administrative bodies: Slovenian Environment Agency (ARSO);
- Specialized judicial protection in environmental matters by the Administrative court in first instance;
- Supreme Court as the highest court in Slovenia decides on legal remedies;
- Protection of human rights by the Constitutional Court.

## (Some) Main questions of applying EU law in environmental matters in administrative disputes

- National Constitutional protection vs. protection under EU law;
- Guaranteeing the (most) effective judicial protection in environmental matters;
- „Green policy“ and/or „Green rights“ issues.

# National Constitutional protection vs. protection under European law

- Competing provisions of national Constitutional protection and EU law;
- Judicial practice is in search of harmony, not conflict, guaranteeing the highest level of protection;
- Change of judicial precedent of the highest national courts when European law offers higher level of protection.

# Guaranteeing the (most) effective judicial protection in environmental matters

Any provision of a national legal system and any legislative, administrative or judicial practice that might impair the effectiveness of EU law by withholding from the national court with jurisdiction to apply such law the power to do everything necessary at the moment of its application to set aside national legislative provisions that might prevent EU rules from having full force and effect are incompatible with those requirements, which are the very essence of EU law.

Judgement of ECJ (Grand Chamber) of 5 April 2016, C-689/13.

# Applying EU law in Slovenian court practice

- In judicial practice in Slovenia the potential resolution of conflicts with EU legislation was resolved through supremacy of EU Law (e.g. direct effect of provisions of a directive) but foremost by wide interpretation of national (material and procedural) laws in the light of the directive and general principles of EU Law – similar to other Member States.
- Both Slovenian courts and parties to the proceedings rely on provisions of EU Law and jurisprudence of Court of Justice (and ECtHR). The case law of ECJ has (so far) deemed to be satisfactory.
- No requests for preliminary rulings – praise or fault?

# Green policy and/or Green rights

- Legislation is often incorporating economic and other interests than respecting (adequate level of) the protection of environment;
- Jurisprudence strongly relies on fundamental right and principles of environmental protection, as well as directly applicable provisions of EU law;
- Arising conflicts are resolved on the level of highest courts.



- Thank you. Have a successful day.