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**ERASMUS+ STRATEGIC PARTNERSHIPS IN
RESPONSE OF THE COVID-19 SITUATION
„EDULAW“**



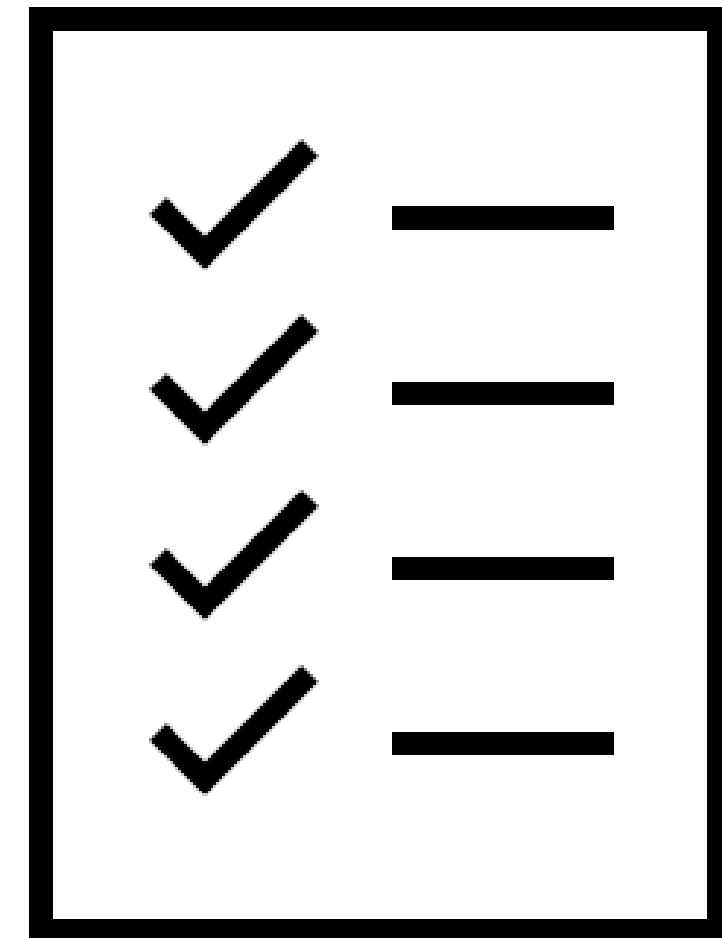
Environmental law – I.

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Program

1. The basic legal definitions
2. Typical features of environmental law
3. Principle of environmental law
4. EU principles
5. Sources of environmental law
6. Regularization care of the environment- Slovakia
7. Act No. 17/1992 Coll. on environment
8. Subjects of environmental law



Program

8.1. State

8.2. National Council of the SR

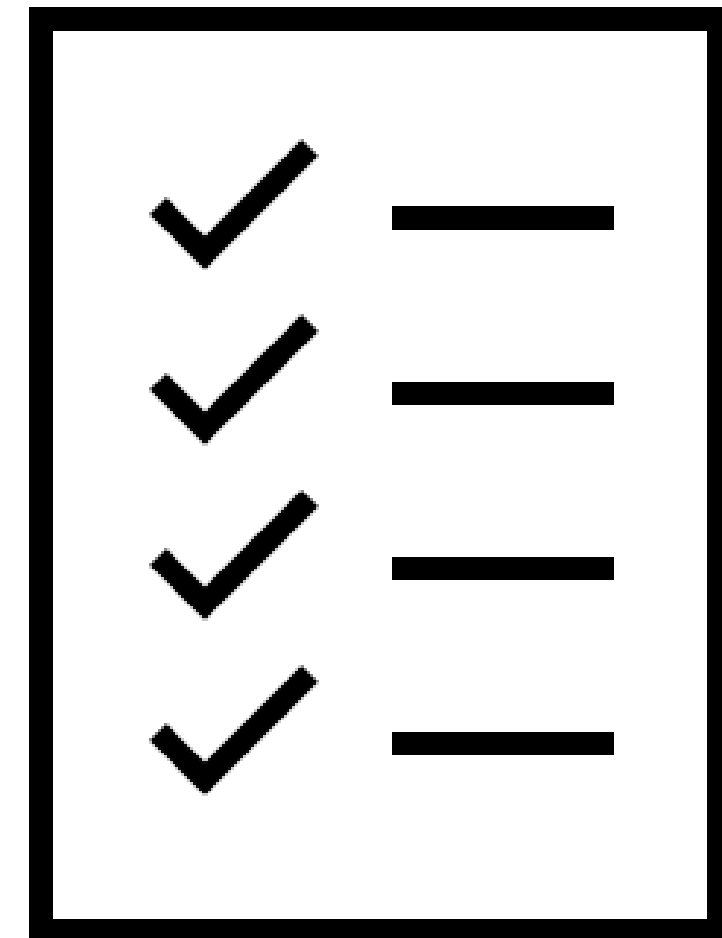
8.3. Government of the SR

8.4. Ministries and other central bodies of state administration 4. EU

8.5. Local state administration principles

9. Decision-making process of state administration bodies

10. Individual administrative acts



Environmental Law

- *a summary of legal rules which regulate behaviour of legal entities and individuals in relation to the care for the environment*
- **The object of the legal regulation:** is the behaviour of people in relation to the environment
- **The aim of the legal regulation:** achieve of the favourable status of environment

The basic legal definitions...

1. *Care for the Environment*

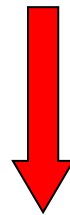
- (by the legal norms regulated the behaviour of designated bodies (legal entities/ individuals) in the protection of the environment, the creation of the environment, rational use of natural resources)

2. *Environment*

- (all that create the natural conditions of existence organisms, including humans, and is a prerequisite for their further development,
- in particular: air, water, soil, rocks, organisms)

Typical Features of the Environment Law...

- the type of interest, which is enforced through the rule of law
-
- the status of the legal entities
- method of regulation



Public law

Principles of environmental law ...

- ***the basic ideas*** -> law or its coherent part (legal sector, legal institute) comes out from them
- a high level of imperativeness
- rules for interpretation



EU principles

- prevention
-
- precautionary
- „polluter pays“
- high level of environmental protection
- immediacy
- subsidiarity
- Integration
- sustainable development

The principle of prevention

- the basic principle of EU environment policy
- notification obligation (to the citizens of the environmental conditions, to public authorities before putting dangerous products on the market ...)

The principle of precaution

- Article 191 Treaty on the Functioning of the European Union
- if in the decision-making process, there is no sufficient accurate and sufficient information about the possible consequences of decisions for the environment, should always decide in favor of the environment
- principle may be used:
 - determination of the potential negative effects
 - evaluation of the available scientific data
 - the extent of scientific uncertainty

The principle of „Polluter pays“

- Article 130 sec. 2 Treaty on the Functioning of the European Union (Directive on environmental safety)
- polluter provides by the form of various payments the financial resources necessary to finance measures designed to offset the adverse consequences of human activities (including their own)
- the external costs too

The principle of the high environment protection

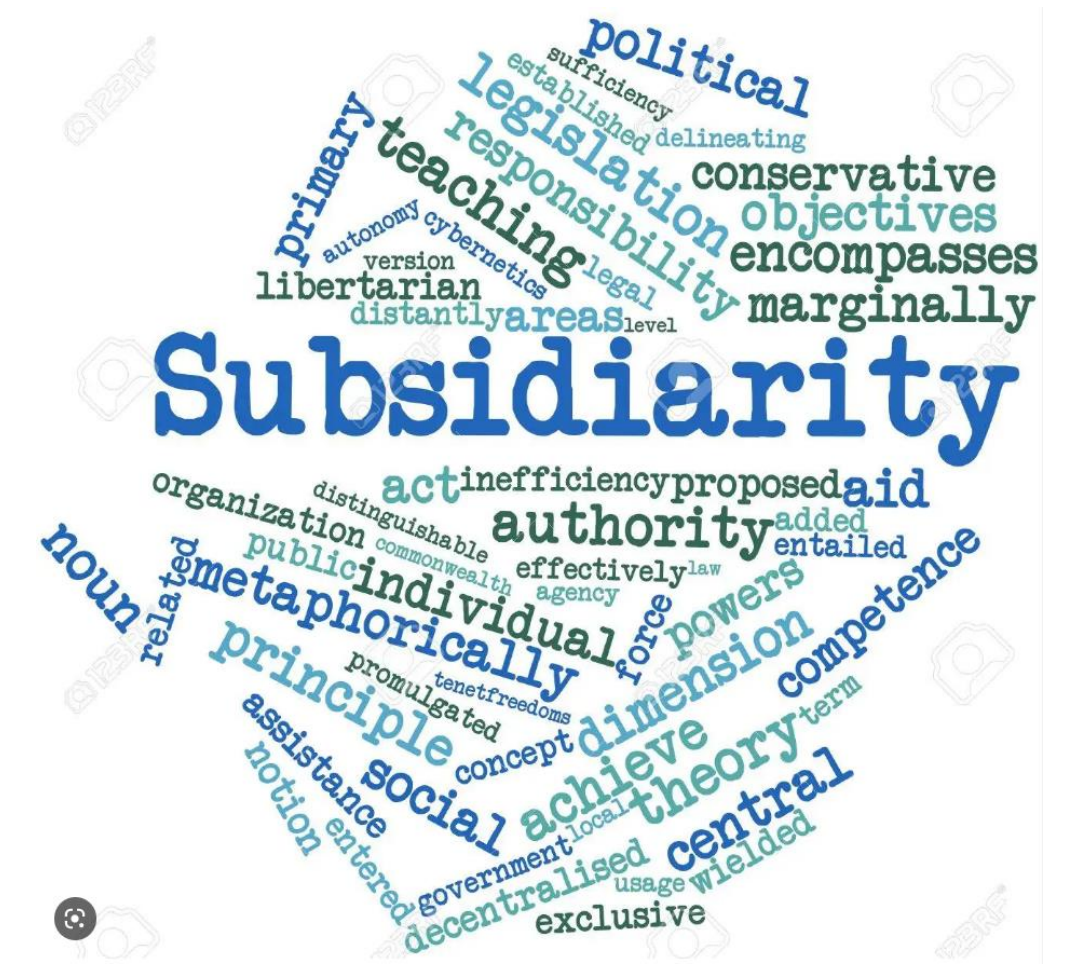
- ensure the protection of the environment at all times with regard to the latest scientific and technical knowledge and solutions which are available for EU countries
- balanced economic and social development of the EU

The principle of immediacy

- environmental pollution is removed immediately at the source of this pollution

The principle of subsidiarity

- competence in the field of environment are located at the lowest levels of government (local, regional, national, on the level of EU)
- most effective solutions



The principle of integration

- political principle
- requirements for the protection of the environment must be integrated (part of other policies) in EU and individual Member States

The principle of sustainable development

- support of harmonious and balanced development of economic activities in the EU, and sustainable non-inflationary growth respecting the environment

Principles of Environmental Law in Slovakia

- Act No. 17/1992 Coll. on environment as amended
- Sustainable load of the territory
- Sustainable Development: rational use of natural resources
- Rate of pollution of environment
- the greening of education, enlightenment, education
- Environmental protection as a general obligation
- Public Participation in environmental protection
- Law Enforcement
- Integration
- "Polluter pays"
- The principle of maximum protection
- Prevention
- Precautionary

The System of Environmental Law

1. care about the environment as a whole
2. care for the specific components of the environment, resp. ecosystems
3. protection of the environment from various environmental risks affecting threaten or harm the environment, resp. its components
4. care for the healthy status of the environment, its components and care for healthy living, leisure and working environment

Sources of the Environmental Law

- source, which includes at least one legal norm of care for the environment
- **Legal sources**
 - Legal acts
 - International Treaties
 - final decisions of the Constitutional Court of the Slovak Republic on non-compliance of acts with the Constitution



1. Legal acts

- Constitution of the Slovak Republic (460/1992 Coll.)
- Legal acts of the Slovak National Council
- Governmental Regulations
- Generally binding legal acts ministries, other central state administration bodies-the decrees, measures
- General application of the district offices
- Generally binding regulations of self-governmental region
- General application of the municipalities

Constitutional Regulation Protection of the Environment (Article.44-45)

- **Constitutional Act. 460/1992 Coll.** - Constitution of the Slovak Republic
-
- **The Right to the Protection of the Environment and the Cultural Heritage (Chapter II, Part VI, Article 44-45)**

- Provisions according to legal regulation is possible to divided on the provisions related to:
 1. *the position of persons*
 2. *the definition of care for the environment as one of the functions of the state*
 3. *economic foundations of the State*

„Everyone has the right to a favorable environment“ – Article 44, sec. 1

- Subject to the right – **each**
- **Objective of the legislation** - to achieve **sustainable development** (a person's right to live in an environment which allows him/her to satisfy basic needs and to use them so that the loss in the diversity of nature and to preserve the natural functions of ecosystems)
- **The content and scope of constitutional rights** - expressed indirectly

"Everyone is obliged to protect and enhance the environment and cultural heritage,, - Article 44, sec. 2

- General obligation in respect of the environment
- Obligations- ***all individuals and legal entities***
- ***Environmental protection*** is the behaviour of the entity to maintain a favorable environment (§ 9 of Act No. 17/1992 Coll. "protection includes activities that prevent pollution or damage to the environment or that pollution or damage to reduce and eliminate")
- ***Environmental enhancement***- conduct of a person, that follows the aim to achieve the desired social or economic effect (not enforceable)

"No one shall the limits laid down by the law to threaten or damage the environment, natural resources and cultural monuments (landmarks) - Article 44, sec. 3

- General ban **threatening** and **damage** the environment, natural resources and the cultural monuments
- *natural resources = are those of the living and inanimate nature that a person uses or may use to meet their needs*
- *the precautionary principle* (complementary expression of a duty to protect and enhance the environment)

„The state looks after a cautious use of natural resources, ecological balance, and effective environmental care, and provides for the protection of specified species of wild plants and animals“ Article 44, sec. 4

- provided the state's role in caring for the environment
- it is a positive obligation of the state in this area
- realization of tasks in the public interest (ie. security by government authorities)
- *„Cautious use of natural resources“* - the practical, economical and sustainable use

„ Everyone has the right to timely and complete information on the state of the environment and causes and consequences of this condition,, Article 45

- Related acts
 - Act No. 211/2000 Coll. on freedom of information
 - Act No. 205/2004 Coll. on the collection and dissemination of information on the environment
 - Act No. 3/2010 Coll. the national infrastructure for spatial information
- these laws: individualas and legal entities
- indirect tool for law enforcement to the favorable state of the environment
- two ways: *accessing of information and dissemination of information*

Regularization care of the environment - Slovakia

- Non-codified legal area -> legislation is dispersed in a large number of laws
- Legislation to distinguish:
 1. General - Law No. 17/1992 Coll. on environment
 - cross-cutting legal acts
 2. Sectorial - component legal acts



-
- **Relation between Act on the environment**
 - **and cross-cutting and component legal acts:**
 - (the same legal force)

-subsidiarity principle: the Law on the environment is in the system of laws with the issue of environment most general act, which will be used only as support in those cases where, in this area there exist special legislation

Act No. 17/1992 Coll. on environment

- Objective and the role of the act:

1. cover and align the sectoral adjustment

2. comprehensively regulate all kinds of tools to care for the environment (legal, economic, non-legal)

3. settle direction and purpose of care for the environment

- The purpose of the act:

- § 1= to define basic terms and set out the basic principles for the protection of the environment and obligations of legal entities and individuals in protecting and improving the status of the environment and the use of natural resources

- the protection of the environment is based on the principle of sustainable development

- act lays the responsibility for the breach of responsibility and economic instruments

Subjects of Environmental Law

- subjects = subjects, which are recognize by the law as a subjects (actors) in the legal sense. Actors acting in the legal relations as **holders of rights and obligations**, resp. competences

- They are:

1. individuals
2. legal entities



Holders of the Rights and Obligations in the care of the environment are:

1. **State** - represented by a system of public bodies (the holders of public power: legislative, executive, judicial)
2. **Regional/Local autonomy** – Self government Regions and municipalities
3. **Associations** of persons and property created for the purpose of promoting the interests of protecting the environment
4. **Entrepreneurs**
5. **Individuals**- citizens of the Slovakia, foreigners, stateless persons

State – subject of environmental law

- **Legislative power**
 - National Council
- **Executive power**
 - Government of the SR
 - Ministries and other central bodies of state administration
 - Local state administration
 - specific bodies (Slovak environment agency, Slovak environment inspection)
- **Judicial power**
 - Courts

National Council of the SR

- unique constitutional and legislative authority of the SR
- its position is regulated:
 - Constitution
 - other acts
- **Competence of NC SR in the field of environmental protection:**
 - constitutional and legislative
 - creating
 - control
 - in internal and foreign policies

Competences of the National Council of the Slovak Republic

- act on the Constitution, constitutional acts and other legal acts and control their observance
- establish ministries and other bodies of state administration
- control the activities of the government and to negotiate trust/distrust of its members
-
- discuss fundamental issues of internal, international, economic, social and other policies
- give its consent before ratification of international treaties



Government of the SR

- supreme executive body
- collective body: Prime-minister, Vice-prime minister, ministers (the exact number is not specified)
- **Competence of Government in the field of environmental protection:**
- partially legislative (regulation of the Government)
- creating (creating advisory bodies)
- control

Ministries and other central bodies of state administration

- monocratic state body (headed by the Minister)
- Ministry is divided into sections (general director) and departments (director)
- basic advisory body to the Minister is „Kolégium“ – discuss basic and important issues of the Ministry
- Central state administration body in the field of environmental protection is **Ministry of environment of the SR** in accordance with the Act No. 575/2001 Z.z. organization of the government and central state administration

Ministry – competences (§16)

Ministry is the central state administration body which is

- responsible for and environmental protection, including:
- protection of nature and landscape;
- protection of water quality and quantity, and their rational use,
- protection of air, the ozone layer and climate system,
- ecological aspects of land use planning,
- waste management,
- assessment of environmental impact,
- ensuring a unified information system on environment and area monitoring
- geological research and exploration,
- protection and regulation of trade in endangered species of wild fauna and flora,
- genetically modified organisms.

Ministry provides within the care of the environment, in particular

- elaborates the concept of environmental care
- manages the execution of state administration in cases of environmental care
- provides a unified technical policy of environmental safety of buildings
- identifies priority of environmental policy
- provides information on the environmental conditions
- ensures financial management and implementation of budgetary policy of the ministry
- elaborates proposals for the inclusion of natural heritage of the SR to the World Heritage
- issue certificates of competence for individuals for specific activities (geology, construction, ...)

-
- Ministry cooperates also with other ministries and central state administration bodies (ME SR, MF SR, MARD SR, MESRS SR, ...)

Ministry of Agriculture and Rural development

- assesses of the development plans of the agriculture, forestry and water management
-
- creates basic documents relating to the quality and quantity of surface and groundwater
- ensures tasks arising from international agreements
- monitors and control of contaminants in the food chain
- ensures the protection of agricultural land, forest ecosystems, forest protection, hunting, fishing.



Local state administration

- The system of local state administration:
- **General local state administration bodies**
- (district offices, and within transferred competences-municipalities)
- **Specialized local state administration bodies**
- cancelled ESO reform

Decision-making process of state administration bodies

- **powers of the state administration** = ability to affect the legal status of individuals and legal entities based on the within existing legislation
- Bodies of state administration issue:
- **generally binding legal regulations**
- **individual administrative acts**

Individual administrative acts

1. **unilateral expressions of will** of the state administrative body (issued in accordance with legal acts)
2. **binding only for the recipient**
3. disrespect effects **liability for recipient**, competence to punish
4. disrespect can effect arising of other powers of body (eg regulation to remove the building in the case of unauthorized constructions, ...)

Decisions of bodies can:

establish, amend, revoke rights or duties of the subjects of environmental law (so-called constitutive legal acts), for example: remove illegal situation

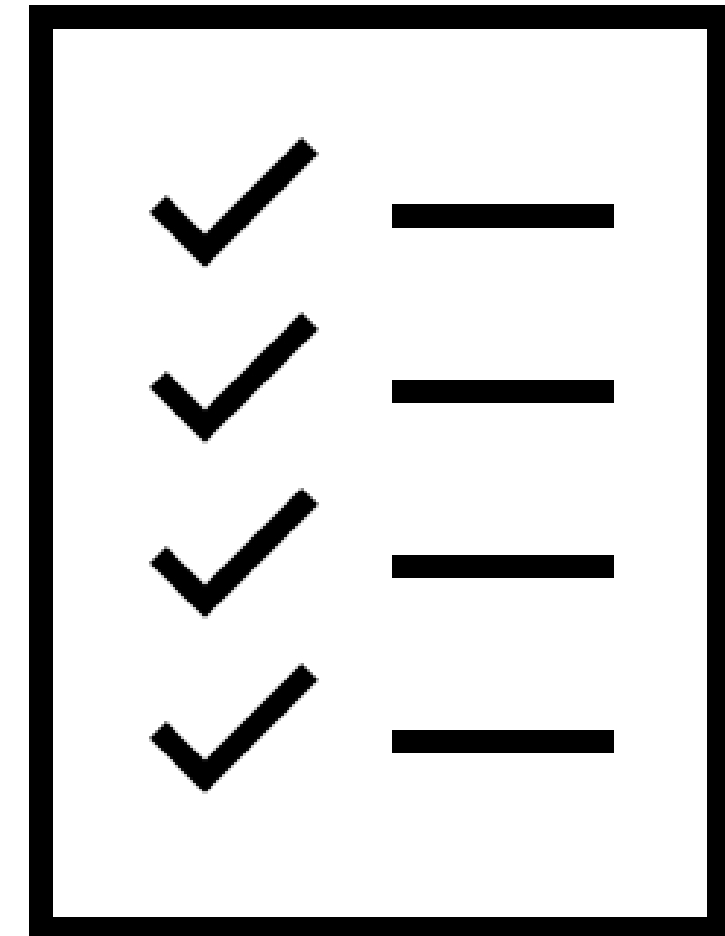
authoritative way to resolve the disputed issue by asserting the existence or absence of a right / duty or legal situation (the declaratory acts), for example whether the land belongs to agricultural land

**fundamental legal act- Act No. 71/1967 Coll. on Administrative Proceedings
(Administrative Procedure)**

Continues with the lecture II.

Short Summary / key messages of the lecture

1. Define the term „environment“.
2. Which subject of environmental law has the legislative power?
3. Name at least 3 competences of the Ministry of environment.



Thank you for your attention

Any question? Doubts?
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