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



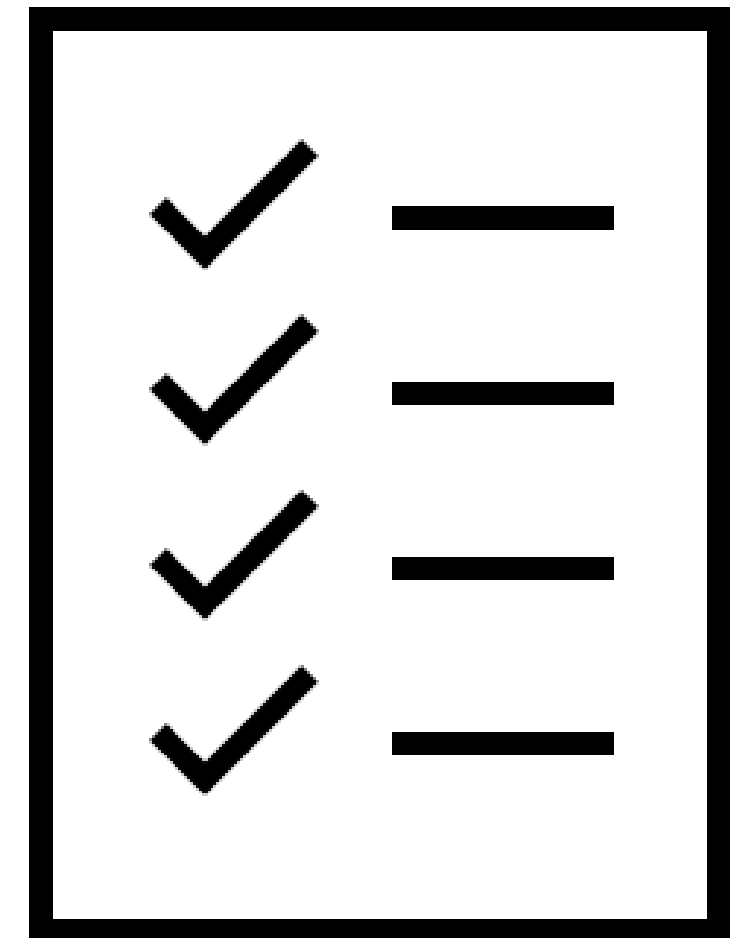
Environmental law – II.

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Program

1. Types of decisions in environmental law
 - 1.2. Permissions and approvals
 - 1.3. Authorization
2. Courts
 - 2.1. Constitutional court
3. Local government
4. Third sector
 - 4.1. Entrepreneurs
 - 4.2. Individuals



Program

5. European union

6. International environmental law (EIL)

6.1. Sources of EIL

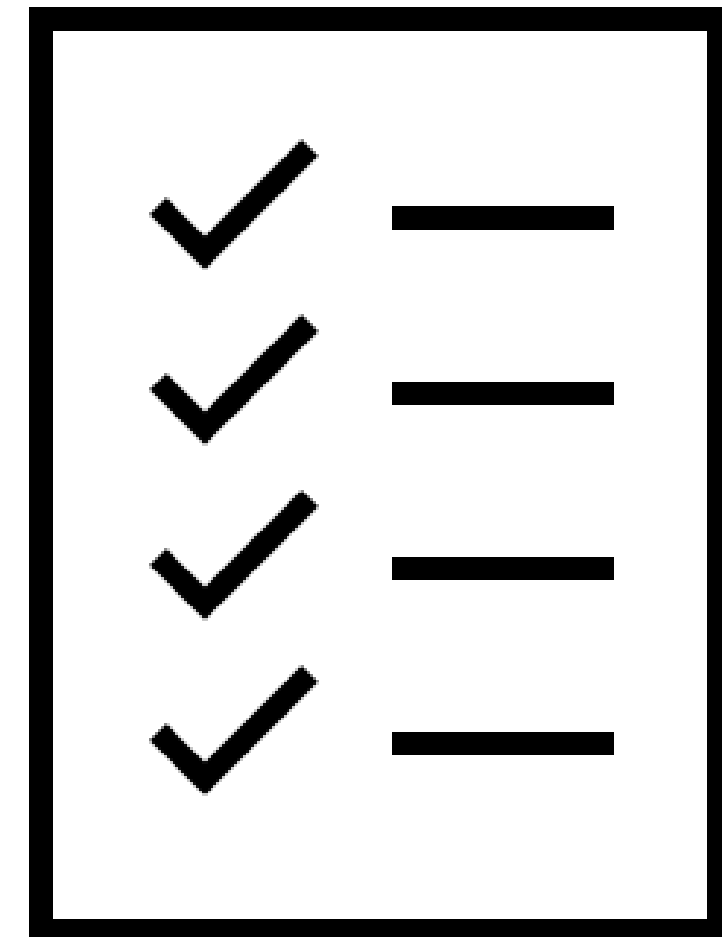
6.2. Principles of EIL

6.3. Subjects of EIL

7. United Nations

8. Council of Europa

9. International non – governmental organizations



Types of decisions in environmental law

- permission
- approvals
- binding instructions of measures
- prohibitions, commands
- conceptions, plans, programs
- statements and opinions
- authorization

Permissions and approvals

- issued in administrative proceedings
- constitutive character
- individuals and legal entities need to request the competent body for a permit or approval before the start of the intended action (eg, transportation, production, investment activity -> activity that will have impact on environment)

Permissions

- competent bodies permit activities – the act stipulate substantive conditions
if the conditions are fulfilled = permission can not be refused
- authorization shall specify the terms for activities that have impact for environment
(terms are part of the decision)

Approvals

- the applicant do not have legal claim
- depends on the administrative discretion



Authorization

- individual administrative act, which confers specific legal entity status executor of public responsibility in certain designated activities
- the issue is not a legal claim
- is not covered by Administrative Procedure
- e.g. authorization granted by the entrepreneur of the waste oils collection and processing of used vehicles ...

Courts

- basic guarantee of protection rights Article 46 Constitution

- right to judicial protection is understood as:

1. right of access to court

- ensure judicial system, which is established by law, independent and impartial and competent
- ensure that everyone whose rights are violated, that allows him/her to apply to the court without barriers

2. the right to a fair trial

Judicial protection – Administrative justice

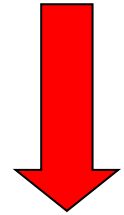
- In matters of the environment may be claimed at level:
- **national** (general courts- district court, county court, Supreme Court of the SR)
- The General Court shall proceed:
 1. based on remedies
 2. reviewing the legality of decisions of public authorities on the basis of actions
- **supranational** (European Court of Human Rights)

Constitutional Court

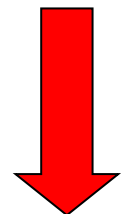
- competent protect the rights of the environment
- equal to National council and government
- subsequent constitutional control of constitutionality
- decision of the court could cancel to act -> decision has a power of the act (court does not have a competence to revise the act)



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- Constitutional Court decides on complaints of individuals of legal entities if submit a violation their fundamental rights or freedoms or human rights and freedoms of the international contracts and where the protection of these rights does not decide another court.



- principle of subsidiarity ÚS SR
- court is not optional for the subjects
- principle arbitrary



- Constitutional Court held, in particular in matters concerning the constitutionality of the review of public administration

Local government

- care of the environment is a fundamental local government functions
- municipalities and Higher territorial units (HTU)
- Basics legal framework:
 - Constitution of the SR
 - Act No. 369/1990 Coll. on municipalities
 - Act No. 221/1996 Coll. on territorial and administrative division of the SR
 - Act No. 302/2001 Coll. of regional self-government

Municipalities and HTU:

1. **corporations** (communities) associating persons having their permanent residence in the territory
 2. **legal entities** under the conditions set by law independently manages its own property and its funds
 3. **of public authority bodies** - along with the state administration bodies constitute public administration, undertaken by within the scope and in the manner stipulated in legal norms
- in the performance of self-government
 - in the performance of of local state administration tasks that were transferred to the municipalities

Residents of the municipalities/ HTU perform self-government:

- **directly** (referendum, election)
- **indirectly** (elected bodies)



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Core bodies

1. **Mayor of the municipality/chairman of the HTU** – administrative body in the matter of decision-making regarding to rights and duties of individuals and legal entities
2. **Deputies of the municipality/of the HTU** (Local government) - representative council of the municipality composed of members elected in direct elections of municipalities residents

Powers of local self- government

- **legislative power** (generally binding regulations municipality / HTU)
- in matters of self-government there is no need to have empowerment act
- **decision-making process** on the rights and duties of individuals and legal entities in the frame of administrative procedure
- **conclusion of public service contracts which have coordinating feature**
- other legal acts (issuing opinions, statements, information actions,...)

Competences of the municipality in the field of environment:

- maintenance and protection of cultural monuments, historic sites
- providing public services (managing municipal waste and minor construction waste management and maintenance of green areas, water supply, ...)
- creates and protects health conditions and healthy people live and work
- protecting the environment
- procured and approve planning documents, the concept of community development
- ensures the preservation of natural values

Competences of the HTU in the field of environment:

- procures, discuss and approve planning documents of the HTU and regional land use plans
- involved in the creation and protection of the environment
- cares for heritage protection
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Third sector

1. **property associations** (foundations)
 2. **associations of individuals and legal entities** (civil associations, non-investment funds, public utility organisations)
 3. **combinations of elements** (non-investment funds)
- they are legal entities
 - they have a private nature
 - are created and developed activities for the purpose of solving problems (protection of human rights and freedoms, research, protection and creation of the environment, health care, social and humanitarian etc. ...)



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- legal acts do not stipulate position of the third sector often
 - promoting the interests and rights is carried out indirectly -> through other constitutionally guaranteed fundamental rights and freedoms: the right to petition, freedom of expression and right to information, right to assemble, right to participate in public affairs,)

Entrepreneurs

- Act No. 513/1991 Coll. Commercial Code

Entrepreneur is in accordance with the act:

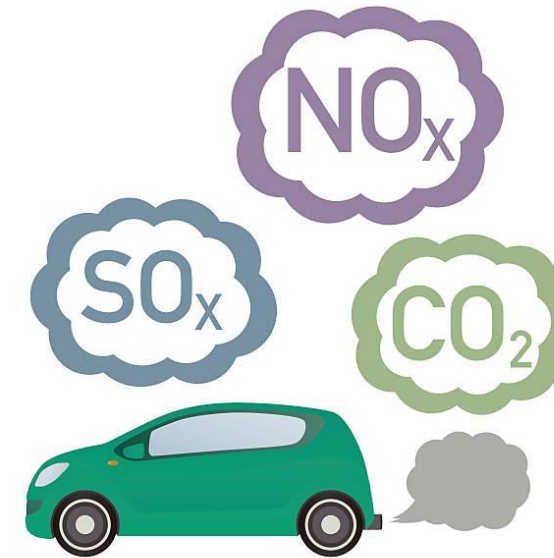
1. a party registered in the Companies Register
2. a party conducting a business pursuant to a Trading License (Act No. 455/1991 Coll. Trade act)
3. a party conducting a business pursuant to an authorization other than Trading License pursuant to special legislation
4. self employed farmer, who is entered in a register according to special legislation

Duties of entrepreneurs

- legal regulations governing the requirements relating to activities affecting the environment, resp. health (in particular the operation of activities involving the use of natural resources or quality of products)
- The administrative legal instrument which control impact of operations on the environment include:
 - 1. emission standards**
 - 2. operational requirements**
 - 3. requirements for professional competence**
 - 4. requirements for products**

Emission standards

- the maximum amount of a pollutant that
- can be (for a time) during the specific action
- discharged into the external environment (for example,
- emission limits, emission quotas)



Operational requirements

- requirements for devices with potential or actual
- danger to environment (prescribes a particular
- Method operate equipment or. Specifically the
- means to be used)
- -> Specific functional requirements: obligation operator to use the **best available technology**

Requirements for professional competence

- specific requirements for individuals who in operations or arrange this activity at a technical level

Requirements for products

- objective of legal regulation is to ensure minimize adverse impacts of products on the environment and on human health
- Specific duties entrepreneurs who implement activities affecting the environment are linked for the period:
 - **before carrying out such activity**
 - **during the operation of the activity**
 - **after its completion**
- before starting a business in the environmental impact entrepreneurs are obliged to request the competent authority for a permit or approval

Individuals

- general holders of the fundamental right to a favorable Environment as well as the right to timely and complete information about the state of the environment and the causes and consequences of this condition
- general holder of fundamental duty to protect and enhance Environment and cultural heritage
- individuals can act under the care of the environment in different positions (residents of the municipality/HTU, owners components of the environment, part of the public)

Individual = resident of municipality/HTU

- resident of the municipality is obliged to participate in the development and building upon the environment in the municipality

Individual = owner components of the environment

- content and the protection of property rights of any owner (individuals/ legal entity/ state) is equal

Individual = the public

- in specific cases that are stipulated in the legal norms the public can act as a formalized group and can have a position as a party in administrative procedure



Exercise of ownership right

Owner is entitled:

1. **to keep the thing**
2. **to use and benefit the thing** -> in accordance with the principle of sustainability
- limitation only for public interest
3. **dispose with the thing** -> realisation of exchange value of the thing but also complete consumption of the thing and its destruction

Limitation in the legal acts related to environment

- legal regulation of right of first refusal law
- limiting owner-destroying thing binds for the issue of administrative decision

The rights of persons which must be respect by the owner:

- entrance on forest lands
- free passage through the land
- collection of forest products for their own use
- ...

The rights of the owner:

- the right to be informed in writing of the intention to declare the matter for specially protected
- request the competent authority to declare private protected area
- input selection according to price regulations

European union

= EC- executive body (DGs)

- Commissioner for the Environment

Objective of DG Environment:

- to protect, preserve and improve the environment for present and future generations. To achieve this it proposes policies that ensure a high level of environmental protection in the European Union and that preserve the quality of life of EU citizens
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- makes sure that Member States correctly apply EU environmental law
- represents the EU in environmental matters at international meetings such as the UN Convention on Biodiversity
- finances projects that contribute to environmental protection in the EU (eg LIFE)
- http://ec.europa.eu/environment/index_en.htm



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- **Policy areas of DG Agri** (direct support, market measures, rural development, bioenergy, organic farming, climate changes, ..)

Agriculture and environment - the Common Agricultural Policy (CAP) has identified 3 priority areas for action to protect and enhance the EU's rural heritage:

- biodiversity and the preservation and development of 'natural' farming and forestry systems, and traditional agricultural landscapes;
- water management and use;
- dealing with climate change.

International environmental law (IEL)

Subject matter of IEL

= system of rules of conduct **of States** as subjects of international law for the protection of environment and rational use of natural resources, it would prevent environmental damage and threats to neighboring and geographically distant countries and areas excluded from the jurisdiction of States (eg the open sea)

Sources of IEL

- **IEL** began systematically developed after the adoption of the so-called Montreal program for the development and periodic review of environmental law that is adopted by UNEP Governing Council
- **International treaties** (bilateral, multilateral -> resolutions, declaration, charter,..)
(contained in the contract are obligations carried by the States voluntarily)
- **International convention** (eg. principles of IEL)

Principles of IEL

1. Principle of environmental protection

- international commitment related to cooperation within the environmental protection

2. Principle of full sovereignty of the State over their natural raw materials

- freedom of disposing of their natural resources accordance with its policy and other states must respected this right

3. The principle of no damage the environment beyond national jurisdiction

- Stockholm declaration, 1972)



Specific principles

- the principle of environmental assessment
- the principle of information exchange
- the principle of mutual consultation
- ...

Subjects of IEL

1. States
2. International organisations
3. Integration groups
4. Non- governmental interest organizations for environmental protection



United nations

On nature and landscape protection are involved in addition to several UN and intergovernmental organizations affiliated to the UN:

- UN Educational, Scientific and Cultural Organization (UNESCO)
- Food and agriculture Organisation of UN (FAO)
- World health organisation (WHO)
- World meteorological Organisation (WMO)
- Internation Atomic Energy Agency (IAEA)
- ...



UNEP – UN Environmental Programme

- **UNEP** = UN program that addresses environmental issues at the global and regional level
- supports the development of international cooperation
- monitor developments in the environment in order to ensure that governments pay attention to environmental problems, which have international importance
- it facilitates information gathering, study and exchange of knowledge about the environment

www.unep.org



Main priorities of UNEP

Objective:

- Ensure leadership and partnership in caring for the environment and motivating, informing, by enabling nations and peoples to improve their environment and their quality of life with the preservation for future generations
- climate change
- disasters and conflicts
- ecosystem management
- environmental management
- pollutants
- efficiency of natural resources
- ...

Characteristic UNEP

- Establish in UN conference on „Human Environment“ in Stockholm (1972)
- **Resolution of General assembly of UN 2997/1972**
- Composition: 58 nations elected for 4 years period by UN GA VZ (implementaion of measures performed UNEP Secretariat; site Nairobi, Kenya)

Sekretary: **Achim Steiner**

Financing: UN budget, voluntary contributions



Council of Europe

- The Council of Europe was established in 1949 to develop common and democratic principles throughout Europe under the European Convention on Human Rights and other relevant documents on the protection of individuals
- **Committee on the Environment**
- **Council Working Group on environmental law**

www.coe.int

www.coe.int/t/sk/com/about_coe/

COUNCIL OF EUROPE



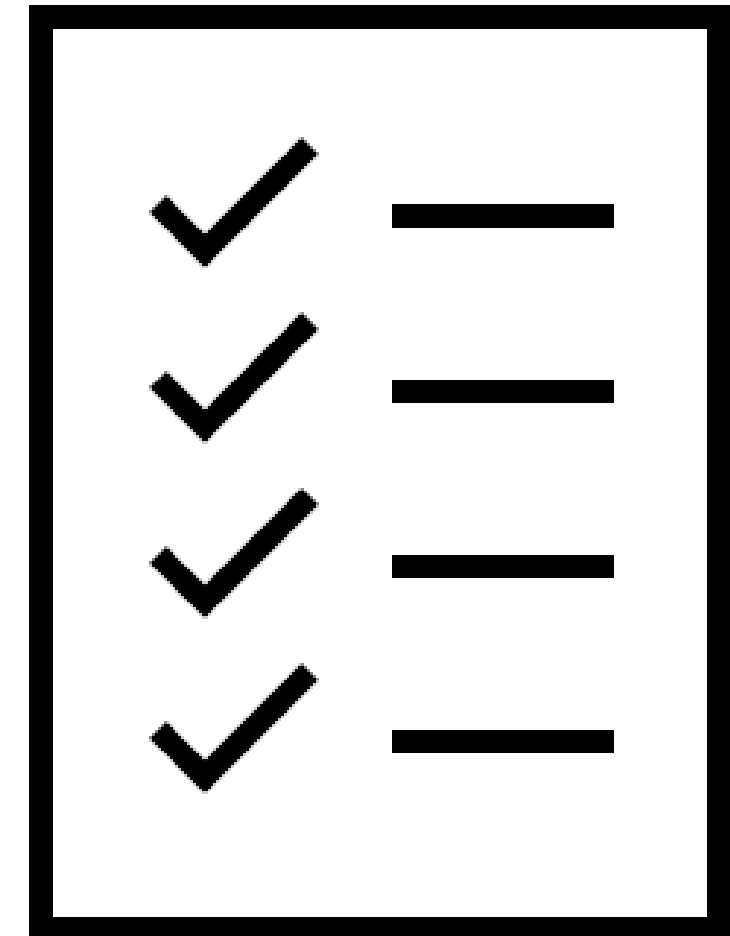
CONSEIL DE L'EUROPE

International non- governmental organizations

- **Greenpeace** – statement of opposition to nuclear testing
- www.greenpeace.sk
- **Movement of international earth friends** – protection of the ozone layer
- www.priateliazeme.sk
- **International Union for Conservation of Nature (IUCN)**
- www.seps.sk/zp/iucn/index.htm
- **GLOBE for Europe-** legal organisation
- www.globe.gov/r
- **International court of arbitration and conciliation in the environment** - Mexiko

Short Summary / key messages of the lecture

1. Name at least 5 types of decisions in environmental law.
2. What are the competences of the municipality in the field of environment?
3. What means the shortcome IEL?
4. Are the integration groups one of the subjects of IEL?
 - a) yes
 - b) no



Thank you for your attention

Any question? Doubts?
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