

Prof. Stevan Lilić, LL.D. Full Professor,  
Faculty of Law, University of Belgrade

### **Instruments of Environmental Justice**

Environmental justice has developed as a concept and a movement with specific emphasis on redefining the contents of the environment protection legislation and exercising the judicial protection of citizens' rights in cases related to environment protection. The environmental and social justice implies an efficient approach to the administrative and legal system for the purpose of protecting these rights and implementing the legislation in the field of health and environment protection. The Aarhus Convention essentially refers to the international human rights and the fundamental constitutional rights and freedoms. The access to justice, as defined in the Aarhus Convention, rests upon the basic human right to a fair trial. This link may be observed in the correlations between the Aarhus Convention and other international human rights protection documents, such as the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966) and particularly the European Convention on Human Rights and Fundamental Freedoms (1950).

The criminal legislation sanctions the behaviour which is contrary to the legislation dealing with environmental issues. The primary aim of the criminal law provisions of environmental character is to impose sanctions which are to prevent unlawful activity of legal subjects in the field of environmental law. In line with the Recommendation of the European Parliament and the Council of Europe, the environmental control (inspection) should be carried out by introducing the minimum criteria in the organization and exercise of the inspection activities in the field of environment protection, relevant proceedings (decision, applications, etc.) as well as the proper form of reporting on the activities of the inspection authorities.

The basic role of the environmental claim (complaint) is to prevent the activities that may damage or harm the environment. This claim may be used to prevent the instigation of activities that may harm the environment before the harm or damage actually occurs. Unlike the comparative law, our jurisprudence does not recognize non-pecuniary damages for sustained mental anguish or distress due to the negative impact of industrial and neighboring/adjacent facilities, irrespective of the fact that the right to a healthy environment is one of the basic constitutional rights which has been receiving a great deal of attention in Europe. The Serbia 2010 Progress Report submitted to the European Commission specifies (in Section 4.2.3. The Environment) that "generally speaking, Serbia has made moderate progress in the field of environment protection when it comes to fulfilling the European standards. The capacity to implement and enforce the legislation in this field remains to be strengthened"

*Key words:* environmental justice, Aarhus Convention, environmental criminal offences, environmental complaint, environmental control (inspection), Serbia 2010 Progress Report