

THE MECHANISM OF LEGAL RESOLUTION OF ENVIRONMENTAL CONFLICTS IN THE BALKAN COUNTRIES

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Abstract

This article analyzes the current situation regarding environmental conflicts in the Balkan countries, based on the specifics of their development and the implementation of EU legislation norms. The study reveals the current state of environmental legal relations in the region. The authors outline the directions for resolving environmental conflicts, identify pathways, and enumerate the characteristics of legal regulation of environmental disputes. Special emphasis is placed on the harmonization of legislation and the development of national mechanisms for handling complaints and mediation.

Keywords: environmental conflict; environmental dispute; legal regulation; mediation.

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1. Introduction

Environmental conflicts in the Balkan countries represent a growing challenge at the intersection of ecological concerns, economic interests, and legal frameworks. This article addresses the following research question: what are the existing legal mechanisms for resolving environmental conflicts in the Balkan countries, and how effectively are they implemented within the context of EU accession and the Aarhus Convention framework?

The methodology of this study combines comparative legal analysis and doctrinal research. It examines national environmental legislation in six Western Balkan countries — Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia — alongside relevant EU directives and international conventions. The analysis draws on academic scholarship, institutional reports, and specific case examples to assess both the formal legal architecture and its practical implementation.

The critical state of the environment, along with the clash of economic and ecological interests, often exacerbates environmental issues, leading to social protests and conflicting interests, which do not always have a clear legal definition of "environmental conflicts." The six Western Balkan countries are actively incorporating key EU laws related to hydropower projects into their national legislation; however, specific systemic failures in compliance with EU environmental frameworks are observed, hindering effective protection of the region's rivers (Pravuljac & Smolak, 2024, p. 4).

Conducting research on the legal category of "environmental conflict" is crucial in contemporary legal science, as it ensures a uniform understanding of this phenomenon and allows for the development of a sustainable concept for resolving environmental conflicts. Instead of the term "environmental conflict," the EU more frequently uses the concepts of "environmental disputes" and "environmental crimes," and the resolution of these disputes occurs within the framework of national judicial systems and administrative procedures. This article examines examples of legislative regulation of conflicts in the Balkan countries concerning environmental information, public access to decision-making, and justice, along with certain elements of the economic-financial mechanism in environmental protection and natural resource management.

2. The Mechanism of Resolving Environmental Conflicts in the Balkan Countries

In the Balkan countries, especially those on the path to EU accession, national legislation is actively harmonized with European norms. The legislation of the Balkan countries is aligned with EU directives concerning environmental protection, including air and water quality standards, waste management, and biodiversity protection. This alignment is a key element of their integration into the European legal space. For example, the general provisions of Albanian legislation state that the system of national environmental legislation largely follows the structure for transposing the relevant sectoral EU directives concerning environmental components and factors. The Environmental Impact Assessment (EIA) procedure, as well as procedures under special laws, represent administrative approvals for environmental interventions with a similar legal characterization as environmental permits.

The EU aims to transform former socialist countries by encouraging them to establish fully-fledged democracies and consolidated market economies. Europeanization in domestic policies and institutions for the effective implementation of EU environmental legislation provides a powerful tool for shaping the pathway of political transformation (Fagan & Sircar, 2015, p. 2).

In Europe, various conceptual approaches to environmental issues exist. The concept of "environmental justice" is actively discussed in terms of the divide between the center and the periphery of the EU. Distributive, procedural, and corrective injustices are identified, whereby peripheral EU countries bear a greater environmental burden despite being less responsible for historical and contemporary environmental damage and having less influence on environmental decision-making (Petrić, 2019, p. 222). Petrić identifies three main types of injustice: distributive (unequal distribution of environmental benefits and burdens), procedural (unequal access to the environmental decision-making process), and corrective (insufficient or unjust mechanisms for remedying already inflicted harm) (Petrić, 2019, pp. 218–222).

The concept of "environmental democracy" has developed in Europe over the past three decades based on three pillars: free access to information about environmental issues and quality; participation in decision-making; and ensuring compliance with environmental legislation. These indicators are regarded as fundamental rights of citizens.

Europeanization impacts environmental governance in the Western Balkan countries, particularly in the context of limited statehood.

Despite the adoption of numerous legislative acts in the post-Yugoslav countries since 1991, there is a noticeable lack of participation from NGOs and the academic sector in the preparation, definition, and implementation of the legislative framework. This indicates potential gaps in the effective implementation and enforcement of environmental legislation (Vukadinovic, 2023, p. 4). Analysis shows that despite significant differences in the adoption of environmental legislation among the countries, some progress has been made. In Serbia, the national budget for environmental protection and climate actions was increased by 50% in 2022 compared to 2021; however, implementation and enforcement require further improvement, particularly through strengthening administrative capacities at both central and local levels (Vukadinovic, 2023, p. 5).

In EU member states, there is a diversity of national mechanisms for handling complaints and mediation in the environmental sphere. At the EU level, there is currently no common framework that clearly defines how national authorities should respond to complaints regarding EU environmental legislation. Relevant provisions in EU primary law are contained in Articles 191–193 of the Treaty on the Functioning of the European Union (TFEU), which define the EU's environmental policy, including the precautionary principle, the principle of prevention, and the "polluter pays" principle. Due to the complexity of environmental law and the frequent absence of directly and individually affected persons, special complaint procedures are necessary.

The Aarhus Convention (UNECE, 1998) holds particular significance in regulating environmental conflicts. The Convention recognizes three pillars that form the basis for preventing and resolving environmental conflicts: (1) Access to Information; (2) Public Participation in Decision-Making; and (3) Access to Justice in Environmental Matters. Article 1 obliges the Parties to ensure that every individual is granted the right of access to environmental information, public participation in decision-making, and access to legal remedies, with the aim of preserving an environment that supports human health and well-being. Article 9(3) requires that members of the public be able to initiate administrative and judicial proceedings against acts or omissions that infringe environmental regulations. Pursuant to Article 3(1), the Parties are required to adopt the necessary legislative measures

to establish a consistent and transparent system for the implementation of the Convention. Article 4(1) stipulates that public authorities must make environmental information available to any requester without an obligation to provide reasons.

In the EU, Regulation (EC) No. 1367/2006 (the Aarhus Regulation) is in effect, aligning EU law with the provisions of the Convention and establishing mechanisms for resolving disputes between citizens, organizations, and EU institutions regarding environmental issues. The monograph by Barritt (2020, p. 13) analyzes how access to justice in environmental matters is ensured in the Balkans — a region at the epicenter of extreme climate events — examining how well the Balkan countries comply with the requirements of Article 9 of the Aarhus Convention.

Epstein (2011) analyzes national laws and enforcement practices in Southeast European countries concerning access to justice in environmental matters, including administrative and judicial systems, the role of courts, procedural remedies, and conditions for judicial injunctions. The researcher details various procedural remedies available in these countries, such as the possibility of appealing administrative decisions, the right to file claims for damages, and the application of judicial injunctions. Epstein (2011, p. 18) notes that the effectiveness of these remedies may vary depending on national legal traditions and the level of implementation of the Aarhus Convention. Todorović & Caranta (2025, p. 10) suggest that one can speak of the Europeanization of access to justice in environmental matters, yet point to existing challenges and potential gaps in the effective implementation of the Aarhus Convention's provisions. The ClientEarth report (Pravuljac & Smolak, 2024) highlights that despite the existence of legislative provisions, their practical implementation often faces obstacles.

Key legal documents regulating the resolution of environmental conflicts include the Directive on the Protection of the Environment through Criminal Law (Directive 2008/99/EC, as amended in 2024), which expands the list of environmental crimes and increases penalties for offenses such as illegal logging, unauthorized waste disposal, and violations of chemical handling regulations. The EU is also actively promoting Alternative Dispute Resolution (ADR) methods, such as mediation, for settling disputes outside of court. Precautionary measures and arbitration are considered in cases of potentially serious environmental harm as protective measures; however, the standard six-month arbitration

procedure applies without provision for expedited proceedings to prevent imminent environmental harm (UNECE, n.d., p. 166).

The number of non-governmental organizations (NGOs) in the Balkan countries addressing environmental issues has significantly increased in recent years, leading to heightened awareness of environmental matters and intensified debates regarding the transition from fossil fuels to more sustainable and green energy sources (Vukadinovic, 2023, p. 4). In some countries, such as Bosnia and Herzegovina and North Macedonia, mechanisms exist for citizen participation in processes that affect the environment; however, their effectiveness may be limited by implementation challenges.

The Strategic Environmental Assessment (SEA) Directive requires an assessment of the likely significant environmental effects of plans and programs, as well as any reasonable alternatives. Prior to the adoption of a plan or program, the draft plan or program and the environmental report must be evaluated by environmental authorities, and the public — including those affected or having an interest in the decision-making processes, including relevant NGOs — must be provided with early and effective opportunities to express their opinions.

3. National Legal Frameworks in the Balkan Countries

An examination of national legislation in the Balkan countries reveals broadly similar frameworks for environmental protection, largely shaped by the EU accession process. The Republic of Serbia's Law on Environmental Protection (Article 1) establishes a comprehensive framework for environmental safeguarding, guaranteeing the human right to a healthy environment and balancing economic development with ecological imperatives. Article 2 delineates system components, including sustainable resource management, biodiversity preservation, and pollution prevention, mitigation, and remediation.

The Environmental Protection Law of the Federation of Bosnia and Herzegovina articulates in Article 1 its overarching regulatory purpose as the preservation, protection, restoration, and enhancement of the quality and capacity of the environment. Article 3 of the same law affirms the right to a healthy and ecologically sound environment as a constitutionally protected right, explicitly recognizing that every individual is entitled to live in an environment conducive to health and well-being, thereby imposing both individual and

collective obligations to safeguard and improve environmental quality for present and future generations.

Significant jurisprudential developments in Bosnia and Herzegovina illustrate the potential for effective adjudication of environmental disputes. A prominent example is the case initiated in Tuzla by the Aarhus Center and Eko Forum Tuzla concerning excessive air pollution, which resulted in the partial annulment of the environmental permit issued to the Tuzla Thermal Power Plant — constituting the first judicial instance in which a major energy facility was deprived of its permit due to exceeding legally permissible emission levels. This case represents an important precedent in the domestic enforcement of environmental law.

Article 5(31) of North Macedonia's Law on the Environment provides a statutory definition of "interested public" as the segment of the public that possesses or may reasonably be expected to possess an interest in environmental decision-making processes. This category encompasses environmental civil society organizations established for the purposes of environmental protection, as well as individuals who are likely to be directly or indirectly affected by the outcomes of such decisions. Article 4(1) further includes ensuring the provision of environmental information to the public and facilitating their participation in activities related to environmental protection.

The purpose of Albania's Law on Environmental Protection, as articulated in Article 1, is to secure a high level of environmental protection and conservation, to prevent and mitigate risks to human life and health, and to promote quality of life for present and future generations. Article 4 of the same law proclaims that the prevention and mitigation of environmental pollution and degradation constitute a national priority, imposing this obligation upon all residents of the Republic of Albania, state authorities, and all natural and legal persons conducting activities within its territory.

The principles of environmental protection under Bulgaria's Law on Environmental Protection include the priority of pollution prevention over subsequent damage remediation, public participation and transparency in decision-making, the "polluter pays" principle, and access to justice in environmental matters. The role of the public in resolving environmental disputes is further regulated through specific provisions. Article 10 of the Law on Environmental Protection of the Federation of Bosnia and Herzegovina stipulates that every person and organization must have adequate access to environmental information held by administrative authorities, including information on hazardous

substances and activities in their communities, and the opportunity for participation in the decision-making process.

At the national level, the economic-financial mechanisms for natural resource management and environmental protection are established through the "polluter pays" principle. Article 11 of the Law on Environmental Protection of the Federation of Bosnia and Herzegovina affirms that the polluter pays for the costs of supervision, pollution prevention, and compensation for damage caused. Article 12 of the Law on Environmental Protection of Albania confirms that a natural or legal person whose actions or omissions affect environmental pollution bears financial responsibility, covering the costs incurred as a result of damage, expenses for assessing environmental damage, and evaluating necessary measures, including rehabilitation costs.

The legislation of the Balkan countries also contains provisions concerning the management of specific natural resources and levels of environmental pollution. The Water Law of Albania transposes Directive 2000/60/EC of the European Parliament and Council, establishing a framework for Community action in the field of water policy. Article 5(11) of the Law on the Environment of North Macedonia declares that environmental pollution means emissions into the air, water, or soil that may harm environmental quality, human life and health, or emissions that may damage material property or degrade biological diversity. Article 5(3) of the Law on Environmental Protection of Albania introduces the concept of "Environmental Damage" as damage caused by loss of any environmental components, human interference in ecological relationships, and/or the natural course of their development.

4. An Example of the Resolution of an Environmental Dispute in Bosnia and Herzegovina

Balkan authors note that conflicts often arise due to ineffective law enforcement and corruption, and attempts to resolve them through court or public participation face resistance. A specific example is the "Grgić Case" in Croatia, in which environmental activist Vesna Grgić, the head of the organization "Green Squad" (Zeleni odred), was sued for defamation by the state-owned company "Croatian Forests" (Hrvatske šume) for reporting on forest destruction. Commenting on this situation, Dušica Radojčić, chair of the Croatian Parliamentary Committee for Environmental Protection, emphasized the unlawful nature of

such conflict "resolution": defamation lawsuits — known as SLAPP suits (Strategic Lawsuits Against Public Participation) — are employed by financially powerful entities to intimidate those fighting for their environment and silence those who speak out about corruption and destruction (Radojčić, 2025).

The disputes surrounding the construction of small hydropower plants on the Kasindolska River in East Sarajevo constitute a salient example of contemporary environmental conflicts in which administrative and judicial proceedings intersect with pressures on civic activism. Environmental activist Sara Tuševljak, acting in cooperation with the Aarhus Center, engaged in public advocacy and legal action that resulted in the annulment of environmental and construction permits for certain small hydropower projects on this watercourse.

Subsequently, civil proceedings for alleged defamation were initiated against her in connection with public statements in which she raised concerns about a possible link between the small hydropower developments and the worsening of flood events. These proceedings have been characterized by civil society organizations as a SLAPP — a retaliatory measure aimed at intimidating an activist for her involvement in a matter of clear public interest. The proceedings against Sara Tuševljak remain pending and are being monitored by international organizations dedicated to the protection of human rights defenders and environmental activists, underscoring broader implications for freedom of expression and public participation in environmental decision-making (Ofak & Turudić, 2025, p. 157).

5. Conclusion

This article has examined the legal mechanisms for resolving environmental conflicts in the Balkan countries, demonstrating that the existing legislative framework is theoretically sound but practically constrained. The analysis reveals three principal findings.

First, the Balkan countries have developed legislative frameworks broadly aligned with the Aarhus Convention and EU environmental acquis, providing formal tools for access to information, public participation, and access to justice. National laws in Serbia, Bosnia and Herzegovina, Albania, North Macedonia, and Bulgaria all enshrine the right to a healthy environment, the "polluter pays" principle, and mechanisms for public participation in environmental decision-making.

Second, the practical effectiveness of these mechanisms is severely undermined by poor transposition into national legislation, a lack of political and judicial will to apply laws against influential interests, and the strategic use of SLAPP suits to silence environmental activists, as illustrated by the cases from Croatia and Bosnia and Herzegovina. Conflict resolution frequently requires international intervention — from the Compliance Committee of the Aarhus Convention, UN Special Rapporteurs, and civil society organizations — rather than the smooth functioning of internal legal systems.

Third, reports from the European Commission indicate that, although Western Balkan countries demonstrate a relatively high level of formal compliance with EU legislation, they lack an effective institutional structure for implementation and enforcement (Vukadinovic, 2023, p. 4; Börzel & Fagan, 2015, p. 8). The EU accession process imposes the adoption of over 450 legislative acts as a condition for membership, a burden accompanied by limited resources in countries managing complex political and economic transformations.

The original contribution of this article lies in its comparative mapping of formal legal provisions across six Balkan jurisdictions and its demonstration of the gap between legislative commitment and enforcement reality. Future research should examine the role of civil society organizations and international bodies in bridging this implementation gap, as well as the potential for harmonized ADR mechanisms at the regional level. Strengthening administrative capacities, judicial independence, and anti-SLAPP protections emerges as the most pressing requirement for achieving effective environmental conflict resolution in the Western Balkans.

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