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# Climate and Environmental Justice in the Western Balkans



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# I. Background

The Project on Climate and Environmental Justice (CEJ) Convergence in the Western Balkans, financed by Agence Française de Développement (AFD) and implemented by Expertise France (EF) seeks to improve access to justice and effectiveness of citizen participation in the field of environmental justice, thereby contributing to convergence towards European standards in Albania, North Macedonia and Montenegro.

Regional context of the project aims at improved common understanding, coordination and governance of justice in the field of environment and strengthened capacities of legal professionals in the field of environmental justice, as well as improved environmental justice reporting channels, legal remedies, their coordination and public accessibility. While Albania and North Macedonia will have more substantial engagement in the CEJ Convergence project, activities in Montenegro are limited to development of the comprehensive Assessment Report on Climate and Environmental Justice and Public Participation, which produced recommendations, serving as a tool for implementation of the EU accession priorities of Montenegro by focusing on key aspects of environmental governance.

The assessment comprehends legislative, institutional, and participatory frameworks and their implementation, aiming at identifying existing gaps and opportunities to enhance public participation and access to justice in environmental matters, which are essential components of democratic governance and environmental sustainability.

In addition, the project provided several opportunities for discussion among key actors of the environmental justice in Montenegro through two focus group sessions organized in Podgorica in October and December 2024, and the final National Workshop held in June 2025.

# II. Objectives of the CEJ Convergence National Workshop

The National Workshop in Montenegro (MNE) brought together a diverse panel of experts, stakeholders, and professionals from the justice and environment fields to collaborate on improving access to environmental justice, aiming at facilitating inter-institutional cooperation mechanisms. Preparations for the Workshop in MNE consisted of several meetings in May and June 2025, with justice and environment key players in Montenegro explaining and involving them in the drafting of the agenda. The preparation discussions were built on the conclusions and participation at the Round Table on the Fight against Environmental Crime, led by Environmental Protection Agency, in cooperation with the OSCE and the Embassy of France, held in October 2024 in Montenegro. The Action Plan summary produced by this Round Table on the Fight against Environmental Crime (Annex V) served as a guiding note to the preparation phase of the Workshop.

Based on the findings of the CEJ Convergence National Assessment Report, this event addressed strategic priorities and explored practical solutions inspired by the methodologies of the French Inspectorate's renowned report, *Une Justice pour l'Environnement, (Justice for the Environment: Evaluation mission on the relationship between justice and the environment)*<sup>1</sup>. The project team organised a number of meetings with the local stakeholders in anticipation of the workshop, during May and June 2025 to discuss key recommendations from the CEJ Convergence Assessment Report:

- Legal Alignment: Clarify laws to ensure consistency in environmental crime enforcement.
- Institutional Strengthening: Improve collaboration, training, and funding for key environmental justice actors.
- Community Empowerment: Support CSOs, activists, and legal professionals in advocating for environmental rights.
- Environmental Justice Tools: Create accessible resources, including a case law database, to aid enforcement.

Public Engagement and Transparency: Modernize communication, enhance participation rights, and strengthen accountability.

The full Report on Preparations for the CEJ Convergence National Workshop in Montenegro is available in Annex 1 Discussions and interviews with local stakeholders helped identify national priorities and finalize the workshop agenda. Montenegrin authorities were invited to take a leading role to ensure ownership. Some 28 participants from judicial, environmental institutions, and key NGOs attended to explore strategies for improving environmental justice in Montenegro. The participant list is in Annex 2.

Key lessons learned from preparing the CEJ Environmental Justice Workshop in Montenegro include:

- Early Engagement Builds Institutional Support: High-level meetings with key actors— Ministry of Ecology, EPA, judiciary, and EU negotiators—were crucial in securing early buy-in. These dialogues clarified institutional roles and enabled open discussion on complex issues.
- Political Will Exists but Needs Structure: Support from political leaders signals readiness for action. However, the absence of a coordinated inter-institutional strategy hinders effective implementation. Formal coordination mechanisms are needed to translate political will into sustained action.
- Legal Frameworks Are Progressing, but Capacity Gaps Persist: While Montenegro has aligned parts of its Criminal Code with EU standards, challenges remain. Environmental crimes

<sup>&</sup>lt;sup>1</sup> <u>Bruno Cinotti; Jean-François Landel; Vincent Delbos; Delphine Agoguet; Daniel Atzenhoffer,</u> 15 October 2019, "Une justice pour l'environnement, Mission d'évaluation des relations entre justice et environnement » <a href="https://www.justice.gouv.fr/sites/default/files/migrations/portail/art\_pix/rapport\_justice\_pour\_environnement.p">https://www.justice.gouv.fr/sites/default/files/migrations/portail/art\_pix/rapport\_justice\_pour\_environnement.p</a> df

- are often treated as misdemeanours, prosecutorial engagement is limited, and judges lack technical knowledge and legal clarity, especially on issues like biodiversity and remediation.
- Workshops Must Simplify Complex Topics: Organizing discussions around themes like prosecution, evidence, and reparation helped structure dialogue. However, gaps remain in defining environmental damage, setting evidence standards, and clarifying judicial responsibilities.
- Legal and Technical Actors Need a Common Language: Disconnection between legal and technical professionals—due to differing terminology and expectations—undermines case outcomes. Joint training and integrated procedures are essential to close this gap.
- Environmental Crimes Lack Legal and Cultural Priority: Eco-crimes are still seen as low priority both socially and judicially. Addressing this requires stronger legal precedents, targeted litigation, public awareness, and professional education.
- Local Context Requires Tailored Approaches: Challenges like centralized governance, low environmental literacy, and unclear ownership laws complicate enforcement. Future efforts must be locally grounded, informed by lessons from regional peers like Slovenia and the Czech Republic.

# III. Agenda and Participants

# **Workshop Focus & Discussion Topics**

The workshop was designed in two sessions. The first part of the workshop was a plenary session with presentations and discussions. After the opening speeches that sparked discussion and encouraged active engagement, local experts and activists explored key aspects of environmental justice and public participation. This was followed by a session sharing insights from the French project "Une Justice pour l'Environnement." During the second part, the workshop facilitated discussions of three working groups revolving around the critical questions discussed also during the preparation phase:

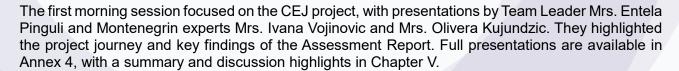
- How do we prosecute and judge environmental cases?
- How to build robust evidence in environmental litigation and ensure legal assistance for environmental cases (including the financing of this expertise).
- How do we repair and rehabilitate damage?

Each group featured a panel of at least two experts from leading institutions, who shared guiding principles of their work. A moderator in each group facilitated discussion, emphasizing participants' roles within the group theme. These sessions provided a platform to showcase local practices on prevention, prosecution, and rehabilitation of environmental damage, while encouraging dialogue between stakeholders and speakers.

At the end of the session, moderators presented the outcomes of the group discussions (see Chapter IX for a detailed overview).

Participants (see full list in Annex 2) represented key actors in environmental justice in Montenegro, with high representatives providing the introductory speeches:

- Mrs. Anne Marie Maskay, Her Excellency Ambassador, French Embassy in Montenegro
- Mr. Predrag Zenovic, Chief Negotiator with EU, Ministry of **European Affairs**
- Mr. Zoran Dabetic State Secretary, Ministry of Ecology, Sustainable Development and Northern Region Development
- Mrs. Jelena Grdinic, General Director of Directorate for Civil and Criminal Legislation, Ministry of
- Marina Radulovic, Head of Department for International Cooperation, Judicial Training Center





- Presentation by **Professor Maja Kostic-Mandic** (Faculty of Law, University of Montenegro) on the novelties introduced by the new EU Directive on Environmental Crime;
- Presentation by **Attorney Danilo Vujanovic** of the on-going court case (Hrkovic vs. Montenegro) violation of human right to private/family life by high air pollution in Plievlja, Montenegro, whose first instance judgement in favour of plaintiff in front of the Basic Court of Podgorica represents a precedence in the Montenegrin environmental case law;
- Presentation of the public participation case by environmental activist Mrs. Gordana Djukanovic, related to civil action against the re-opening of the Brskovo mine in Mojkovac, Montenegro, which ended with the termination of the contract with the concessionaire; and



 Presentation by Mrs. Azra Vukovic, Director of the NGO "Green Home" related to the most recent case of environmental activism against the Government's plan and contract signed with the investor for turning the protected area of Ulcinj beach into a touristic complex.

Presentations of the second session are available in Annex 4 of this report, while a resume of the findings, discussions and conclusions of this session is presented in the Chapter VI. The international expert on Environmental Justice for the CEJ project, Honorary French Judge, Mr. Vincent Delbos addressed participants. He shared insights from the French inspectorate and its report "Une Justice pour l'Environnement", emphasizing the cross-sectoral collaboration among stakeholders, lawyers, researchers, and others, in tackling prevention, prosecution, and rehabilitation. His presentation is available in Annex 4, with a summary in Chapter VII. The afternoon session was an interactive group exercise focused on identifying conclusions and recommendations to address barriers to environmental justice in Montenegro. Participants were divided into three groups for this purpose.

## Group I

Panellists for the Group I were representatives of the Judges (Basic Court of Podgorica) and Judicial Training Centre. Group discussion was moderated by Olivera Kujundzic, CEJ Local Expert on Environmental Justice. The main questions for discussion were the following:

- How do we prosecute and judge environmental cases?
- How to comply with the new Environmental Crime Directive in Montenegro?
- How to coordinate actions between Min of Justice and Min of Ecology?
- How to strengthen environmental expertise of judges and prosecutors?

# Group II

Panellists for the Group I were representatives of the Ministry of Justice, Environmental Inspection and Judicial Training Centre. The discussion was moderated by Attorney Danilo Vujanovic. The initial question to start group brainstorming was: How to build robust evidence in environmental litigation and ensure legal assistance for environmental cases (including the financing of this expertise)?

### **Group III**

Panellists of the third group represented Environmental Protection Agency and Ministry of Ecology, Sustainable Development and Development of the Northern Region. The third panellist was Mr. Vincent Delbos, International Environmental Justice Expert for the CEJ Project. The discussion was moderated and conclusions presented by Ms. Ivana Vojinovic, Local Expert on Public Participation. The main discussion questions serving as the starting point were:

- How do we assess and rehabilitate environmental damage?
- Role of EPA and other actors?
- Role of Judges and prosecutors on calculating the damage?
- What are the means (expertise and infrastructure) needed?

The findings and conclusions of the three groups, formulated as recommendations from the national workshop, are presented in Chapter IX. As noted earlier, the "Environment Meets Justice" workshop built on prior CEJ project activities and the outcomes of the October 2024 Round Table on combating environmental crime, organized by EPA in collaboration with the OSCE and the French Embassy. The conclusions from that Round Table are included in Chapter VIII.

# IV. Introductory Session

In the introductory session, Her Excellency, Madam Ambassador, Mrs. Anne Marie Maskay, from the French Embassy in Montenegro, and the following high officials from Montenegrin institutions gave very inspirational welcome and introductory speeches which led to further discussions during the workshop:

- Mr. Predrag Zenovic, Chief Negotiator with EU, Ministry of European Affairs
- Mr. Zoran Dabetic State Secretary, Ministry of Ecology, Sustainable Development and Northern Region Development
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- Mrs. Jelena Grdinic, General Director of Directorate for Civil and Criminal Legislation, Ministry of Justice
- Marina Radulovic, Head of Department for International Cooperation, Judicial Training Center

Mrs. Anne Marie Maskay, Her Excellency Madam Ambassador, French Embassy in Montenegro, opening the workshop, noted that this project comes at an opportune moment, as France is very committed to supporting Montenegro's accelerated accession to the EU. Hence, The French Embassy consequently providing assistance, whether financial or through expertise, with the aim to achieve the necessary reforms. She also reminded participants on a few proceeding key events and their significance:

- Round table on Fighting Environmental Crime that France organised last October, on which today's event builds-up, with the aim of strengthening inter-institutional cooperation, particularly among the Ministries of Ecology and Environment, the judiciary, the judicial training centre, law enforcement agencies, and civil society organizations.
- The statement of the Deputy Prime Minister for Security, Defence, Fight Against Crime, and Internal Policy, who recently declared that the fight against environmental crime had become one of Montenegro's national priorities within the broader fight against organized crime.
- Launching of the National Environmental campaign "Čuvaj da te čuva" (Protect it, so it protects you) on the occasion of Environment Day, 5<sup>th</sup> of June. As a part of the campaign, the digital platform Cuvaj.me has also been launched. The platform is designed for reporting and monitoring environmental violations and crimes. Citizens now have a way to report environmental issues and violations via the platform, track the status of their reports, see which institutions and inspectors are handling the case, and receive information on the outcome, including whether those responsible have been prosecuted and in what manner.

Her Excellency Madam Ambassador extended her best wishes for a successful workshop and reaffirmed France's commitment to supporting the advancement of environmental justice in Montenegro.

Mr. Predrag Zenović, Chief EU Negotiator at the Ministry of European Affairs, emphasized that environmental justice is more than a legal or ecological issue. It is a key pillar of Montenegro's EU accession. As a self-declared ecological state, Montenegro has both a symbolic and practical duty to ensure environmental rights are fully enforced, not just acknowledged on paper. He highlighted that environmental justice lies at the intersection of two of the most challenging negotiation chapters: Chapter 23 (Judiciary) and Chapter 27 (Environment). Although still emerging across European legal systems, it remains essential. Environmental crime, once neglected, is now being addressed with greater urgency. Mr Zenović stressed the importance of aligning Montenegro's criminal code with the EU Environmental Crime Directive and strengthening the capacity of judges, prosecutors, inspectors, and civil society to tackle violations. Environmental justice, he concluded, is where the rule of law meets sustainability, and without it, genuine EU alignment is impossible. It is not a checklist item, but a transformative objective reflecting the values Montenegro aims to uphold.

Mr. Zoran Dabetić, State Secretary at the Ministry of Ecology, Sustainable Development and Northern Region Development, reaffirmed the Ministry's commitment to strong environmental policies rooted in Montenegro's identity as an ecological state. Priorities include strengthening institutions and legal frameworks to ensure environmental protection and sustainable development, in line with EU standards, particularly the Environmental Criminal Law Directive, which mandates criminal penalties for serious environmental offences. He emphasized that environmental crime endangers ecosystems and public health and must be tackled through robust national legislation. Montenegro's Constitution guarantees environmental rights, and its Criminal Code defines related offences. The Ministry collaborates with national and international partners, including the Ministry of Justice, judiciary, police, and the European Commission under Chapter 27—to improve enforcement. Support from the OSCE and targeted training programs are vital. Moving forward, the Ministry aims to boost capacity and apply sanctions, with progress measured by final court rulings in environmental cases.

Mrs. Jelena Grdinic, General Director of Directorate for Civil and Criminal Legislation, Ministry of Justice highlighted that enforcing environmental law requires strong commitment from all public institutions. She stressed the importance of close collaboration between the Ministry of Justice and the Ministry of Ecology, which is already well-established. She noted that both ministries worked together on amending Montenegro's Criminal Code in 2023 to incorporate elements of the new EU Environmental Crime Directive, even before its official adoption. A second round of harmonization is now underway. Mrs Grdinić also pointed out that environmental crime in Europe has increased by 5–7% and now ranks as the fourth most prominent form of organized crime. She pointed out to the fact that the rate of environmental crime in Europe increased by 5-7% and that it is the 4<sup>th</sup> activity on the list of the most prominent organized crimes.

Mrs. Marina Radulović, Head of the Department for International Cooperation at the Judicial Training Center, presented the Center's role in training judges and prosecutors on environmental law. She explained that training needs are assessed annually using a methodology developed with Council of Europe support through the project "Accountability and Professionalism of the Judicial System in Montenegro". The assessment includes:

- Online questionnaires for judges and prosecutors to express training needs
- Focus groups (criminal, civil, misdemeanour law)
- Interviews with Commercial and Administrative Court reps
- Interviews with training beneficiaries

# Key activities (2023–2024):

- CoE HELP e-course on Environmental Protection & Human Rights (40 participants)
- Regional Conference on enforcement of environmental law (Luxembourg/EIPA)
- Academy of European Law (ERA) participation
- In-service training: environmental crime, Criminal Code articles (307, 310, 311), forest crimes, biodiversity (GEF7)
- Workshops on environmental crime, corruption, organized crime, and human rights (OPDAT, ICITAP, OSCE, etc.)

#### Planned for 2025:

- Trainings on environmental crime, nuclear terrorism, public health, national/EU frameworks
- EU environmental law training under CLEUIM (Jean Monnet Chair)

# Challenges identified:

- Only 2 mandatory training days/year for judges and prosecutors
- No in-house trainers specialized in environmental protection
- No specialization in judiciary (except juvenile cases); case assignment is random
- Language barriers if no interpretation in international trainings
- Environmental law is not covered in Initial Training Programme.

# V. Presentation of CEJ Project and Goal of Workshop

The first morning session was dedicated to the CEJ project content results presented by the Team Leader Mrs. Entela Pinguli and Montenegrin local experts Mrs. Ivana Vojinovic and Mrs. Olivera Kujundzic. Presentations were focused on the project journey and the final outcomes of the Assessment Report. Presentations are available in the Annex 4 to this report.

Team Leader Mrs. Entela Pinguli outlined key aspects of the project: with a €2 million budget, it runs in Albania, North Macedonia, and Montenegro until November 2026. A key objective of the project is to improve access to justice in environmental matters in Albania, North Macedonia and Montenegro. Although still in its early phase, activities in Montenegro will conclude at this stage. The project targets three main groups: the judiciary, environmental and climate actors involved in the Aarhus Convention, and civil society organizations. Its slogan is: **Ecology and Justice meet in the Western Balkans**. The project has three main components:

- 1. Access to justice in environmental matters,
- 2. Public participation in environmental decision-making, and
- 3. Participation of the civil sector in the field of environmental justice.

Mrs. Pinguli also explained the objective and the main features of the workshop including its methodology with plenary and workgroup discussions. She emphasised the workshop outputs in terms of practical actions and recommendations for the environmental justice priorities, keeping in mind three main questions. How to prevent? How to prosecute and judge? How to repair and rehabilitate? The content of the workshop was built around practical case studies on:

- How to deal with ecological emergencies before the courts?
- How to ensure solid expertise before the courts (including the financing of this expertise)
- How to assess compensation for environmental damage?
- How to build robust evidence in environmental litigation?

Following the workshop, a report summarizing the main needs and tools identified by stakeholders would serve further to raise awareness of the issues and proposed solutions among a broader audience. Participants were also informed that this is not the final CEJ Convergence project activity, Montenegrin representatives will join counterparts from Albania and North Macedonia at a regional roundtable in 2026.

# **Presentation of the CEJ Project Assessment - Recommendations**

# Public Participation

Mrs. Ivana Vojinovic, CEJ Public Participation Expert provided the audience with the following findings, conclusions and recommendations from the CEJ Assessment Report:

Montenegro benefits from the Aarhus Convention, granting citizens' rights to environmental information, participation, and legal protection, supported by five Aarhus Centers and over 20 years of civic activism.

## **Current Status and Challenges in Public Participation:**

- Montenegro has completed numerous environmental assessments but needs better coordination and compliance with EU standards.
- Public participation exists but requires improvement due to institutional inertia, limited capacities, and public distrust.

# **Recommendations for Enhancing Public Participation:**

- Institutions must implement participation effectively, enabling citizens' rights and training officials.
- Modernizing information systems, scheduling public discussions outside holidays, securing funds, and ensuring accessible information are essential.
- Tailored approaches for target groups, avoiding technical jargon, quality control of assessments, strategic communication, and media campaigns are recommended.

## **Inclusive and Innovative Participation Strategies:**

Local development processes would better focus on women and vulnerable groups, introduce participatory budgeting locally, use online tools for consultations, maintain environmental focus, and strengthen Aarhus Centers to advance ecological democracy.



# **Conclusion on the Importance of Public Participation:**

Public participation is a democratic necessity requiring institutions to listen and respond; progress depends on every invitation, workshop, and community feedback.

# Environmental Justice

In continuation of this session, Mrs. Olivera Kujundzic, CEJ Environmental Justice Expert presented additional recommendations related to enhancement of the environmental justice in Montenegro:

**Overview and Recommendations of CEJ Environmental** Justice Assessment: The CEJ Convergence Project in the Western Balkans focuses on enhancing environmental justice through legal precision, institutional strengthening, coordination mechanisms, community legal empowerment, and practical tools.

Legal Precision in Environmental Justice: Precise definitions of criminal acts and misdemeanours are essential to avoid lenient regulation and blanket norms, ensuring effective enforcement of environmental laws.

Institutional Strengthening and Coordination: Participation of national institutions in environmental organizations and creation of specialized departments improve environmental justice, supported by coordination bodies with legal limits on ongoing cases.



Legal Empowerment of the Wider Community: Community-led legal empowerment, supported by free legal aid, media, pro bono lawyers, and NGOs, builds knowledge and power for people to address environmental injustices themselves.

Tools for Environmental Justice: Guidance materials, examples from European courts and ECJ case law, and a searchable case law database by Criminal Code articles facilitate effective environmental justice enforcement.

# VI. Environmental Justice Hot Topics in Montenegro

The second morning session was marked by priorities related to environmental justice and public participation in decision-making in environmental matters:

- Presentation by the Professor Maja Kostic-Mandic (Faculty of Law, University of Montenegro) on the novelties introduced by the new EU Directive on Environmental Crime;
- Presentation by the Attorney Danilo Vujanovic of the on-going court case (Hrkovic vs. Montenegro) violation of human right to private/family life by high air pollution in Pljevlja, Montenegro, which first instance judgement in favor of plaintiff in front of the Basic Court of Podgorica represents a precedence in the Montenegrin environmental case law;
- Presentation of the public participation case by environmental activist Mrs. Gordana Djukanovic, related to civil action against the re-opening of the Brskovo mine in Mojkovac, Montenegro, which ended with the termination of the contract with the concessionaire; and
- Presentation by Mrs. Azra Vukovic, Director of the NGO "Green Home" related to the most recent
  case of environmental activism against the Government's plan and contract signed with the
  investor for turning the protected area of Ulcinj beach into a touristic complex;

Presentations of the second session are available in the Annex 4 to this report while a summary of presentations and live discussion which followed them are presented in this chapter.

# **Presentation: Legal Aspects of Environmental Protection**

**Professor Maja Kostić-Mandić, PhD**, fulltime professor at the Faculty of Law, University of Montenegro, focused on the 2024 EU Environmental Crime Directive and its impact on Montenegro. She also presented key aspects of European environmental law from her recent book *Legal Aspects of Environmental Protection*.

**Directive 2004/35/EC – Environmental Liability**: Applies the "polluter pays" principle. Operators must prevent or remedy damage. It



imposes administrative fines but does not grant private individuals the right to compensation, which is governed by national or international civil law.

Directive (EU) 2024/1760 - Corporate Sustainability Due Diligence: Introduces combined legal responsibility:

- Administrative: fines up to at least 5% of global turnover
- Civil: victims may claim damages for harm caused by a company's negligence or failure to act with due care, and may sue in an EU court

**Directive (EU) 2024/1203 – Environmental Protection through Criminal Law:** Criminalizes acts that harm or risk harming the environment or human health, if they breach EU law. It sets minimum rules only.

**New Elements of the 2024 Directive:** a) New environmental criminal offences; b) "Qualified criminal offence" introduced, akin to ecocide; c) Violation of permits becomes a criminal offence; d) Harsher penalties; e) Mandatory reporting to the European Commission; f) Prosecutorial investigative tools; and g) obligations for EU member states Public participation in line with national laws.

Professor Kostić-Mandić's book "Pravni aspekti zaštite životne sredine", came out in September 2024 at the Law Faculty in Podgorica. She stated that this book could serve as a key academic and

awareness-raising resource. She stressed that environmental law is still underdeveloped in Montenegro and hopes the book will drive education, application, and litigation, especially in cases where the state is held accountable.

## **Discussion topics included:**

- Unlawfully issued polluter's permit.
- Weak penalties for environmental crimes.
- Environmental Liability Directive excludes private claims.

A summary of the discussion follows at the end of this chapter.

# Presentation: Court Case Hrkovic v. Montenegro

Mr. Danilo Vujanović, Attorney at Law, presented a recent court case that gained attention in Montenegro and the wider region. On February 18, 2025, the Basic Court in Podgorica ruled in favor of Elzana Hrković, a long-time resident of Pljevlja, who sued the state for failing to act on severe air pollution. The court awarded compensation for non-pecuniary damages. Vujanović emphasized that the ruling sends a strong message; the state must be held accountable for environmental protection. Though the case is still ongoing, it marks a significant legal precedent for environmental rights and state responsibility. His presentation, titled Access to Justice – Air Pollution in Plievlja, also referenced relevant European case law, including Tatar v. Romania (2009).

## **Key legal principles** discussed:

- The state has a duty to establish legal and administrative systems to prevent environmental harm, especially when it affects private and family life.
- These actions must be timely, coordinated, and based on strategic plans like the National Strategy and Air Quality Plan.

Mr Vujanović expressed doubt about success on appeal, noting that a final ruling could encourage similar lawsuits from other Pljevlja residents, potentially imposing high costs on the state. **Discussion points** included:

- Use of environmental data in litigation
- Avoiding the need to prove direct causation between pollution and health issues
- Provision of legal aid

Further details are provided in the final section of this chapter.

# **Presentations: Public Participation Cases**

The other two presentations were focused on hot environmental topics related to public participation in decision-making in environmental matters. The first one, related to the mine Brskovo already had a positive epilogue as a result of environmental activism. The Government of Montenegro terminated the contract with the concessionaire in May 2024. The other case is the most recent and relates to adoption of the Law confirming the Agreement on Economic Cooperation and the Agreement on Cooperation on Tourism and Real Estate Development with the United Arab Emirates. The Law was adopted in an emergency procedure, without public consultations and gave to those agreements' primacy over domestic legislation in case of any dispute.



'ARE YOU ASHAMED?' A protest of citizens in front of the Government of Montenegro

# The Case of Brskovo Mine

Mrs. Gordana Djukanovic, Environmental Activist, presented the public's role in opposing the Brskovo mine, highlighting key stages of the civil campaign for a cleaner environment. Summary of presentation:

- Brskovo, which was once a medieval mining center, was reactivated from 1976 to 1991, causing serious soil and water contamination with heavy metals and carcinogenic dust.
- In 2010, Montenegro granted a concession for further ore exploration and exploitation.
- Public hearings exposed strong opposition due to environmental risks, lack of transparency, conflict of interest concerns, archaeological site destruction, and threats to tourism and infrastructure.
- ENVIRONMENTAL JUSTICE CONVERGENCE OAFD E
- Citizens and activists mobilized embassies, UNESCO, officials, and media to raise awareness. Despite initial local government support, political shifts and public pressure sustained the resistance.
- A government-formed commission unanimously recommended ending the concession due to non-compliance.
- In May 2024, the government terminated the concession over unmet obligations and environmental damage.
- Public support for the movement continues, with new initiatives like the Minamata Convention project, focused on pollution identification, clean-up, biomonitoring, and legal harmonization to safeguard health and the environment.

# The Case of Velika Plaža, Ulcini

Mrs. Azra Vukovic, Director of the NGO "Green Home" presented the timeline and key concerns of the Velika Plaža case. Case timeline:

- On 18 February 2025, a public tender was announced for leasing public beaches, extended to 11 March.
- "Eagle Hills Montenegro" was registered on 6 March and submitted a bid for 19 beaches by 11 March.
- Between 21–28 March, Montenegro and the UAE signed agreements on economic cooperation and tourism.
- In April, the Government formed the Ministry of Public Works, with Mrs. Majda Adžović appointed as Minister on 14 April.
- Despite public protests and NGO criticism, the agreements were fast-tracked and approved by Parliament on 22 April.

# Biodiversity and environmental significance of Velika Plaža:

- The area hosts over 1,000 plant and 1,200 animal species, including 37 protected plants and 171 conservation-relevant animals.
- It contains unique habitats protected under the EU Habitats Directive and plays a vital role in absorbing CO2 and mitigating climate change.

#### NGO concerns and actions:

- A broad coalition of NGOs and activists formed around shared goals, joint actions, and community support.
- They raised legal concerns about lack of transparency, direct negotiations, and emergency legislative changes favouring investors.
- Violations cited include breaches of the Aarhus Convention, national laws (Nature Protection, Environmental Impact Assessment), and conflicts with strategic plans.
- The project threatens biodiversity, protected areas, and local livelihoods in tourism, fishing, and agriculture, with no clear economic benefit assessment.

# Summary of Discussions after Presentations

Discussions continued through the presentation sessions, focusing on several important topics:

- Proving that a polluter's environmental licence or consent was issued unlawfully
- Strengthening penalties for environmental crimes
- Why the Environmental Liability Directive excludes private persons
- Distinguishing criminal acts from misdemeanours
- Use and accessibility of environmental data
- Proving the link between pollution and health impacts
- Ensuring access to legal aid
- Role of media in environmental activism
- Importance of participating in public consultations

How to prove that a polluter's licence was issued unlawfully? A key step is establishing control mechanisms to prevent such cases. Professor Kostić-Mandić highlighted the new Environmental Crime Directive provision for "autonomous criminal offense" when specific permit terms (e.g., emission limits) are violated. These crimes can be punished even without direct harm, due to environmental risk.

How to make penalties for environmental crimes stricter? Montenegro's Criminal Code already allows strict penalties (3 months to 20 years in prison, fines from €200 to €20,000). However, judges have broad discretion and often impose light sentences. The issue lies in low awareness among the judiciary about the seriousness of environmental crimes.

Why is the Environmental Liability Directive not applicable to private persons? The Directive applies only to business or professional activities, especially high-risk sectors. Private actions (e.g., homeowners misusing pesticides) are excluded.

How to distinguish criminal acts from misdemeanours? Criminal acts usually involve intent or recklessness, while misdemeanours often carry strict liability. In environmental cases, judges may struggle to see the "essence" of the crime, as such offences often lack visible victims.

Use of environmental data: In Hrkovic v. Montenegro, Mr. Vujanović used EPA data to support the claim. However, the judge required confirmation from the Public Health Institute that pollutant levels above legal limits pose health risks-showing the need for better judicial understanding of environmental evidence.

How to prove the link between pollution and health? Scientific causation is hard to establish. In this case, legal causation was key: the state failed to provide frameworks to prevent harm. The case relied on Article 8 of the European Convention on Human Rights (private and family life). Prior to UN recognition of the right to a clean environment, this linkage to health was essential.

How to ensure access to legal aid? Court procedures can be long and costly, making them inaccessible, especially for poor communities often most affected by pollution.

Importance of media in environmental activism: Media amplifies issues and applies pressure. Mrs. Djukanović noted that even the report about expelling the Brskovo mine director (due to lack of permit) influenced public perception of the investor's intent.

Importance of public participation: Public hearings are critical. Mrs. Vuković stressed the upcoming hearing on revising the protection status of Velika Plaža. This process defines legal boundaries and could affect future spatial planning, making participation essential.

# VII. Sharing the French Experience

Mr. Vincent Delbos, honorary judge and former General inspector at the French Ministry of Justice, opened his presentation with a poetic tribute to Montenegro's landscapes. He emphasized that despite natural beauty, ecological crises threaten these environments and called for strong judicial responses. He praised Montenegro for enshrining ecological values in its Constitution ahead of many EU countries, including France, which only adopted an environmental charter in 2005. As a long-time magistrate, Mr. Delbos helped shape France's environmental justice system. In 2005, he co-authored a report to restructure environmental policing, highlighting fragmented regulations across ministries. In 2019, he led the Justice for the Environment report in France, offering 21 recommendations, most now adopted, to better integrate environmental concerns into legal systems.



# Methodology used for the reports:

- 300+ interviews with judges, prosecutors, investigators, NGOs
- Consultations with academics and researchers
- Comparative analysis (EU, US, Brazil)
- Roundtables with legal and environmental stakeholders

# Three guiding questions:

- How can environmental damage be better prevented?
- How can enforcement be more effective?
- How can environmental damage be repaired?

#### **Prevention:**

- Local bodies coordinating inspections and investigations
- Stronger links between administrative and criminal courts
- Emergency procedures presuming environmental damage as urgent
- Easier access to justice for citizens and NGOs

#### **Enforcement:**

- Better coordination of police and specialized units
- Judicial powers granted to environmental officers for investigations

# Repair:

- Prioritize in-kind restoration; financial compensation only when needed
- Implement ecological restoration projects.

#### **Key reforms in France:**

- Specialized environmental courts (since 2021) within Court of Appeal jurisdictions
- Handle complex criminal environmental cases and exclusive jurisdiction over environmental liability disputes (including compensation for ecological damage)
  - Apply EU and national environmental liability rules
- Stronger criminal procedure tools
  - Harsher penalties
  - DPA-type settlements (up to 35% of company turnover)
  - Emergency proceedings for urgent environmental threats
- Essential elements of effective environmental justice:
  - 1. Rapid response mechanisms for imminent environmental harm
  - 2. Scientific expertise to support judicial decisions
  - 3. Collaboration among legal actors (lawyers), environmental inspection bodies and NGO through shared training and tools

# Strategic priorities aligned with EU efforts:

- Common legal definitions for environmental crimes
- Cross-border investigations
- Improved cooperation between justice systems

# New EU priority (June 2025):

The Council of the EU now lists disrupting environmental crime networks as a top objective, marking a historic shift in recognizing environmental crime as a major threat requiring urgent legal action across Europe.

# VIII. Working Groups' Conclusions and Recommendations

The afternoon session featured an interactive exercise aimed at developing conclusions and recommendations to address obstacles to environmental justice and public participation in environmental decision-making in Montenegro. Participants were divided into three groups:

# Working Group I

Group I included panelists from the Basic Court of Podgorica (Judges) and the Judicial Training Center. The discussion was moderated by Olivera Kujundžić, CEJ Local Expert on Environmental Justice. Key questions addressed included: how to prosecute and adjudicate environmental cases, how to align with the new Environmental Crime Directive, how to improve coordination between the Ministry of Justice and the Ministry of Ecology, and how to strengthen environmental expertise among judges and prosecutors. The group identified the following challenges and recommendations:

**Challenges:** Many cases on illegal logging, hunting and fishing, i.e. "traditional" crimes based on theft and poaching, while newly defined environmental crimes, such as environmental pollution, are usually dismissed. Judges hesitate to use the knowledge of environmental court experts.

**Possible solutions:** The French model, which focuses on a specific type of environmental crime over a set period (e.g., one year), involves all relevant actors and promotes learning by doing through improved inter-institutional coordination. This approach has shown practical success. Mr. Vuk Vujisić, an environmental activist, shared a Montenegrin example aligned with this model. In 2021 and 2022, the Water Inspection filed 32 criminal complaints against legal entities for illegal gravel extraction, then prosecuted as "theft of natural goods." At the same time, the EPA launched procedures under the Law on Environmental Liability. The effort involved multiple institutions, including the Ministry of Environment, police, inspections, and the Government. In 2023, this coordinated action led to illegal gravel extraction being recognized as a separate criminal offense in Montenegro's Criminal Code. The new provisions include stricter penalties, up to 3 years in prison and fines, and up to 8 years if the activity damages riverbeds, shores, or regulatory structures. Mandatory confiscation of equipment used in the crime is also now required.

# Challenge: New Directive on Environmental Crime

The Ministries of Ecology and Justice have begun cooperating on this issue and will engage an expert through the PLAC project to assess Directive transposition and suggest improvements. The project will also support a joint study visit to an EU member state. The Criminal Code is under revision and will be submitted to the EU Commission. The third is strengthening judges prosecutors through more training. Montenegro currently has 263 judges and 105 prosecutors, with the judiciary facing understaffing and case



backlogs. By law, they must attend at least two training days per year. The Judicial Training Center offers around 100 training days annually. In September 2025, a training on environmental law will be held in cooperation with the Ministry of Ecology and the GEF 7 project, with participation from the new environmental police unit.

**Possible solutions:** Increase the number of judges and prosecutors. Given their limited number, it is more feasible to specialize them in multiple areas rather than only in environmental law, which represents a small portion of cases. Another key step is updating the annual training needs questionnaire to explicitly include environmental crime, ensuring it is reflected in future training programs.

# Working Group 2

Group 2 included panelists from the Environmental Inspection and the Environmental Protection Agency. The discussion, moderated by Attorney Danilo Vujanović, began with the question of how to build strong evidence in environmental litigation and secure legal assistance, including funding for expert support.

Challenges: The group highlighted several issues: a blurred line between misdemeanours and criminal offences, limited willingness to investigate and prosecute, poor communication between legal and technical experts, and delays in evidence collection that often result in cases being dismissed. Quantifying environmental damage is also difficult due to gaps in data collection. Additionally, communication between responsible institutions is often slow and ineffective.

Possible solutions proposed by the group included prioritization of environmental cases, education of actors at all levels of jurisdiction, improved communication between prosecutors and environmental experts, and assignment of dedicated police officers for environmental cases. The group also discussed expanding the concept of the subsidiary prosecutor, which allows victims to pursue prosecution if the State Prosecutor rejects a complaint. Though currently limited to crimes with identifiable victims, the group suggested recognizing the EPA or specialized NGOs as victims in environmental crimes. This could encourage more thorough investigations, allow NGOs and the EPA to gather evidence, and even pursue prosecution themselves. Participants agreed this would strengthen cooperation between prosecutors and other key stakeholders.

# Working Group 3

Panellists in Group 3 included representatives from the Environmental Protection Agency, NGO Centre for Protection of Birds (CZIP), and Mr. Vincent Delbos, International Environmental Justice Expert for the CEJ Project. The discussion was moderated and conclusions were presented by Ms. Ivana Vojinović, Local Expert on Public Participation. Key questions included how to assess and rehabilitate environmental damage, the roles of EPA, judiciary, and other actors, and what expertise and infrastructure are needed. The working group identified the following challenges and recommendations:



Challenges: Participants stressed the absence of a clear, standardized methodology for assessing environmental damage, creating obstacles in court where judges often expect precise financial valuations—even in complex cases like harm to protected species. The EPA shared the example of Đalovića Cave, where the death of over 100 bats could not be properly addressed due to the lack of wildlife valuation criteria. Despite repeated proposals to amend the Law on Environmental Damage, no changes have been made, and awareness and training on the law remain limited. Enforcement is weak in areas such as illegal gravel extraction, with eco-crimes often not treated seriously. Prosecutors frequently demand extensive material evidence, leading to delays or dismissals. Still, positive examples were noted, including halting road construction above Mogren Beach and stopping illegal building in a protected area, demonstrating progress is possible when the right tools are in place.

Broader systemic challenges include limited training for legal professionals, inadequate insurance coverage for environmental damage, centralized decision-making with weak local capacity, staff shortages in key institutions, and lack of skilled environmental journalists capable of in-depth reporting.

#### Possible solutions:

- Develop standardized methods to assess environmental damage, covering economic, ecological, and non-material aspects, to support court procedures.
- Provide regular training for judges and prosecutors, with support from international experts if
- Raise awareness of existing legal frameworks, ensuring laws like the Law on Environmental Damage are understood and applied effectively.
- Reform insurance systems to better cover various types of environmental damage.
- Establish interdisciplinary expert panels for independent, reliable environmental assessments in legal cases.
- Improve coordination between environmental authorities, prosecutors, and the judiciary to ensure eco-crimes are treated seriously.
- Decentralize environmental governance to strengthen local-level capacity and action.
- Boost public engagement through education, outreach, and training of journalists to report accurately on environmental issues.
- Learn from international best practices, such as France's civil liability system, which recognizes different types of damage and supports both compensation and restoration.
- Promote regional and EU study visits and knowledge exchange to strengthen Montenegro's environmental damage assessment and response capacity.

# IX. Summary of Recommendations

Montenegro stands at a critical juncture in its EU accession journey. Chapter 27 is not merely a box to tick, but a proving ground for real reform. The recommendations from the recent workshop serve as both a warning and a blueprint: while political will exists, enforcement remains fragmented, and institutional silos persist. The focused enforcement model, inspired by the French strategy, has already demonstrated its disruptive potential. Montenegro's criminalization of illegal gravel extraction is a precedent that must now become the norm, not the exception. A decisive shift is needed: institutional cooperation must be formalized through a Permanent Inter-Agency Working Group empowered to act, not merely convene. Judicial inertia must be countered by smart specialization, urgent training reform, and prioritization of eco-cases in the prosecutorial workflow. The secondary prosecutor mechanism must be reformed to give voice to the environment itself. NGOs and institutions like the EPA must have standing when the State remains passive. Above all, enforcement must be seen as a test of sovereignty, not compliance. With the EU's 2024 Directive as a benchmark and French support as a catalyst, Montenegro has the chance to position itself as a regional leader in environmental justice. However, it will require the courage to institutionalize change, the discipline to enforce laws without exception, and the vision to see environmental protection not as a burden of accession, but as its greatest legacy.

The following recommendations, refined through the Montenegro workshop, reflect a strategic and actionable roadmap for strengthening environmental justice and aligning national efforts with EU standards.

# **Focused Enforcement Model**

One of the most impactful strategies discussed was the adoption of a focused enforcement model, inspired by the French approach. This model concentrates institutional efforts on a specific type of environmental crime for a defined period, mobilizing all relevant actors in coordinated, targeted action. It not only strengthens enforcement, but also fosters inter-agency collaboration and practical learning through real cases. A successful example in Montenegro was the joint initiative from 2021 to 2023 that led to the criminalization of illegal gravel exploitation as an autonomous offense with stricter penalties.

#### **Institutionalized Cooperation**

To sustain such targeted action, participants stressed the need for strong inter-institutional coordination. Effective collaboration among the Ministry of Ecology, the Environmental Protection Agency, the judiciary, inspection services, the police, and civil society is critical for consistent enforcement and effective prosecution of environmental crimes. Regular dialogue and joint case preparation between prosecutors and environmental experts were identified as essential to overcoming frequent dismissals due to insufficient evidence or misinterpretation of technical issues. This level of cooperation should be formalized and continuously strengthened.

### **Establish a Permanent Inter-Agency Working Group**

To anchor this cooperation structurally, the establishment of a permanent inter-agency working group was recommended. As a standing body, it would ensure timely, multisectoral responses to environmental crimes. Membership should include police, customs, inspectorates, judiciary, protected area managers, NGOs, and eco-ambassadors. Its functions would include coordinating joint operations (e.g., border controls), aerial surveillance, and high-impact enforcement campaigns modeled after successful EU initiatives.

# **Transposition of the EU Environmental Crime Directive (2024/1203)**

In anticipation of the new EU Directive on environmental crime, the Ministry of Ecology and the Ministry of Justice have already initiated joint efforts for legal harmonization. An expert will be engaged through the PLAC project to assess legislative alignment and propose necessary adjustments. A study visit to an EU member state will support institutional learning, and revisions to the Criminal Code will be submitted to the European Commission as part of this process.

# **Judicial and Prosecutorial Capacity Building**

Training and capacity-building for judges and prosecutors remain critical. Montenegrin law currently mandates only two days of training per year, which is insufficient given the complexity of environmental cases. The annual training needs assessment should be updated to explicitly include environmental crime, ensuring programs are demand-driven. Thematic specialization linking environmental law with related fields such as corruption and organized crime can help judicial actors build meaningful expertise without overhauling staffing structures.

## **Strengthening the Environmental Police Unit**

The newly established environmental police unit should be actively included in training efforts. Given their frontline role in identifying and documenting offenses, enhanced understanding of legal procedures and coordination mechanisms will improve case quality and prosecutorial success. Building specialized experience within this unit can lead to more consistent enforcement and stronger collaboration with judicial institutions.

#### **Prioritization of Environmental Cases**

Accelerating the processing of environmental cases in the courts and prosecution offices is essential to maintaining deterrence and public trust. Delays often result in missed opportunities for justice, making timely resolution a priority.

# **Expanding Subsidiary Prosecution**

To address enforcement gaps, the expansion of subsidiary (or secondary) prosecution mechanisms was proposed. Current law permits only direct victims to assume prosecution when the State Prosecutor declines, yet environmental crimes often lack a clearly identifiable victim. Amending the Criminal Procedure Code—or advancing case law—should allow institutions such as the EPA or specialized NGOs to act as legitimate claimants, thereby enhancing accountability and enabling civic participation in enforcement.

# **Standardized Environmental Damage Assessment**

Courts require clear, legally recognized methodologies to assess the full scope of environmental damage, be it ecological, economic, or non-material. Standardized guidelines will allow for consistent quantification, especially in complex cases such as biodiversity loss or damage to protected habitats, and ensure that restitution and remediation measures are enforceable and fair.

# **Interdisciplinary Expert Panels**

Creating panels of qualified experts, spanning ecological, legal, and economic domains, will support independent, evidence-based damage assessments for use in both legal proceedings and policymaking. These panels can also advise on tailored restoration strategies grounded in local contexts

## **Improved Awareness of Legal Tools**

Government agencies, local authorities, civil society organizations, and citizens require greater awareness of the legal instruments available, such as the Law on Environmental Damage. Education and outreach campaigns targeting both professionals and the general public will help bridge the implementation gap and foster a culture of accountability.

## **Insurance Reform for Environmental Damage**

Montenegro's insurance frameworks should be reviewed and adapted to adequately cover a wide range of environmental risks. Efficient compensation schemes reduce the burden on public budgets and judicial systems, enabling faster recovery and remediation efforts.

#### **Decentralization and Local Capacity-Building**

Local governments must be empowered to take on environmental governance responsibilities through clear mandates, sufficient resources, and technical expertise. This decentralization will increase responsiveness, strengthen trust, and promote locally driven solutions to environmental harm.

# **Enhanced Public Engagement and Communication**

Public awareness and participation are vital. Investing in the training of journalists and communicators to report accurately and constructively on environmental issues will drive broader societal engagement. Moreover, citizens must be informed of their rights and mechanisms for legal recourse when environmental harm occurs.

# Adoption of International Best Practices

Finally, Montenegro should continue to study and adapt successful international models—such as France's differentiated civil liability framework, which recognizes material, moral, and ecological damage. Comparative study visits and expert partnerships can accelerate institutional learning and support the tailoring of best practices to national needs.

# X. Lessons Learned from the Montenegro **Workshop Process**

The preparation and successful delivery of the Montenegro workshop offered valuable lessons that will inform and strengthen stakeholder engagement processes in Albania and North Macedonia as they prepare for their respective national round tables. One of the key takeaways was the importance of early and strategic engagement with a diverse range of institutional actors, including the judiciary. enforcement agencies, ministries, and civil society, which fostered a shared sense of ownership and ensured relevance across sectors. The inclusive and well-structured format of the workshop enabled open dialogue, cross-sectoral learning, and a deeper understanding of environmental justice challenges and opportunities. Furthermore, the use of concrete national examples, such as the focused enforcement model and legal alignment with EU directives, enhanced credibility and inspired actionable thinking. Finally, the visible political support and alignment with the EU accession agenda provided momentum and legitimacy to the discussions, underscoring the need for both high-level buy-in and technical depth when shaping similar dialogues in Albania and North Macedonia. These insights provide a strong foundation for designing impactful and context-sensitive engagement processes in the two countries, and can be distilled into the following key lessons learned:

# 1. Early Engagement Builds Institutional Support

High-level meetings with key actors—Ministry of Ecology, EPA, judiciary, and EU negotiators—were crucial in securing early buy-in. These dialogues clarified institutional roles and enabled open discussion on complex issues.

#### 2. Political Will Exists but Needs Structure

Support from political leaders signals readiness for action. However, the absence of a coordinated inter-institutional strategy hinders effective implementation. Formal coordination mechanisms are needed to translate political will into sustained action.

#### 3. Legal Frameworks Are Progressing, but Capacity Gaps Persist

While Montenegro has aligned parts of its Criminal Code with EU standards, challenges remain. Environmental crimes are often treated as misdemeanours, prosecutorial engagement is limited, and judges lack technical knowledge and legal clarity, especially on issues like biodiversity and remediation.

#### 4. Workshops Must Simplify Complex Topics

Organizing discussions around themes like prosecution, evidence, and reparation helped structure dialogue. However, gaps remain in defining environmental damage, setting evidence standards, and clarifying judicial responsibilities.

## 5. Legal and Technical Actors Need a Common Language

Disconnection between legal and technical professionals—due to differing terminology and expectations—undermines case outcomes. Joint training and integrated procedures are essential to close this gap.

# 6. Environmental Crimes Lack Legal and Cultural Priority

Eco-crimes are still seen as low priority both socially and judicially. Addressing this requires stronger legal precedents, targeted litigation, public awareness, and professional education.

#### 7. Local Context Requires Tailored Approaches

Challenges like centralized governance, low environmental literacy, and unclear ownership laws complicate enforcement. Future efforts must be locally grounded, informed by lessons from regional peers like Slovenia and the Czech Republic.

# XI. List of Annexes

Annex I. Reports on preparatory phase Missions for the National Workshop MNE

Annex II. List of Participants of the National Workshop MNE

Annex III. National Workshop Agenda MNE

Annex IV. PowerPoint Presentations of the National Workshop MNE (8)

Annex V. The Action Plan summary produced by this Round Table on the fight against environmental crime.