

2019-02-18	
<i>Case Summary posted by the Task Force on Access to Justice</i>	
Slovakia: Case re local air quality plan	
<i>1. Key issue</i>	Abolition of the Integrated Scheme to Improve Air Quality for the scheduled pollutants in the area of air control management based on the action of the public concerned, which claimed breach of its right to participate in the decision-making process and non-compliance with the requirements laid down in the Act No 137/2010 Coll. on Climate and Article 13 of the Directive 2008/50/ES of the European Parliament and of the Council of 21 May 2018.
<i>2. Country/Region</i>	Slovakia
<i>3. Court/body</i>	Regional Court in Bratislava (Krajský súd Bratislava)
<i>4. Date of judgment /decision</i>	2018-11-13
<i>5. Internal reference</i>	5S/31/2017
<i>6. Articles of the Aarhus Convention</i>	Art. 2 (5) and art. 7
<i>7. Key words</i>	Act No 137/2010 Coll. on Climate, Integrated Scheme, participation of the public concerned, public concerned, air quality, air quality plan
<i>8. Case summary</i>	
<p>On 15 December 2016, the defendant published on its website a document titled the Integrated Scheme to Improve Air Quality for the pollutants X, Z, Z in the area of air control management of the cadastral area N. The document was claimed to be published in accordance with the procedure prescribed by the Act No 137/2010 Coll. on Climate.</p> <p>The public concerned – citizens associations and natural persons have brought an action before the Regional Court in Bratislava, aiming at abolition of this public administration measure due to non-compliance with the statutory procedures regulating the right of the public for information and participation in the discussions on the proposal. They further claimed that the Integrated Scheme did not comply with all of the requirements under the provision of Section 11 of the Act on Climate, which transposed into the Slovak legal order the Article 23 of the Directive 2008/50/ES of the European Parliament and of the Council of May 21, 2018 referring to the Annex XV to the Directive.</p> <p>The defendant maintained that in relation to the preparation and declaration of the Integrated Scheme all the statutory procedures guarantying the public concerned the right for information on the environment and the participation in the decision-making process on the environmental issues were respected, but the public concerned has not exercised this right. In relation to the claimed shortcomings of the content requirements in terms of the Annex XV to the Directive (which uses the term “air quality plan”) it stated that the implemented measures serve the purpose of the Act, they are unambiguously time-bound, the Integrated Scheme meets all the content requirements required by the Act on Climate and the European legislation.</p>	

The Regional Court found the existence of the reasons for annulment of the decision consisting in breach of the statutory procedure when informing the public on the proposal of the scheme and the possibility to consult its content and present comments thereto, in non-compliance with the Act on Climate in relation to informing the public on discussion on the proposal and in failure to present information on reasons for the adoption of the scheme and participation of the public in its preparation. All of these reasons prevented the public from participating in the preparation of the Integrated Scheme. It further concluded that the measures included in the Integrated Scheme are not measurable, controllable and time-bound, which is required by the Act on Climate and they do not contain the requirements laid down in the Annex XV to the Directive.

Due to the proven substantive and procedural misconduct the court has annulled the measure of the defendant and referred the case back to it. The defendant has not used its right for appeal and the decision of the Regional Court is therefore final.

<i>9. Link to judgement/ decision</i>	Pending
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