

COUNTRY STUDIES CONCERNING STATE AID



Croatia
Justice and Environment 2024

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Background

In March 2021, the Aarhus Convention Compliance Committee (ACCC) found in favor of J&E member organization ÖKOBÜRO and its member, GLOBAL 2000, in the communication they had brought, namely [ACCC/C/2015/128 \(EU\)](#). Specifically, the Committee [found that](#):

- (a) *By failing to provide access to administrative or judicial procedures for members of the public to challenge decisions on State aid measures taken by the European Commission under article 108 (2) TFEU that contravene European Union law relating to the environment, the Party concerned fails to comply with article 9 (3) of the Convention;*
- (b) *By failing to provide any procedure under article 9 (3) of the Convention through which members of the public are able to challenge decisions on State aid measures taken by the European Commission under article 108 (2) TFEU that contravene European Union law relating to the environment, the Party concerned also fails to provide an adequate and effective remedy regarding such decisions as required by article 9 (4) of the Convention.*

Accordingly, the Committee made the following recommendation:

The Committee, pursuant to paragraph 35 of the annex to decision I/7, recommends that the Meeting of the Parties, pursuant to paragraph 37 (b) of that annex, recommends that the Party concerned take the necessary legislative, regulatory and other measures to ensure that the Aarhus Regulation is amended, or new European Union legislation is adopted, to clearly provide members of the public with access to administrative or judicial procedures to challenge decisions on State aid measures taken by the European Commission under article 108 (2) TFEU that contravene European Union law relating to the environment, in accordance with article 9 (3) and (4) of the Convention.

Questions

IS ADMINISTRATIVE STATE AID CASE LAW AVAILABLE IN YOUR COUNTRY?

There is a register of planned state aid programs and granted state aid. However, this service, run by the Ministry of finance, is only at disposal to providers of state aid. Based on the data from the register the Ministry issues yearly analytical reports. The following article 9 of Regulation 651/2014 state aid above 500 000 Euros are published on the website of the state aid provider. They contain a link to the document based on which the state aid was granted (general document like state aid program).

There is also a list of approved stated aid cases in a form of Excel sheets available at website of Ministry of Finance divided on minor and larger: <https://mfin.gov.hr/istaknute-teme/koncesije-i-drzavne-potpore/drzavne-potpore/objava-podataka-o-dodijeljenim-drzavnim-potporama-i-potporama-male-vrijednosti/3555>.

IS JUDICIAL STATE AID CASE LAW AVAILABLE IN YOUR COUNTRY?

There is no specific database where only judicial state aid case law is available, but one can find it on case law portal of the Supreme Court of Croatia (Vrhovni sud Republike Hrvatske). It contains case law of different types of courts.

<https://sudskapraksa.csp.vsrh.hr/>

The database of case law is searchable so one can find cases related only to state law using work “drzavne potpore” (state aid in Croatian).

Also, on IUS INFO <https://www.iusinfo.hr/> which is a Legal Information portal with legislation, legal literature and case law is available.

The database of case law is searchable so one can find cases related only to state law.

<https://www.iusinfo.hr/sudska-praksa/pretraga?searchQuery=dr%C5%BEavne%20potpore>

However, to see the whole case, and not only short basic information, but one also has to be a user and it is not free of charge, the price varies from 90-140 Euros per month. The site is owned by private company LEXPERA d.o.o.

IN JUDICIAL CASES, WHO HAD LEGAL STANDING ACCORDING TO THE STATE AID CASE LAW?

Croatian State Aid law is under-regulated. There is Act on State Aid (OG NN 47/14, 69/17: hereinafter: ASA), however, it mostly regulates policy on state aid and to a lesser extent the procedure of granting the state aid.

A general provisions for accessing courts in cases where a suspicion of state aid is identified could be identified in the provision of Article 34.b. of Civil Procedure Act -CPA (OG SFRJ 4/77, 36/77, 6/80, 36/80, 43/82, 69/82, 58/84, 74/87, 57/89, 20/90, 27/90, 35/91, and OG 53/91, 91/92, 58/93, 112/99, 88/01, 117/03, 88/05, 02/07, 84/08, 96/08, 123/08, 57/11, 148/11, 25/13, 89/14, 70/19, 80/22, 114/22; Cro: Zakon o parničnom postupku; hereinafter: CPA). Pursuant to Article 77 of the CPA, any natural or legal person can be a party to the proceedings.

Administrative disputes before the Administrative court (based on Administrative Disputes Act (OG NN 20/10, 143/12, 152/14, 94/16, 29/17, 110/21). are initiated by lawsuits which can be filed by a **person who finds her rights and legal interests violated by an individual decision, by the acts of the public authority, or by the failures of public authorities to act or in disputes concerning administrative contracts**. Parties to the proceedings are plaintiff, the public authority in question, and an interested person (Cro: Zainteresirana osoba). An interested person is any person whose right or legal interest would be violated by the annulment, amendment or adoption of an individual decision, action or failure to act of a public authority, or the conclusion, termination or execution of an administrative contract. An interested person can be another public authority with an interest in protecting rights and legal interests which it is entitled to protect as part of her jurisdiction.

Special standing rights in relation to NGOs exist as part of sectoral environmental legislation, e.g. the Environmental Protection Act and the Nature Protection Act. However, it should be noted that these rights are applicable only for procedures conducted based on those acts, e.g. EIA or Appropriateness Assessment procedures. We are not familiar with their applicability in the context of state aid law.

IS THERE ANY EXAMPLE WHERE AN NGO WANTED TO HAVE LEGAL STANDING IN STATE AID RELATED COURT PROCEDURE?

We did not identify such example.

ARE THERE ENVIRONMENTAL ISSUES ADDRESSED IN STATE AID CASES IN YOUR COUNTRY?

IF YES, WHAT ARE THEY?

We did not identify such cases.

HAS THERE BEEN A PRELIMINARY RULING CASE INITIATED BY YOUR COUNTRY'S JUDICIARY IN STATE AID CASES?

IF YES, WHAT WAS THE JUDGMENT OF THE EU COURT?

We did not identify such cases.

HAS THERE BEEN AN INFRINGEMENT CASE AGAINST YOUR COUNTRY AT THE COMMISSION?

DID IT GO TO THE EU COURT?

IF YES, WHAT WAS THE JUDGMENT OF THE EU COURT?

HAS IS CHANGED ANYTHING IN YOUR RESPECTIVE CASE LAW?

We did not identify such cases.

Contact information

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