ZAŠTITA OD ONEČIŠĆENJA OKOLIŠA ŠTETNIM IMISIJAMA KROZ PRIZMU PRIMJENE KAZNENOPRAVNOG NAČELA SVRHOVITOSTI

PROTECTION AGAINST ENVIRONMENTAL POLLUTION WITH HARMFUL IMMISSIONS THROUGH THE PRISM OF THE APPLICATION OF THE CRIMINAL LAW PRINCIPLE OF EXPEDIENCY

Pregledni znanstveni članak

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Abstract

The article compares provisions of the Noise Protection Act and the Act on Protection against Light Pollution (lex specialis) with the Environmental Protection Act (lex generalis) with regard to basic environmental protection concepts in connection with harmful light and noise immissions. Using deductive and inductive methods through the administrative principle of proportionality, the authors analyze how institutions establish and impose administrative measures. The authors linked this to the need to take timely action, use effective techniques and technologies, and ensure economic feasibility to protect the environment from pollution. This led to the identification of new forms of pollution and the need to align the conclusions with the Paris Agreement, culminating in the development of the "Creating a Climate Resilient Europe" strategy. The aim of the paper is to harmonize administrative protection principles against harmful light and noise immissions, highlighting the critical issue of insufficient measures to minimize the environmental impact of these sources.

The following works of the author were used as a source in the preparation of the paper: Bačić, P., Bašić M., Zlatić, V. (2016), Borković, I. (2002), Đerđa (2016), Jurić and Mijatović(2022), Gavella et al. (2007), Gongeta et al. (2020) , Klarić and Vedriš (2009), Lončarić-Horvat (2003), Mihelčić and Marochini Zrinski (2018), Osrečak (2010),Proso, (2015), Radolović(2006), Rodin(2000), Rožac (2022), Sirotić (2006), Šikić and Ofak (2011), Vezmar Barlek(2017). The authors claim that the public law bodies charged with applying the procedural principles of proportionality and expediency do so arbitrarily, which leads to the recommendation to harmonize these procedural principles with the principles of substantive environmental protection in order to effectively prevent, reduce and ultimately minimize harmful noise and light immissions.

Key words: environmental pollution, immission, principle of expediency, protection.

Sažetak

U članku se uspoređuju odredbe Zakona o zaštiti od buke i Zakona o zaštiti od svjetlosnog onečišćenja (lex specialis) sa Zakonom o zaštiti okoliša (lex generalis) u pogledu temeljnih pojmova zaštite okoliša u vezi sa štetnim imisijama svjetlosti i buke. Koristeći se deduktivnim i induktivnim metodama kroz upravno načelo proporcionalnosti, autori analiziraju kako institucije uspostavljaju i izriču upravne mjere. Autori su to povezali s potrebom poduzimanja pravovremenih mjera, korištenja učinkovitih tehnika i tehnologija te osiguravanja ekonomske isplativosti zaštite okoliša od onečišćenja. To je dovelo do identificiranja novih oblika onečišćenja i potrebe za usklađivanjem zaključaka s Pariškim sporazumom, što je kulminiralo razvojem strategije „Stvaranje Europe otporne na klimu“. Cilj rada je uskladiti načela administrativne zaštite od štetnih imisija svjetla i buke, ističući kritično pitanje nedovoljnih mjera za minimiziranje utjecaja ovih izvora na okoliš. Kao izvor u izradi rada korišteni su sljedeći radovi autora: Bačić, P., Bašić M., Zlatić, V. (2016), Borković, I. (2002), Đerđa (2016), Jurić i Mijatović(2022), Gavella et al. (2007), Gongeta i sur. (2020) , Klarić i Vedriš (2009), Lončarić-Horvat (2003), Mihelčić i Marochini Zrinski (2018), Osrečak (2010), Proso, (2015), Radolović (2006), Rodin

(2000), Rožac (2022)), Sirotić (2006), Šikić i Ofak (2011), Vezmar Barlek (2017). Autori tvrde da javnopravna tijela zadužena za primjenu postupovnih načela razmjernosti i svrhovitosti to čine proizvoljno, što dovodi do preporuke da se ta postupovna načela usklade s načelima materijalne zaštite okoliša kako bi se učinkovito spriječile, smanjile i u konačnici minimizirale štetne imisije buke i svjetla.

Ključne riječi: onečišćenje okoliša, imisija, načelo svrsishodnosti, zaštita.

1. INTRODUCTION

In order to understand civil environmental protection, it is necessary to know that it arises from the constitutional norm that guarantees citizens the right to a clean environment (Article 69, Constitution of the Republic of Croatia). The principles and responsibilities in the field of environmental protection are set out in the Declaration on Environmental Protection (1992), while material regulation is governed by the Environmental Protection Act (2013). The protection of nature is covered by the Nature Protection Act (2013) (hereinafter: NPA). Civil law protection and liability for environmental damage are regulated by the Act on ownership and other real rights (1996) and the Civil Obligations Act (2005). Immission protection, a form of civil legal protection, is reflected in the actio negatoria and is regulated by the Act on ownership and other real rights (hereinafter: AO) (Art. 100-113 of the AO). These rights also prescribe the mutual enforcement of property rights. Real legal protection against immissions is achieved through the Civil Obligations Act (hereinafter: COA), and supranational sources, such as the European Convention on Human Rights (1997), contribute to a new paradigm that establishes the right to live in a healthy environment. The decisions of the European Court of Human Rights(hereinafter: ECHR) interpreting the Convention derive the right from the protection of property and emphasize the evolutionary nature of this interpretation through autonomous interpretation and the principle of effectiveness. This paper will examine the legal framework for the protection of the environment from harmful immissions, with a particular focus on its application through the principles of expediency and proportionality. In this

context, the most important national and international legal sources will be considered, including the Environmental Protection Act (2013) (hereinafter: EPA), the Constitution of the Republic of Croatia (1990) (hereinafter: Constitution), the General Administrative Procedure Act (2009) (hereinafter: GAPC), the Criminal Procedure Act (2008) (hereinafter: CPC) and relevant European Union directives, such as the Environmental Liability Directive (2004) (hereinafter: ELD), and the Treaties on the European Union (2016) (hereinafter: TEU) and the Functioning of the European Union (2016) (hereinafter: TFEU).

2. NOISE AND LIGHT AS SOURCES OF ENVIRONMENTAL POLLUTION

In order to determine the basic concepts of harmful noise and light immissions, it is first necessary to define the concept of noise or environmental noise, which is considered harmful to health, and how the harmful effects manifest themselves. Environmental noise is unwanted or harmful noise to human health and the outdoor environment caused by human activities. It can emanate, for example, from means of transport, all types of traffic, installations and interventions that are subject to special regulations within the framework of the decision on environmental authorization or within the framework of the permissibility of the intervention for the environment (Jurić, 2022). In this context, any noise that exceeds the prescribed maximum permissible levels in terms of the type of noise source, place and time of occurrence is considered noise harmful to health (Article 2, paragraph 1, NPA) (Briški, 2016). Due to the modernization of the world, the increase in population in large cities leads to an increase in noise, which increases the possibility of its impact on the human environment and life. By its effect, it comes to the fore by increasing the risk of loss of servants, the impact of daily activities of all wildlife and plants (Briški, 2016). Based on the above, Article 6 of the NPA, in conjunction with Articles 4 and 7 of the Regulation on the maximum permissible noise levels in relation to the type of noise source, time and place of occurrence (2021), stipulates that work, activities and other activities that cause noise harmful to health are prohibited in residential premises and that the use of electroacoustic and acoustic devices is permitted in open catering

establishments for up to 24 hours, unless otherwise stipulated by an act of local and regional self-government units. In addition, the legislator has authorized the state supervisory authority, i.e. the sanitary inspectorate, to protect against harmful immissions and has given it the power to monitor and impose administrative measures in accordance with Article 18 of the NPA. In addition to the imposition of administrative measures, the State Inspectorate is authorized to issue a bill of indictment with which it can punish a legal entity and a natural person, depending on the nature and seriousness of the violation, and issue a protective measure prohibiting the exercise of activities for a period of 3 months to one year (Gongeta, 2020). Today, light pollution is a very important global problem that is actually increasing. The consequences of the global problem of light pollution can be very serious and harmful. Light pollution of the environment is a global problem that leads to economic, astronomical, safety and health problems that have a significant impact on humans and have undesirable health consequences. The orange, white or yellow glow in the night sky is caused by the scattering of artificial light into the surrounding air, in which various gasses, aerosols and suspended particles are present - this phenomenon is called light pollution (Briški, 2016) (Rožac, 2022). Light pollution is defined as a change in the natural light level at night caused by light immission from artificial light sources (Gavella et al, 2007). An artificial light source has a harmful effect in the following ways: has a harmful effect on human health, endangers traffic safety through glare, direct or indirect radiation of light into the sky disrupts the life of birds, bats, insects and other animals, disrupts the growth of plants, endangers the natural balance in protected areas, disrupts professional and amateur astronomical observation of the sky, consumes energy unnecessarily, distorts the image of the night landscape (Act on Protection against Light Pollution, 2019) (hereinafter: APLP) (Briški, 2016) (Rožac, 2022). Art. 2 APLP emphasizes the preservation of human health, environmental quality, biodiversity, landscape diversity, ecological stability, protection of flora and fauna and the rational use of natural resources and energy as fundamental conditions for public health and the basis of sustainable development (Lončarić et al, 2003). Protective measures against light pollution include the prevention of unnecessary and harmful light immissions in illuminated zones, taking into account health, biological, economic, cultural, legal, safety, astronomical and other factors, as set out in

Article 7, paragraph 1 of the APLP (Briški, 2016) (Bakmaz, 2022). Article 8 of the APLP outlines protective measures against light pollution, focusing on preventing excessive light immissions, reducing ambient lighting to acceptable levels, complying with basic protection requirements for lighting fixtures and ensuring public access to information on lighting plans and action plans for the construction and/or reconstruction of outdoor lighting (Lisak, 2022) (Rožac, 2022).

3. CIVIL PROTECTION IN CROATIA & EU

In the domestic positive legal framework, protection against immissions is reflected in an action for protection against nuisance - actio negatoria. The aforementioned form of protection can be requested by owners, alleged owners and possessors of real estate on the basis of the right derived from the right of ownership (Gliha & Josipović, 2003). The above-mentioned beneficiaries can be made from the harasser who caused an unlawful immission (on his own initiative, on behalf of or for the benefit of another person) and from the harasser who indirectly, on the instructions of another person, undertook an activity that caused a nuisance (Klarić and Vedriš, 2009) (Rožac, 2022). The action consists of several claims: 1. restore the property to its previous state, 2. cease further actions/behaviour that interfere with others in the exercise of their rights, and 3. prohibit any future interference with the property. Thus, it is possible to demand the removal of sources of illegal immissions and to take measures if there is an obvious and foreseeable risk of direct or indirect excessive immissions. An action for damages can be brought as a secondary action to the main action for nuisance (Rožac, 2022). The plaintiff must prove that he is the owner/presumed owner/possessor of the property derived from the right of ownership and that he has been disturbed by immissions in the exercise of his rights by the other owner of the neighbouring property (art. 167, para. 4, AO). It follows that the aforementioned persons must prove that immissions emanating from their neighbouring property are inadmissible (art. 110, para. 1, AO) (Gliha & Josipović, 2003). Protection against harmful immissions is also defined in art. 1047 of the COA by two requirements, namely the elimination of the risk of harm, i.e. the cessation of the same activity, and the performance of certain actions with the aim of preventing the occurrence of

harm - a nuisance, i.e. the elimination of the source of the risk/danger (Mihelčić, Marochini Zrinski, 2018). This can be requested by the above-mentioned persons. This includes a request to eliminate the source of danger that may cause significant harm and to refrain from activities that cause nuisance or risk of harm. It is possible to request the implementation of certain measures to prevent damage/nuisance/remove the source of danger at the owner's expense (art. 1047. para. 2. COA) (Sofilić, 2015). If, in the course of carrying out a generally useful activity with the prior authorization of the competent authority, excessive damage is caused that exceeds the usual level, the person who suffered the damage may claim compensation (art. 1047, para. 3. COA) (Kontrec, 2017). In addition, the person entitled to immission protection has the right to demand repair (restoration of the original condition). The authorized person under art. 167. para. 3. COA has the right to claim damages in accordance with the general rules for damages (Mihelčić, Marochini Zrinski, 2018). A claim for payment of damages can be asserted as part of the overall claim for termination of the harassment, but also independently of it, applying the limitation period in relation to the time of occurrence of the property damage (Medić, 2014) (Josipović, 2017). In the European legal framework, protection against nuisance to the owner in the use of real estate arises from the polluter pays principle, which is enshrined in the European Parliament's Directive 2004/35/EC of April 21, 2004. (ELD). The principle involves the prevention of the occurrence and/or remedying of damage to all occurring specific parts of the environment, which include water, soil, air, natural habitats and protected species (Šago, 2013). The main objective of the principle is to apply preventive measures when the risk of pollution of the protected good is imminent. If damage occurs, the polluter is obliged to take measures to remedy the damage and bear the costs incurred (Proso, 2015). The ELD regulates the obligation of EU Member States to prescribe measures to eliminate the risk of environmental pollution/impairment or other protected property. Lucić and Marton (2012) point out that the ELD is applied narrowly to individual protected goods and limited measures, leading to further damage to human health (Radolović,2006). When expressing a negative attitude, they emphasize the problem related to direct responsibility based on the principle of proven responsibility by applying the "polluter pays" principle. The ELD recognizes two types of measures, namely measures to prevent

environmental damage (Article 5 of the ELD) and measures to remedy environmental damage (Articles 6 and 7 of the ELD). In summary, the purpose of the ELD is to establish a person's responsibility for their actions that pose a risk to protected goods and due to which there is a likelihood of environmental damage, i.e. due to which the damage has already occurred.

4. THE ISSUE OF PROTECTION THROUGH THE ECHR

In the further analysis of the topic, the authors deal with the protection of the right to life in a healthy environment, which results from the application of the principle of a living instrument and the autonomous interpretation of the terms of the European Convention for the Protection of Human Rights and Fundamental Freedoms (1997), (hereinafter: Convention) by the ECHR with the application of principles. The procedure described procedure enables protection in cases where the rights of one or more persons have been violated by negative influences, i.e. interference from the environment. Some of the forms of violation of the right to live in a healthy environment are the right to respect for personal and family life and the home. The scope of the judicial protection of the environment and the environment is determined by answering the question "Does the damage to the environment and the environment affect the right under art. 8 of the Convention?". The above provision does not determine the right to live in a healthy environment, which Mihelčić and Marochini Zrinski (2018) stated in the analysis of the case Kyrtatos v. Greece (p: of May 22, 2003, application no. 4166/98) that the impact of the environment on the environment in which the entitled person resides is not sufficient to indisputably conclude a general degradation of the environment. Through the non-selective selection of cases of the ECHR and their analysis, it has been established that there are two basic forms of protection against degradation or interference. One of the forms is reflected in the protection against harmful immissions (sewage, noise, soot, smoke, etc.) emanating from the neighboring property, which does not allow the most similar AO, which dealt with the case of Hatton et al. c/a UK (Application No. 36022/97, judgment of March 7, 2003) - in which the right to enjoy a certain physical space, which includes the quiet use of the space, was violated. This is followed by the case of Udovičić c/a RH, application no. 27310/09, judgment of 24.04.2014 - violation of the

right to domestic comfort. As a remaining form of protection, it should be considered as leaving the legal framework provided by art. 110 AO and approaching the legal definition of the Environmental Protection Act, with the team that the Convention applies the functional - substantial parameter and defines the dwelling also as mobile, assembly and business premises (Mihelčić and Marochini, 2018). The aforementioned protection cannot be discussed in the future, but only after a violation of the same, as stated in the case Powel and Rayner c/a UK (Application No. 91310/81, judgment of 21.2.1990). The case shows that their quality of life, i.e. the ability to enjoy their home, is significantly impaired due to noise nuisance. The ECHR judgment raised the question of whether the UK is obliged to ensure the applicants' enjoyment of the protected right or whether it is obliged to interfere with the right in question. In another case, the ECHR concluded that there had been a violation of Article 8 ECHR by the local/regional self-government/central government unit as it had failed to apply the precautionary principle, resulting in a violation of rights (case Mereno Gomez c/a Kingdom of Spain, application number: 4143 /02, judgment of February 16, 2005). It follows that the provisions of the Convention can be applied even if the environmental damage was not directly caused by an individual state, i.e. if it occurred due to a lack of or inadequate regulation of the activity (Jungheli c/a Georgia, application no. 38342/05, judgment of 13.10. 2017). In all its decisions on the application of the provisions of the Convention, the ECHR refers to the fulfilment of the condition of direct/immediate consequences for the right to protection of the home and refers to the case of Hatton c/a UK.

5. THE PRINCIPLE OF PROPORTIONALITY IN THE POSITIVE LEGAL SENSE

To understand the principle of proportionality in the Croatian Constitution (1990) (hereinafter: Constitution), it is crucial to clarify its definition. Article 16 of the Constitution states that freedom and rights can only be restricted by law to protect the rights of others, the legal order, morality and health (Šikić and Ofak, 2011).

The restriction must be based on its purpose and necessity, which are determined on a case-by-case basis and aim to prevent unjustified restrictions

of freedoms. The practice of the Constitutional Court, as expressed in Decision No. U-I-673/1996, recognizes the protection of the original property owners and confirms the pre-emptive right of tenants acquired by paying a non-market price. The decision emphasizes proportional protection. This elevates proportionality to a general/constitutional principle. A proportionality test is introduced to assess the constitutionality of laws. Decision No. U-I-1056/99 identifies a conflict between property and labor rights and concludes that a law that prohibits previously permitted market activities without a reasonable adjustment period is contrary to the economic order. The decision underlines the effectiveness of the principle, even if there is no explicit legal provision (Bačić, 2016). In addition to the constitutional regulation, the principle is also contained in various legal acts, e.g. in the areas of electricity, excise duties, consumer protection, etc. Public bodies are obliged to apply it, although the specific methods of application are not always prescribed. Public bodies must apply the principle of proportionality on the basis of the General Administrative Procedure Act (Rodin, 2000) (Štimac, 2016). The principle is only inapplicable if it is excluded by the lex specialis. It serves as a guide for legislators and bodies conducting administrative proceedings and emphasizes its role (Borković, 2002) in resolving administrative matters and protecting the legal interests of the parties (Šprajc, 2000).

6. THE PRINCIPLE OF EXPEDIENCY AND THE PRINCIPLE OF FREE EVALUATION

The principle of expediency, derived from the Latin term "opportunum" involves choosing the most appropriate alternative for a given case within the legal framework (Sirotić, 2006). This principle allows the authorities, within their legal powers, to refrain from criminal prosecution for economic reasons in order to ensure the efficiency of the proceedings (Sirotić, 2006). The principle aims to avoid criminal prosecution if it is not economical or expedient (Sirotić, 2006). In administrative matters, a discretionary decision is made, which contrasts with the free evaluation of evidence, which is a principle of general administrative procedure (Rajko, 2016) (Borković, 2002). The role of probability in the evaluation of legal evidence, especially in criminal proceedings where the standard is "beyond

reasonable doubt" is a controversial issue (Sirotić, 2006). In international criminal courts, the principle of "free evaluation of evidence" applies, allowing judges flexibility in choosing the most appropriate approach to evaluation (Sirotić, 2006). The free evaluation of evidence involves the power to choose the most appropriate alternative, within the given powers, when deciding on the rights and obligations of natural or legal persons in certain cases (Osrečak, 2010). The free evaluation of evidence is the rule in administrative proceedings, with the discretionary decision being an exception based on a special regulation (Rajko, 2016) (Borković, 2002). The concept is an integral part of the operative part of an administrative act, which is subject to legality review and includes jurisdiction, determination of the facts and the form of the action (Borković, 2002).

7. THE PRINCIPLE OF PROPORTIONALITY AND THE PRINCIPLE OF EXPEDIENCY IN THE PRACTICE OF THE ECHR

Since Croatia's accession to the European Union on July 1, 2013, public companies have been subject to both the Croatian and the EU legal framework (Mihelčić, Marochini Zrinski, 2018). The principle of proportionality is of central importance in EU law and is also applied in the Croatian legal system when it comes to the direct enforcement of EU law (Đerđa, 2016). This principle serves as a guideline for assessing the legality of legal and administrative acts of the EU institutions and underlines the principles of subsidiarity and proportionality in the Treaty on European Union (Vezmar Barlek, 2017). It prevents the Union from going beyond what is necessary to achieve its objectives. The principle of proportionality is an integral part of the examination of individual legal acts and measures, is regularly invoked by the parties and is routinely applied by the EU Court of Justice (Đerđa, 2016) (Vezmar Barlek, 2017). In ECHR case law, it plays a frequent role in administrative decisions, underlining its consistent application in protecting the rights of individuals and imposing sanctions for breaches of EU law (Vezmar Barlek, 2017). The Hatton case is an example of a controversial issue relating to the right to a healthy environment. In 2003, the Grand Chamber of the ECHR heard the case of Hatton v. the United Kingdom concerning aircraft noise. Residents living near Heathrow

Airport complained about a new system for regulating night flights that was causing disruption. Despite the impact on well-being and living conditions, the court concluded that the regulation was within the bounds of reasonableness and recognized the government's discretion to strike a balance (Mihelčić, Marochini Zrinski, 2018). The court refrained from drawing definitive conclusions on the deterioration of noise pollution and noted that the government relied on a sleep study from 1992. The plaintiffs could not prove that their property had lost value or that they could relocate without significant financial loss (Mihelčić, Marochini Zrinski, 2018). The government's decision-making process involved extensive research and studies that ensured a decision within a reasonable framework without violating Article 8 (Mihelčić, Marochini Zrinski, 2018).

8. CONCLUSION

To summarize, the comprehensive study of environmental civil protection in Croatia reveals a solid legal framework anchored in constitutional norms and further strengthened by national legislation and supranational sources such as the European Convention on Human Rights. The ramified network of laws, including the Environmental Protection Act and the Nature Protection Act, demonstrates a commitment to safeguarding citizens' right to a clean environment. The debate on noise and light pollution underlines the complex challenges posed by environmental immissions. The legal measures, including the actio negatoria and the Act on Protection against Light Pollution, illustrate a proactive approach to mitigating the negative impact on human health, wildlife and ecosystems. The specific regulations that prescribe, for example, the maximum permissible noise levels and the measures to protect against light pollution are an example of the careful balancing of individual rights and wider environmental concerns. A look at civil law protection in both Croatia and the European Union shows that legal options such as actio negatoria and the Civil Obligations Act are available to property owners to seek redress for environmental immissions. The polluter pays principle enshrined in the EU Directive further strengthens the responsibility of those responsible for environmental damage. An examination of the case law of the European Court of Human Rights illustrates the central role it plays in deciding cases relating to the right to a

healthy environment. The principle of proportionality, which is firmly anchored in the Croatian Constitution and EU law, proves to be the guiding criterion for assessing the legality of administrative decisions. The Hatton case is an example of the court's nuanced approach, which recognizes the government's discretion in balancing environmental concerns with other societal interests. In the area of administrative proceedings, the principles of expediency and the free evaluation of evidence provide authorities with flexibility so that they can make reasonable decisions within legal boundaries. While the principle of expediency allows for economical decisions in criminal proceedings, the free evaluation of evidence remains an essential component of administrative proceedings and allows for a differentiated view of the individual case. In the course of Croatia's alignment with the EU legal framework, the principles of proportionality and expediency continue to shape administrative practice. The consistent application of these principles by the ECtHR underlines their universal importance in protecting individual rights and ensuring a fair and balanced approach in environmental matters. In essence, the examination of environmental civil protection in Croatia reveals a comprehensive and evolving legal landscape that reflects a desire to balance the rights of the individual with the protection of the environment. The intricate interplay of constitutional norms, national legislation, EU directives and ECHR jurisprudence collectively contribute to a robust framework aimed at promoting a sustainable and healthy environment for present and future generations.

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27. Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 on the assessment and management of environmental noise ("Official Journal of the European Union", number: L 189/12),
28. Declaration on Environmental Protection in the Republic of Croatia ("Official Gazette", number: 34/1992),
29. Environmental Protection Act ("Official Gazette", number: 80/2013, 153/2013, 78/2015, 12/2018 and 118/2018),
30. European Convention for the Protection of Human Rights and Fundamental Freedoms ("Official Gazette", section "International Treaties," number: 18/1997, 6/1999, 14/2002, 13/2003, 9/2005, 1/2006, 2/2010, and 13/2017),
31. Noise Protection Act ("Official Gazette", number: 30/2009, 55/2013, 153/2013, 41/2016, 114/2018 and 14/2021),

III. Rulings of the European Court of Human Rights

32. Ruling of the ECtHR in Hatton and Others v. the United Kingdom of 7 March 2003,
33. Ruling of the ECtHR in Jugheli and Others v. Georgia of 13 October 2017,
34. Ruling of the ECtHR in Kyrtatos v. Greece of 22 May 2003,
35. Ruling of the ECtHR in Moreno Gómez v. the Kingdom of Spain of 16 February 2005,
36. Ruling of the ECtHR in Powell and Rayner v. the United Kingdom of 21 February 1990,
37. Ruling of the ECtHR in Udovičić v. the Republic of Croatia of 24 April 2014.