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Although it is never easy, please keep your answers succinct - 2 pages max, excluding the questions.

[1] State of play at national level:

In your particular Member State, have cases been decided by the national courts, and / or are there cases pending before the courts, that aim to deliver better climate protection?

Are there "horizontal" cases between private parties and / or "vertical" ones between private parties and public authorities - or both? If yes, briefly characterise them.

Actions challenging public authorities could be aimed: (1) at high level target setting for greenhouse gas emission (GHG) reduction; or (2) at the taking of more concrete measures reducing emissions (such as emissions limits for automobiles); or (3) at projects causing emissions as a side effect (such as a new runway or highway).

Briefly indicate who are the claimants; what are the standing requirements; what is the objective of the action, and what is the reasoning on the substance of the case.

Only recently the first claim against the State Treasury has been brought by a group of natural persons, supported by ClientEarth. The claimants base their case on allegation of infringement of their personal rights by lack of sufficient activity of the state as far as climate protection is concerned. They do not demand compensations, but instead they demand recognition of liability of the state for climate protection. They would like the court to oblige the government to take actions that would ensure that Poland would attain climate neutrality up to 2043, reduce greenhouse gases emissions up to 2030 by at least 61% when compared to the level from 1990 and not exceed the threshold of 170.9 million tons of carbon dioxide equivalent as average yearly emissions of greenhouse gases, up to achievement of climate neutrality. The claim was brought in June 2021, so obviously the case is not resolved yet.

There have been, however, individual cases concerning smog and poor air quality (not greenhouse gases and climate changes, but paths developed may be of use in relation to climate protection).

Those "vertical" cases have been raised in the last few years before Polish courts, as alleged infringements of personal rights (there were efforts to recognise right to clean environment as one of personal rights) and the basis for asserting some sums for social purposes in respect of pain of suffering.

These cases have brought very mixed results; some courts have acknowledged the infringement and adjudicated some sums for charities or NGOs (there is a wide array of possible claims in case of infringement of personal rights, compensation for the claimant included; but the succeeding cases were of symbolic character, brought by celebrities, so they did not claim compensation for themselves), some courts have dismissed such claims, refusing to recognize the right to clean environment as one of personal rights. Since the matter is highly controversial, one of regional courts, facing another claim of the aforementioned kind, decided to ask Polish Supreme Court the following question:

Does the right to live in a clean environment, allowing breathing atmospheric air fulfilling quality standards in places where an individual stays for long periods, in particular in his/her place of

residence, constitute a personal right subject to protection on the basis of article 23 in connection with article 24 and 448 of Polish Civil Code? (case reference number in the Supreme Court: III CZP 27/20)

The question was asked in January 2020, but the decision of the Supreme Court was issued just on 28 May 2021. The Supreme Court stated that the right to live in a clean environment is not a personal right – however, at the same time the Court admitted that infringement of air quality standards prescribed by the law may bring about infringement (or jeopardy) of other personal rights, such as health, freedom or privacy. No reasons for the court resolution has been published up to now [05.07.2021].

If the Supreme Court had answered positively (which was rather dubious from the very beginning, since the concept deeming the right to clean environment one of personal rights does, indeed, entail serious theoretical and practical problems), then the Pandora's box with claims related to smog would have opened, since that path is much more simple than asserting claims for pain and suffering due to health problems (where one has to prove not only health problems, but also the direct causation link between inaction of respective institutions and illness - which is hardly viable).

To sum that up - no "horizontal" climate cases have appeared in Polish litigations, as regards "vertical" ones, they have pertained to air quality rather than to climate (except for one recent case mentioned hereinabove). The prevailing attitude as to the admissibility of alleging personal rights infringements in such cases is determined by the aforementioned resolution of the Supreme Court (since it is not just another ruling, but a resolution, it will determine the content of judgements of the courts of lower rank). The resolution of the Supreme Court is somehow in the middle of the road between two extreme standpoints as to the question posed by the regional court, so the practice (and maybe the reasons of the resolution of the Supreme Court to be published) will show how the courts will approach claims based on allegations of infringement of other personal rights by non-observance of environmental standards.

[2] Interconnections between developments at national and supranational level:

Where relevant, please connect the national experience to date with developments in climate litigation at the supranational level (e.g. proceedings before the CJEU and the ECtHR).

At present (when the first climate claim against the State Treasury has just been lodged) it is too soon to discuss interconnections.

At present, the problem of smog and related health risks dominates in the environmental litigation in Poland.