

01. HORIZONTAL LEGISLATION

POLICY & LEGISLATIVE DEVELOPMENTS

The period covered by this report has been characterized by limited legislative activity. The competent authorities have adopted only one of the seven planned legislative acts related to horizontal legislation¹ during the period.

The Environmental Impact Assessment Directive (2011/92/EU⁶³) has been almost completely transposed, with the exception of Article 7 (which regulates environmental impact assessments in cross-border contexts) and Annexes I and II. However, amendments to the Directive made in 2014 (Directive 2014/52/EU) have not yet been transposed and there is no indication in the NPAA² as to when this new legislation will be adopted.

The Law on Amendments and Modification of the Environmental Impact Assessment Law is in its initial phase. The Ministry of Environmental Protection (formerly the Ministry of Agriculture and Environmental Protection) is establishing a working group to draft the legislation. Directive 2003/35/EG on public participation in drafting certain plans and programmes related to the environment is expected to be fully transposed through the Law on Amendments and Modifications of the Environmental Impact Assessment Law, as well as amendments to the Law on Water, by the end of this year.

Although the Law on National Spatial Data Infrastructure was scheduled to be adopted during the first quarter of 2017, it has not yet been adopted; as a result, the INSPIRE Directive 2007/2/EC has not yet been fully transposed.

Transposition of the Environmental Liability Directive (Directive 2004/35/CE) is still in its initial phase. Parts of the directive were transposed in a set of six legal documents; however the Law on Environmental Liability has not yet been adopted. Development and adaptation of the law and the accompanying bylaws is scheduled for the period 2016-2018, which leaves uncertainty as to whether the process will be completed on time.

IMPLEMENTATION

The competent authorities, particularly local self-governments, have not made any progress in developing capacity to undertake public consultations and facilitate the participation of relevant stakeholders. The lack of capacity to ensure public oversight is a cause of serious concern given the scope of investment necessary in the environmental sector³.

The monitoring and disclosure of relevant environmental information continues to be

1 http://www.mei.gov.rs/upload/documents/nacionalna_dokumenta/npaa/NPAA_2016_revizija_srp.pdf

2 National programme for adoption of the acquis

3 http://www.pregovarackagrupa27.gov.rs/?wpfb_dl=71

weak, as numerous cases demonstrate, including the National Emission Reduction Plan, monitoring of air quality⁴, and investment plans, among others.

The lack of capacity for monitoring and control of the state of the environment and policy implementation are notable. The Inspectorate for Environmental Protection has very limited capacity, as noted in the Inspectorate's 2017 report⁵.

Despite the evident negative effects of gravel exploitation⁶ and mini hydropower projects (for which an environmental impact assessment is optional), the Ministry for Environmental Protection has not required an impact assessment for any of the fourteen projects underway in the past year⁷. Environmental impact assessments on the cumulative effects of such projects are also seldom undertaken.

The quality of environmental impact assessments remains very low. Assessments commonly lack a proper analysis of cumulative effects, health data, a public health analysis, and data on heavy metals, while data regarding biodiversity are commonly incomplete, obsolete and too general. It is also necessary to adopt the practice of developing alternative scenarios, ensure compatibility with the relevant 2016 BREF document that is valid for the planned project, as well as connection to the IPPC permit.

Progress has been made by the line Ministry on providing timely and adequate responses to written comments on environmental impact assessments, including if a comment has been accepted or not and, if not, why it has been rejected.

Strategic documents are not fully available to the public. The Ministry of Environment previously developed a draft version of the National Emission Reduction Plan, which was submitted to the Energy Community in December 2015. This document was made available to the public only in July 2017, after the Commissioner for Information of Public Importance and Personal Data Protection intervened to demand its publication. The document has undergone significant changes since it was published, however those subsequent versions have not been made available to the public. Also, no Strategic Environmental Impact Assessment (SEA) has been undertaken.

Information about the state of the environment continues to be disclosed to the public selectively. The Commissioner for Information of Public Importance⁸ and the Ombudsman⁹ reacted in the case of a fire at the Vinča Landfill site in June 2017, urging all institutions of the City of Belgrade and Republic of Serbia responsible for public health and environmental monitoring to publish all relevant information about the condition of the local environment, the monitoring methodology and parameters taken into consideration.

4 <http://www.sepa.gov.rs/download/VAZDUH2015.pdf>

5 http://www.ekologija.gov.rs/wp-content/uploads/izvestaji/Godisnji_izve%C5%A1taj_2016.pdf

6 <https://transformator.bos.rs/vesti/288/odrzan-okrugli-sto-odrzivo-upravljanje-vodama-i-sumama-u-zapadnoj-srbiji.html>

7 <http://www.ekologija.gov.rs/obavestjenja/>

8 <http://www.poverenik.rs/yz/saopštenja-i-aktuelnosti/2609-blagovremeno-potpuno-i-objektivno-obavestavanje-javnosti-o-stanju-zivotne-sredine-nesporna-obaveza.html>

9 <http://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/5328-gr-d-ni-i-u-pr-v-d-zn-u-d-li-usl-d-p-z-r-n-d-p-ni-i-vinc-d-shl-d-z-g-d-nj-v-zduh>

The Commissioner for Information of Public Importance also reacted in the case of the disposal of potentially hazardous waste by Železara Smederevo (a Serbian steel manufacturing conglomerate) in villages near the factory, with a press release titled “The right of public to environmental information is indisputable”¹⁰.

Coalition 27¹¹ has not yet received an answer to requests for access to information of public importance addressed to the Electric Power Industry of Serbia (EPS), sent on the 11th of September 2017, related to the company’s Biodiversity Management Plan, biodiversity data about the locations of planned mines, plans for protecting migratory species at locations in which new hydropower plants are planned, and other questions. We remind that EPS made binding commitments on these issues as part of its restructuring plan, which was developed in cooperation with the European Bank for Reconstruction and Development.

Court Practice in Environmental Law is still in the development phase and problems continue to occur in its implementation. In contradiction to the former Minister’s public claims, the Administrative Court, responding to a request for access to public information received on the 5th of August this year, stated that no cases on the grounds of failure to pay environmental protection fees have been initiated at that Court to date.

Some progress was made by the Institution of Ombudsman of the Republic of Serbia, which signed a Declaration of cooperation in the field of environmental protection and human rights with six other countries in the region¹².

10 <http://poverenik.org.rs/sr/saopstenja-i-aktuelnosti/2581-nesporno-je-pravo-javnosti-na-informacije-o-stanju-zivotne-sredine.html>

11 Center for Ecology and Sustainable Development

12 <http://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/5449-u-ljublj-ni-sn-v-n-r-z-buds-n-u-bl-s-i-ziv-n-sr-din>