

# Guide to the Implementation of the Law on Environmental Impact Assessment

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## Introduction

Environmental impact assessment is a preventive environmental protection instrument and was regulated for the first time by the Law adopted in 2004, with the aim of ensuring the right to the healthy environment, which has been a constitutionally guaranteed right since 2006.<sup>1</sup>

The need for enacting such a law may be seen from several perspectives. Apart from the healthy environment being a guaranteed right, it is also a public good and, therefore, there is a factual and legal necessity for the systematic regulation of the preventive environmental protection – as the most efficient means of protection. In terms of the effective environmental protection, the proverb “Prevention is better than cure” is the fundamental rule. Speaking of the projects and activities implemented in the environment, which by their scope, characteristics and location may have consequences to the environment and people's health, it is necessary to subject them to impact assessment before issuing permissions for the implementation of works to the project developer and/or investor because it is only in this manner that environmental impact assessment may have its full meaning.<sup>2</sup>

The need for establishing an environmental impact assessment mechanism derives from the obligation of the Republic of Serbia in the European Union (EU) accession process and the alignment of the legal system of the Republic of Serbia with the EU acquis in the field of environmental protection.

The Law on Environmental Impact Assessment was adopted on 21st December 2004 (“*Official Gazette of the RS*”, No. 135/04), in the package with several laws, with the aim of establishing a legal framework for the implementation of the principles of prevention and caution in the environment.

The Law on Impact Assessment was amended in 2009 (“*Official Gazette of the RS*”, No. 36/09), with the aim of legally regulating certain issues and of aligning the Law further with the EU Directive on Environmental Impact Assessment.<sup>3</sup> In that respect, the text of the Law itself was amended and supplemented, and some of the basic concepts and institutes were defined and specified, thus prescribing the mandatory content of the request for deciding about the need for environmental impact assessment, mandatory appendices to the request for defining the scope and content of the

1 Article 74 of the Constitution of the Republic of Serbia (“*Official Gazette of the RS*”, Nos. 98/06 and 114/21).

2 H. Vojvodić, M. Popović, M. Veljović, D. Macanović, J. Cvijetinović, **Implementation of the Law on Environmental Impact Assessment – Twenty Lost Years**, Regulatory Institute for Renewable Energy and Environment, Belgrade, March 2024.

3 Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment was adopted on 27th June 1985 for the purpose of introducing the obligation of the prior assessment of the effects of certain projects on the environment before consent is given for their implementation. Directive 2011/92/EU codified the previous amendments with the aim of increasing legal clarity and consistency. Directive 2014/52/EU amended the existing legal framework in order to improve the quality of the impact assessment procedure, strengthen the participation of the public, and remove deficiencies in the implementation observed in practice and in the case law of the EU Court of Justice (the authors' note).

environmental impact assessment study; a new institute of environmental impact assessment of the current state, and a series of additional precise specifications was made with a processual character and defining in further detail the acting of the bodies conducting the environmental impact assessment procedure. These amendments to the Law on Impact Assessment were the basis for further implementation of this Law in the following 16 years, until the adoption of the new Law on Environmental Impact Assessment in 2024.



practice examples in the implementation of the Law.<sup>4</sup>

The preparation procedure of the Draft Law on Environmental Impact Assessment was initiated as early as 2018, when a working group was set up and worked on the preparation of the Draft until 2020, which was followed by the suspension of its work.<sup>5</sup> The preparation of the Law was resumed in October 2021, when a new working group was set up. The Ministry of Environmental Protection conducted public consultations

about the Draft Law in the period from 18th to 28th November 2021.<sup>6</sup> The public consultations were followed by the public debate held from 24th December 2021 to 14th January 2022. The Draft Law was sent to the National Assembly as late as October 2023 and then it was withdrawn from the procedure.<sup>7</sup>

In 2024, the Regulatory Institute for Renewable Energy and Environment, (RERI) followed the analysis of the implementation of the Law on Environmental Impact Assessment within the publication **“Implementation of the Law on Environmental Impact Assessment – Twenty Lost Years”**, which presents the problems in the implementation of the Law, the experience of monitoring environmental impact assessment procedures, monitoring of the application of regulations and the practice of proceedings conducted before relevant courts of law, with the good and bad

On 30th August 2024, the Government submitted the Draft Law on Environmental Impact Assessment<sup>8</sup> to the National Assembly, which was followed by debates about the details in the Assembly committees in autumn 2024. Finally, at the

4 H. Vojvodić, M. Popović, M. Veljović, D. Macanović, J. Cvijetinović, **Implementation of the Law on Environmental Impact Assessment – Twenty Lost Years**, Regulatory Institute for Renewable Energy and Environment, Belgrade, March 2024.

5 Report on the conducted Public Consultations about the first Draft Law on Environmental Impact Assessment; downloaded from the Internet presentation of the Ministry of Environmental Protection (no longer available)

6 Report on the conducted Public Consultations about the first Draft Law on Environmental Impact Assessment; downloaded from the Internet presentation of the Ministry of Environmental Protection (no longer available)

7 H. Vojvodić, M. Popović, M. Veljović, D. Macanović, J. Cvijetinović, **Implementation of the Law on Environmental Impact Assessment – Twenty Lost Years**, Regulatory Institute for Renewable Energy and Environment, Belgrade, March 2024.

8 Government of the Republic of Serbia, a note to the National Assembly 05 No: 011-8171/2024 of 30th August 2024.

session of the National Assembly of 27th November 2024, the Law on Environmental Impact Assessment was officially adopted and it came into force on 6th December 2024.<sup>9</sup>

Therefore, the Draft Law itself was practically “floating in mid-air” before it was sent to the session of the National Assembly more than ten years later. With the aim of improving new legal solutions and relying on everyday practice, the Regulatory Institute for Renewable Energy and Environment undertook specific activities and made a series of amendment proposals for legal solutions to the members of the National Assembly Environmental Committee, hoping that such proposals would be adopted and adequately discussed in the law-adoption procedure. This Guide to the Implementation of the Law on Environmental Impact Assessment explains the changes brought about by the new Law from 2024 so that the public can understand them better and that stakeholders can both understand and exercise their procedural rights, ensuring legal protection when necessary.

## 1. Public participation in impact assessment procedures

Public participation is one of the key elements of the environmental impact assessment procedure. The aim of such participation is to ensure transparent decision-making, a better-quality assessment of potential effects and making decisions based on complete and relevant information and not only on the data submitted by the project developer or state bodies.

The new Law on Environmental Impact Assessment introduces the possibility of extending deadlines for public participation in impact assessment procedures, thus improving the conditions for effective public participation in decision-making.

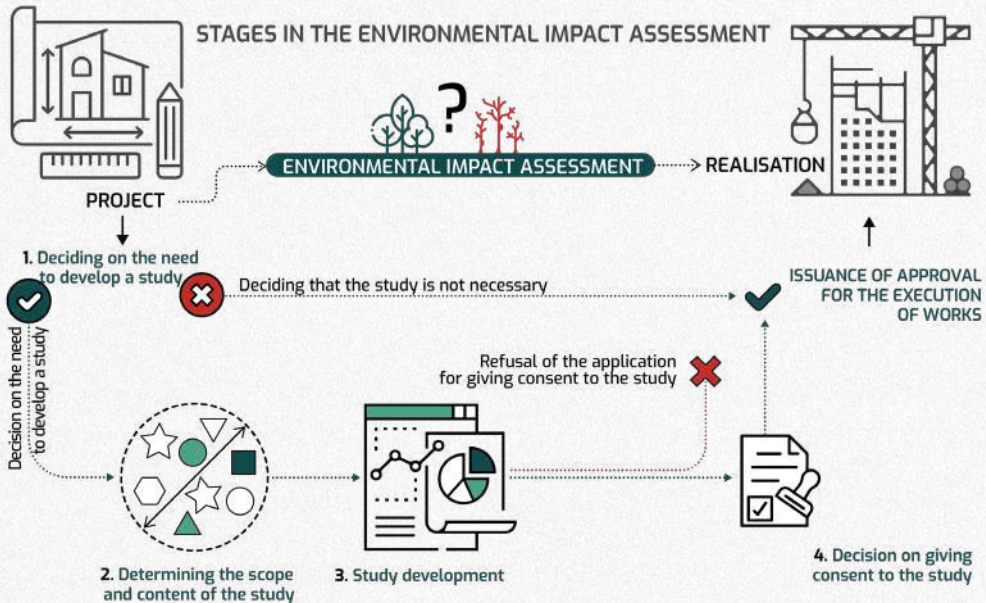
### 1. Request for making a decision about the need for impact assessment

- ✦ Previous deadline: within 10 days for providing the opinion regarding the request submitted by the interested public of the date of the publication of the announcement in the press
- ✦ New deadline: within 15 days for providing the opinion regarding the request submitted by the interested public of the date of the publication of the announcement in the press

### 2. Request for determining the scope and content of the impact assessment study

- ✦ **Main deadline:** within 15 days (unchanged from the previous Law) for providing the opinion regarding the request submitted by the interested public of the date of the publication of the announcement in the press
- ✦ **New possibility:** In case of finding it necessary due to the complexity of the project, the relevant body may extend the deadline for providing the opinion, whereas the total deadline cannot be longer than 30 days.

<sup>9</sup> The Law on Environmental Impact Assessment (“Official Gazette of the RS”, No. 94/24).



### 3. Giving consent for the impact assessment study

**Main deadline:** within 40 days for providing the opinion regarding the request submitted by the interested public of the date of the publication of the announcement in the press  
**Extended deadline:** If the project is complex, the relevant body may extend the deadline for providing the opinion up to 60 days. These solutions introduce for the first time the flexibility in determining deadlines, depending on project complexity and documentation scope.

The extension of legal deadlines is a result of years-long attempts of the civil society organizations to prove that public participation was often inefficient in practice. The reasons were as follows:

- ✦ Systematic decision of the bodies to opt for minimal legal deadlines;
- ✦ Neglecting project complexity and documentation scope;
- ✦ Inability to perform a quality analysis of the project's technical, legal and ecological aspects within a short period of time.

That is why the need was emphasized for an explicit legal possibility to extend deadlines when it was necessary for the sake of real and not formal public participation. The former practice shows that the opinions of the interested public were frequently ignored or formally recorded without any real influence on the decision made in the impact assessment procedure. Despite positive amendments, certain issues have not been fully resolved yet.

There is a particularly pronounced need for the following:

- ✦ Additional specification of the role of the interested public in decision-making;
- ✦ Clear prescription of the obligation of the relevant body to prove reasonably how public opinions were taken into account, as well as to provide reasons why those opinions were not taken into account.

This solution would be in compliance with Directive 2014/52/EU, which demands that the justification of the decision of the relevant body about significant environmental effects of the project should be based on all the information collected during the consultations, and not only on the data submitted by the project developer. Clear norming reduces the space for the abuse of processual authorities and ensures more transparent, more legitimate and better-quality decision-making in environmental impact assessment procedures.

## **2. Project division into smaller segments**

One of the key new features of the new Law on Environmental Impact Assessment is its explicit definition of the concept of “project”, with a clear aim of preventing the practice of the artificial separation (or fragmentation) of projects into several smaller segments in order to avoid or reduce the obligation of conducting impact assessment.

- **Planning, construction or conduct of several temporally or spatially connected facilities, interventions and/or complex systems representing a complete economic and/or technical-technological whole will be considered a single project in terms of the new Law.**

This definition has been introduced in response to a years-long practice in which investors submitted separate requests for individual stages or segments of the project (e.g., preparatory works, individual facilities within the same complex, auxiliary facilities or production process segments) although they essentially constituted a single project.

### **What does it mean in practice?**

In compliance with the new law, investors must no longer submit separate requests for the following:

1. Preparatory and previous works for the implementation of the main project;
2. Individual phases of a production or technological process;
3. Parts of the facility which are built successively, but form a single whole;
4. Auxiliary or supporting facilities (infrastructure, access roads, installations, warehouses etc.) whose sole or main purpose is to enable the construction or use of the main facility.

In all these cases, the relevant body should take into account the entire project and not different implementation stages of the same project. In that respect, the

central question in the application of this provision will be whether specific segments of the project are a single economic and/or technical-technological whole. This implies, among other things, posing the following questions:



1. Are they independent projects?
2. Would the investor build the facility even when not planning the construction of the main facility?
3. Do the facilities or interventions have a common function or purpose?
4. Are they located in the same plot?
5. Are the projects implemented by the same investor?
6. Are these connected technological procedures/activities?
7. Do separate project segments have no independent use or economic value without each other?

If the answer to any of the above-listed questions is affirmative, segments of the project must be seen and treated as a single project in terms of this Law, regardless of the manner in which they are represented by the investor.

### 3. Geological research as a subject of environmental impact assessment

In compliance with the new law, the definition of the project has been expanded and now explicitly includes the research works, including geological research.

- **A project implies all activities, works and interventions in the nature and natural environment, including the works and activities which include the exploitation of mineral raw materials or geological research.**

Before the amendments to the regulations, research works were subject to the obligation of conducting environmental impact assessment solely in the cases when they involved activities or facilities from List I or List II of projects, while drilling for oil and natural gas exploration was the only form of research works explicitly included in List II.

In practice, it meant that a large amount of geological research was conducted with no prior impact assessment despite the existence of potential risks to the environment.

Exploratory drilling is widely applied in the mining sector, especially for deep concentrated ore reserves. Such wells often intersect multiple underground aquifers and pass through hydro-geologically sensitive zones. In practice, technical omissions are possible during drilling, as well deviations from the prescribed technical norms, or accidents leading to the contamination

of groundwater and soil pollution in the vicinity of wells.

### Why is impact assessment important in the early stage?

It is exceptionally important that the environmental impact assessment procedure should be conducted as early as the stage of submitting the request for the issuance of geological research consent because in this manner the following is achieved:

- ✦ Timely identification of environmental risks,
- ✦ Definition of prevention and protection measures,
- ✦ The public is duly informed about the planned project,
- ✦ Public participation is ensured in decision-making at the moment when options are still open.

Having in mind that in the research stage it is not certain whether there will be any exploitation of mineral raw materials, it is recommended that the research and exploitation should be seen as two separate projects, but that the previous findings should be considered when preparing the environmental impact assessment study in a subsequent stage.

### What does it mean in practice?

In practice, it means that the project developer is obliged to submit, together with the request for the issuance of consent for geological research, consent for the environmental impact assessment study in case of the research for which the

obligation is prescribed for conducting environmental impact assessment.

### Which projects are subject to mandatory impact assessment?

According to the Regulation on the list of projects for which environmental impact assessment is mandatory, the list of projects for which it is obligatory to submit the request for deciding about the need for environmental impact assessment and the criteria for decision-making about the need for environmental impact assessment (*"Official Gazette of the RS"*, No. 106/25), impact assessment is necessary for deep drilling, except for drilling used for soil stability research and basic geological research, in the following cases:

1. **Exploration of geothermal energy**
  - for wells with a projected depth of over 500 m
2. **Exploration of oil and gas**
  - all projects, regardless of the depth
3. **Exploration of non-metallic, metallic and energy mineral raw materials (except for oil and gas)**
  - for wells with a projected depth of over 1000 m
4. **Exploration of mineral raw materials which involves mining works related to exploration**



#### **4. Construction permit only with consent for the environmental impact assessment study**

The years-long practice in the Republic of Serbia shows that construction permits have often been issued **without prior consent obtained for the environmental impact assessment study**, i.e., on the basis of the studies which were subsequently changed and which, in certain cases, **did not even undergo technical control**.

This practice was made possible by:

- ✦ **The imprecise provisions of the Law on Environmental Impact Assessment**, as well as
- ✦ The provisions contained in the **Rulebook on the procedure for implementing the unified procedure electronically**.

Although the Law stipulated that the project developer could not begin construction and project implementation without consent for impact assessment, it was not clearly and unambiguously prescribed that it was impossible to obtain a construction permit without such consent.

In fact, for a long period of time, investors submitted consent for the environmental impact assessment study only with the report of the works although that document is not an act issued by the relevant body but exclusively a document submitted by the project developer to the relevant body. In this manner, the right to a legal remedy

was effectively limited because there is no effective legal remedy for disputing the report of the works.

The amendments to the Law on Planning and Construction from 2023, as well as the pertaining bylaws, a clear obligation was defined that the project developer had to submit the following with the request for the issuance of the construction permit:

- Consent of the relevant body for the environmental impact assessment study, or
- Decision of the relevant body stating that it is not necessary to conduct impact assessment.

It was only the enactment of the new Law on Environmental Impact Assessment that stipulated unambiguously that consent for the study, i.e., the decision that the preparation of the study was unnecessary, must be submitted in the stage of submitting the request for a construction permit and not subsequently.

The new Law on Environmental Impact Assessment stipulates that **the project developer is obliged** to enclose the following together with the request for **project implementation consent** for the projects for which impact assessment is mandatory, as well as for the projects for which it is obligatory to file a request for deciding about the need for impact assessment:

- ✦ Consent of the relevant body for the impact assessment study and for the study itself, or



- ✦ Decision of the relevant body stating that impact assessment is not necessary.

These acts constitute **integral part of the documentation** on the basis of which the decision about project implementation consent is made.

Furthermore, the Law precisely specifies that **the project implementation consent** is an act by a relevant body which allows the following:

- ✦ Construction or performance of works,
- ✦ Continuation of project activities,

Including, but not limited to:

- ✦ Construction permit,
- ✦ Decision allowing performance of works,
- ✦ Consent for the exploitation of river sediments,
- ✦ Consent for conducting geological research,
- ✦ Consent for the construction of mining facilities,
- ✦ Consent for the performance of mining works etc.

It is necessary to conduct environmental impact assessment before the issuance of the consent for project implementation, otherwise it loses its meaning and purpose. In fact, impact assessment is a preventive instrument of environmental protection since substantial negative effects are identified **before the beginning of the project**, which is not possible if it is submitted after project implementation consent.

### 5. Opinion – Article 6 of the Law on Environmental Impact Assessment

In the further analysis of the proposed legal solutions, it has been observed that the new law stipulates two contrasting situations. In fact, it is primarily stipulated that the Government prescribes a list of projects with mandatory impact assessment and a list of projects with the obligation of filing the request for deciding about the need for impact assessment. However, immediately afterwards it is prescribed that for the projects from Article 5, Paragraph 1, Items 1) and 2) of this Law (the projects with the obligatory filing of the request for deciding about the need for impact assessment) the opinion of the Ministry in charge of the affairs regarding environmental protection should be obtained about the need for initiating the impact assessment procedure in the issuance procedure of location conditions in compliance with the Law which regulates planning and construction.

Therefore, the legislator first establishes that for the projects from Article 5, Paragraph 1. Items 1) and 2) of the Law,

there is an obligation of filing the request for deciding about the need for impact assessment, while in the following Article, however, the legislator states that for certain projects the “opinion” of the Ministry should be obtained about whether it is necessary to initiate the impact assessment procedure, in the stage of issuance of the act about urbanistic conditions.

The fact that Article 6, Paragraph 5, states the opinion that the project developer from Article 5, Paragraph 1, Items 1) and 2) of this Law is not released from the obligation of initiating the environmental impact assessment procedure in practice, only leads to greater misunderstanding – why should the Ministry issue its opinion at all and what will the project developer do with that opinion?

By introducing from Article 6 to the Law on Environmental Impact Assessment, this regulation, as a law regulating the matters from the domain of environmental protection, was aligned with the previously adopted amendments to the Law on Planning and Construction and the Regulation on Location Conditions. According to the Regulation on Location Conditions (“*Official Gazette of the RS*”, No. 87/23), location conditions particularly contain: “data about whether for the construction of facilities or the performance of works in compliance with the issued location conditions it is necessary to initiate the procedure of obtaining consent for the environmental impact assessment study, i.e., the decision that the study

preparation is unnecessary, which are obtained by the relevant body through a unified procedure from the Ministry in charge of environmental affairs”.

In that respect, Article 6 has been aligned with the Regulation on Location Conditions, but it is contradictory to the previous Article because Article 6 stipulates different procedures of decision-making about the necessity of impact assessment for the implementation of a project or for undertaking certain activities from those stipulated in Article 5.



The above-mentioned is of particular importance since the decision-making procedure about the project developer’s requests for the need for impact assessment is a clearly and precisely regulated multi-party administration procedure, which implies the participation of the interested public with the simultaneously prescribed possibility of reconsidering those decisions before a second-instance administrative body, as well as before the Administrative Court. All the above-mentioned can be practically omitted in certain situations by obtaining a simple “opinion” of the Ministry regarding the need for impact assessment, which would be unilaterally issued by the relevant body in a free form of an announcement, which would by no means include the participation of the interested public nor would be accompanied by clear criteria observed by the procedure body in the issuance of such an opinion.

The procedure of issuing opinions or information about the need for impact

assessment was introduced primarily due to the lack of alignment of the regulations from the field of planning and construction with those from the field of environmental protection. The key moment is the adoption of the amendments to the Law on Planning and Construction in 2020, including the accompanying Regulation on Location Conditions, which stipulated that location conditions had to contain information about whether it was necessary to initiate the impact assessment procedure for a certain project.<sup>10</sup> This information was supposed to be obtained by the body in charge of construction affairs from the relevant ministry responsible for environmental protection through the so-called unified procedure.

In practice, this created a parallel decision-making system outside the Law on Environmental Impact Assessment. The Law on Impact Assessment does not recognize the institutes of "opinion" or "information" but exclusively the formal administrative procedure which begins with the project developer's request, involves the public and ends with the issuance of an administrative act – a decision.

Such practice may lead to the violation of impact assessment procedures and to the reduction of the effects of preventive instruments of protection, and problems in practice:

1. **Excluding the public:** While the formal procedure explicitly implies public participation, the right to complaints and legal remedies, the informal exchange of information between the ministries proceeds completely non-transparently, which deprives citizens of their legal rights.
2. **Salami slicing** (project fragmentation): This procedure creates ideal preconditions for an artificial fragmentation of a single project into smaller units in order to avoid comprehensive impact assessment. For example, in the bypass around Novi Sad, the "opinion" allowed the treatment of preparatory works and temporary bridges as separate projects which were not subject to assessment, although they constitute the functional part of the bridge across the Danube River.
3. **Beginning of works before conducting the impact assessment procedure:** It is made possible for investors to begin works (terrain clearance, filling) on the basis of the opinion and thus change the current state of the environment before the actual analysis is performed, which makes subsequent impact assessment superfluous and pointless.
4. **Decision-making on the basis of incomplete data:** The data submitted by the investor for the issuance of the opinion do not include the specific features of the location or the vulnerability of the ecosystem, which leads to wrong conclusions about the assessment being unnecessary.<sup>11</sup>

<sup>10</sup> Article 55 of the Law on Planning and Construction ("Official Gazette of the RS", Nos. 72/09, 81/09, 64/10, 24/11, 121/12, 42/13, 50/13, 98/13, 132/14, 145/14, 83/18, 31/19, 37/19 and 9/20).

<sup>11</sup> For more details about the application of the opinion, i.e., about data collection regarding whether the construction of a facility or the performance of works are in compliance with the issued location conditions necessitates the procedure of obtaining a consent for the environmental impact assessment study, or the decision that such a study is not necessary, see: H. Vojvodić, M. Popović, M. Veljović, D. Macanović, J. Cvijetinović,

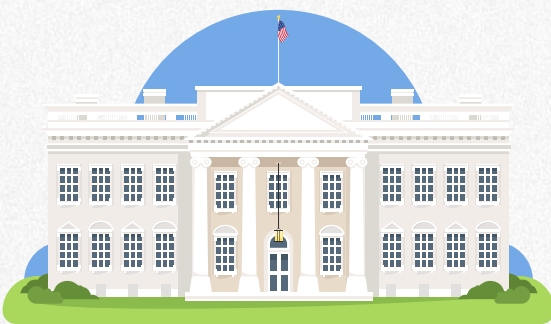
## 6. Authority for conducting the impact assessment procedure

The Law on Environmental Impact Assessment from 2009 started from a simple and hierarchically regulated criterion of authority which was directly connected to the body in charge of issuing consent for project implementation. Pursuant to Article 2 of that Law, the body in charge of conducting the impact assessment procedure was the level of authority issuing the construction permit or any other relevant approval of the project implementation: the Ministry at the Republic level, the body of the Autonomous Province at the Autonomous Province level, and the body of the local self-government unit at the local level. Thus, the responsibility in the impact assessment procedure was functionally and institutionally connected to the system of issuing permits in the field of planning and construction, with relatively few additional exceptions – in those cases when consent for project implementation or activities is not issued by the body in charge of planning and construction.<sup>12</sup>

In contrast, the Law from 2024 introduces a more complex model of dividing responsibilities, which is no longer based solely on who issues consent for project implementation but it combines a number of material, territorial and functional criteria. Article 7 of the new Law determines the authority of the Ministry precisely by the type of the project and its potential impacts, including the projects for which impact assessment is compulsory (List I, i.e., the projects from Article 5, Paragraph 1, Item 1), plants subject to the issuance of an integrated permit, Seveso plants and complexes, projects with a cross-border or international character, projects implemented in the territory of several self-government units, as well as projects subject to acceptability assessment in compliance with special regulations.

In comparison with the solutions from 2009, it is particularly evident that the Law from 2024 more clearly norms authority in complex and specific situations, such as projects with cross-border effects, projects taking up a number of administrative territories, or those related to other regulatory regimes (integrated permits, Seveso regime, acceptability assessment). In this manner, the authority for conducting the impact assessment procedure is separated from the exclusively formal criterion of permit issuance and is related to a broader regulatory and territorial context of the project.

The Law from 2024 additionally specifies the role of the autonomous province body



Implementation of the Law on Environmental Impact Assessment – Twenty Lost Years, Regulatory Institute for Renewable Energy and Environment, March 2024.

12 The Law on Environmental Impact Assessment (“Official Gazette of the RS”, Nos. 135/04 and 36/09).

which conducts the impact assessment procedure for projects fully implemented in the territory of the Autonomous Province, but only within the legally assigned jobs. At the same time, this Law explicitly regulates situations in which projects from certain categories are implemented only partly in the autonomous province territory, in which case the authority is transferred to the Ministry. Such solutions were not explicitly elaborated in the Law from 2009 which relied on a more general concept of territorial and institutional authority.

The role of the local self-government units in the Law from 2024 is residually defined: local bodies in charge of environmental protection conduct the impact assessment procedure for all projects which are not explicitly assigned to the Ministry or the Autonomous Province bodies.

A special novelty in comparison to the Law from 2009 is the regulation of “a conflict of authorities”, i.e., the situation when the relevant body is also the project developer. Article 8 of the Law from 2024 stipulates a special mechanism of transferring authority in such cases, so that the impact assessment procedure is not conducted by the body which is simultaneously the investor. This situation was not explicitly normed in the Law from 2009 but remained outside the clear legal framework.

Seen on the whole, the difference between the two legal solutions is reflected in the

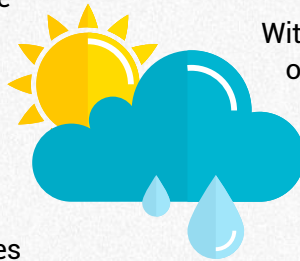
shift from the simple model of authority from 2009, which was related to the issuance of permits for project implementation, to a more elaborated system which takes into account the type of the project, its territorial reach, its connection with other regulatory regimes, and a potential institutional conflict of interests in the Law from 2024. This difference points to the change in the manner of normative structuring of the impact assessment procedure, regardless of the evaluation of the solutions themselves.

## 7. Integration of climate factors in the impact assessment procedure

The EU Directive on Environmental Impact Assessment from 2014 emphasizes that, during the past decade, the issues of resource efficiency and sustainability, protection of biological diversity, climate change and disaster/catastrophe risks have become more important in the shaping of policies, and that is why they constitute important elements in impact assessment procedures.<sup>13</sup> The Directive demands impact assessment of direct and indirect effects of certain projects on soil, water, air and climate. In Appendix III to the 2014 Directive, one of the criteria for determining whether some projects are subject to impact assessment also includes disaster/catastrophe risks, which are relevant for the given project, including those caused by climate change,

<sup>13</sup> Directive 2014/52/EU of the European Parliament and the Council of 16th April 2014, on the amendment to Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, Official Journal of the European Union, No. L 124/1 of 25th April 2014, Preamble, Item 7.

in compliance with scientific findings.<sup>14</sup> The impact assessment study should particularly contain a description of environmental factors which may be affected by the project, including air and climate (greenhouse gas emissions and effects relevant for adapting to modified climate conditions).<sup>15</sup>



The Law on Environmental Impact Assessment introduces clearer obligations regarding the integration of climate factors in the environmental impact assessment procedure. Namely, it stipulates that the environmental impact assessment study must contain a description of the environmental factors on which may be affected by the project, including, among other things:

- ✦ **Type and anticipated amounts of greenhouse gas emissions** in the project implementation stage and in the project exploitation stage;
- ✦ **Project susceptibility to climate change during execution and exploitation.**<sup>16</sup>

The previous Law did not explicitly recognize the obligation of considering climate factors in all stages of the impact assessment procedure. Although climate was mentioned within the concept of environmental impact assessment in the definitions, there was no clearly prescribed obligation of a systematic consideration of climate effects within

decision-making about the need for impact assessment, the determination of the study scope and content, or in the evaluation of the study itself.

With the adoption of the Regulation on the list of projects for which environmental impact assessment is mandatory, the list of projects for which it is obligatory to file a request for deciding about the need for impact assessment and criteria for deciding about the need for impact assessment (*“Official Gazette of the RS”*, No. 106/25), Appendix 3 to this Regulation, among the criteria deciding about the need for impact assessment, also includes project characteristics referring to:

“The risk of great disasters and/or catastrophes which are relevant for the given project, including those caused by climate change, according to scientific findings.”

In this way, climate risks are introduced as a relevant element as early as the stage of deciding about whether environmental impact assessment is necessary for the project.

Integrating climate factors in the impact assessment procedure is an important step towards the alignment of national legislation with the European Union's law. However, real effects of these amendments will depend on their **consistent application in practice**, particularly regarding the quality of impact assessment studies

14 Appendix III, Item 1f to the Directive 2014/52/EU.

15 Appendix 4, Item 4 to the Directive 2014/52/EU.

16 Article 22 of the Law on Environmental Impact Assessment.

and the manner in which relevant bodies evaluate climate risks and greenhouse gas emissions in their decision-making.

## **8. Legalization – the existing situation impact assessment**

The institute of the existing situation environmental impact assessment is characteristic for the Republic of Serbia and there is no comparative solution in the Directive on Environmental Impact Assessment. The existing situation impact assessment refers to the projects which have been put into operation with no construction permit or are used with no use permit. In such cases, the Law from 2009 as well as the Law from 2024 stipulate the procedure of the existing situation impact assessment. However, there are differences between the legal solutions from 2009 and 2024 which need to be pointed out.

In both Laws, the existing situation impact assessment is a special mechanism intended for projects implemented without consent for construction, or projects used without approval for use, for which, in line with regular rules, impact assessment should be mandatory or probable. Both the Law from 2009 and the Law from 2024 start from the same basic concept: the obligation of conducting impact assessment arises subsequently, for the purpose of considering real effects of the already implemented project on the environment,

without dealing with the previous problem because the project developer has no adequate work permits.

In both legal solutions, the developer of the implemented project is obliged to initiate the adequate procedure before the relevant body, while there is a distinction between the projects for which impact assessment is mandatory and those which call for decision-making about the need for assessment. Moreover, both laws stipulate that the situation existing situation impact assessment study is prepared on the basis of the project of the built facility, the data about emissions and the results of measurement and examination of the environmental factors, and that in its content it should suit the project impact assessment study, with the

adaptation to the fact that the project is already in the implementation stage – despite the provisions of Article 9 of the Law on Impact Assessment from 2024, which explicitly prohibit the beginning of the project construction and implementation, as well as putting into operation of the

projects for which impact assessment is mandatory, and the projects for which it is obligatory to file a request for deciding about the necessity of impact assessment, without consent of the relevant body for the project impact assessment study or a decision of the relevant body determining that the project's environmental impact assessment is not necessary.



However, there are also significant normative differences between these two legal solutions regarding the structure and dynamics of the existing situation impact assessment procedure. The Law from 2009 stipulated that the project developer should directly file a request for consent for the existing situation study (for the projects for which impact assessment is mandatory), or the request for deciding about the need for the existing situation impact assessment (for the projects for which impact assessment may be demanded). In this manner, the procedure was conceived as relatively direct, with no special stage of prior determination of the study scope and content.

In contrast, the 2024 Law introduces more clearly differentiate stages of the procedure, particularly for the projects for which impact assessment is mandatory. Instead of the direct request for consent for the study, the project developer first files a request for determining the scope and content of the existing situation study, thus aligning the procedure with the general structure of impact assessment prescribed for new projects. In this model, the relevant body does not decide only about giving consent, but previously about the scope and content of the study itself as well.

The difference is also evident in the documentation submitted with the request. While the Law from 2009 demanded a copy of the registration of the facility built without consent and an announcement about the possibility of its alignment with the urbanistic plan, the Law from 2024 connects this element with the law

regulating the legalization of facilities, demanding the announcement about the possibility of the alignment with the planning documentation in compliance with that particular regulation. At the same time, the Law from 2024 no longer stipulates the obligation of submitting the proof of the payment of the administrative tax as integral part of the request, which is yet another formal difference in comparison to the previous solution.

Another difference refers to the normative degree of the procedure elaboration. The Law from 2024 explicitly prescribes the enactment of bylaws which regulate in detail the request forms, the content of the existing situation study, and the accompanying documentation. Such referrals to bylaw regulations in the Law from 2009 were not explicitly listed within the provisions about the existing situation impact assessment.

**A particularly significant difference lies in the fact that the Law from 2009 contained interim and final provisions prescribing precise deadlines for filing the request for the existing situation impact assessment for the already existing projects. Article 44 of that Law obliged the project developers to initiate the procedure within clearly defined time frameworks, depending on the project category. In the Law from 2024 there is no matching interim provision.**

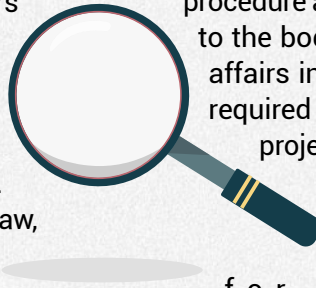
Seen in general, both laws keep the same main concept of the existing situation impact assessment as an instrument of subsequent impact assessment regarding illegally built or used projects. However,

the differences are reflected in the degree of the procedural elaboration, procedure stages, relying on other regulatory regimes and access to interim situations, whereas the law 2024 introduces a more structured procedural framework, while the Law from 2009 contains explicit solutions for existing projects at the time when the Law came into force.

## 9. Inspection control

One of the most significant changes in the field of inspection control refers to the precise specification of the inspector's duties regarding the control of conducting the environmental impact assessment procedure. In fact, according to the new Law, the inspector must establish **whether the project developer started the performance of works or the project implementation without the prior environmental impact assessment procedure**. This formulation is a significant improvement in comparison to the previous legal solution, according to which inspection control was not limited to checking up whether the operator has filed a request for deciding about the need for impact assessment.

This change was introduced in the Law after the intervention during the public debate, when it was pointed out that it was impossible to prescribe penal provisions for starting the project without the conducted impact assessment procedure if there is no simultaneously prescribed clear duty of the inspector to establish such illegality.



In the previous legal framework, the fact that the request was submitted was sufficient for the investor formally citing the legality of own acting despite not having obtained the decision of the relevant body, i.e., without having obtained consent for the impact assessment study or the decision that the study preparation was unnecessary. Considering that in practice it has been observed that the relevant inspection bodies often state that they are not in charge of conducting the extraordinary inspection control procedure and that they transfer the cases to the bodies in charge of construction affairs in the situations when they are required to establish whether a certain project developer started the project realization and/or construction and implementation without the relevant body's consent for the impact assessment study, it was necessary to explicitly specify this right and duty of the inspector. Otherwise, it may happen that a person filed a request for obtaining consent but, before the completion of the consent procedure, that person began project realization and/or construction and implementation, so that the inspector in charge of control of the application of this Law may establish that he/she is not in charge, and that the Project developer has fulfilled the obligation, i.e., filed the request for obtaining consent. This narrow interpretation (as a tendency of the administration bodies in charge of controlling the application of this Law) was not aligned with the law that regulates planning and construction either, because the construction inspector cannot be in charge of establishing whether project

realization started without the relevant body's consent for the impact assessment study, which resulted in the negative conflict of authorities and the rejection of both bodies to establish responsibility in the given case.

The Law introduces **two new authorities of the inspector** which have a direct and immediate effect on the course of the project implementation.

### 1) Prohibition of project implementation in the event of the validity expiry of the decision that impact assessment is not necessary

The inspector is authorized to prohibit the implementation of the project and the activities in the following cases:

- ✦ If the implementation started after the expiry of the period determining that impact assessment is not necessary, or
- ✦ If during the project implementation new circumstances have arisen demanding the submission of a new requests for deciding about the need for impact assessment.

The prohibition will be valid **until obtaining a new decision of the relevant body**.

### 2) Prohibition of project implementation in the event of the expiry of the study consent or the need for its updating

The inspector may also prohibit project implementation and performance of activities in the following cases:

- ✦ If the implementation started after the expiry of the decision validity regarding the impact assessment study, or
- ✦ If during the project implementation reasons arise for the preparation of a new or the updating of the existing study.

The prohibition will be valid **until the relevant body decides about the need for preparing a new study and/or updating the existing study**.

One of the most important novelties in practice is that it has been explicitly stipulated that the complaint against the inspector's decision does not postpone its execution.

This means the following:

- ✦ The investor must immediately act in line with the prescribed measures,
- ✦ The project or activity is suspended regardless of the complaint submitted by the project developer.

This solution strengthens substantially the preventive and protective functions of inspection control and reduces potential abuses through the delay of the procedure.

## 10. Penal provisions

The previous Law on Environmental Impact Assessment stipulated a rather limited set of economic offences, only in those cases when the project developer:

- ✦ Begins the project implementation before consent of the relevant body for the impact assessment study;
- ✦ Does not fulfil the conditions or does not implement the measures from the decision about consent for the impact assessment study;
- ✦ Does not obtain consent of the relevant body for the existing situation impact assessment.

This framework proved to be insufficient in practice because it did not cover a whole number of actions with potentially serious negative consequences regarding the environment.

The new Law introduces a broader system of penal liability, which includes economic offences and misdemeanours while simultaneously making minimal stipulated punishment/fines stricter.



One of the key deficiencies of the previous Law was the absence of sanctions for the event when the project developer begins the implementation of the project for which impact assessment is mandatory, or for which the need for impact assessment has been determined, without a prior decision made by the relevant body that impact assessment is not necessary.

The new Law identifies and sanctions these omissions. Among other things, the following is considered **an economic offence**:

- beginning the project implementation without the decision of the relevant body that impact assessment is not necessary;
- failure to undertake measures of preventing, reducing or removing negative effects, as well as other minimal conditions of environmental protection stipulated by the decision that impact assessment is unnecessary.

One of the important novelties is the introduction of the liability of a legal person or an entrepreneur acting contrary to the legal obligation to prepare the project's impact assessment study on the basis of the following:

- ✦ accurate,
- ✦ complete,
- ✦ most recent,
- ✦ valid, and
- ✦ available data.

In addition, **the project developer's misdemeanour liability** is also stipulated in

case the project developer does not file the following with the request for the project implementation approval:

- ✦ Consent of the relevant body for the impact assessment study, or
- ✦ Decision of the relevant body that impact assessment is not necessary.
- ✦ Regarding the projects built without a construction permit or used without the use permit, the previous Law defined as an economic offence solely the failure to obtain consent for the existing situation study and stipulated the fine of RSD 150,000 to 3,000,000. The new Law introduces the project developer's misdemeanour liability in case the project developer does not file the following:

Request for deciding about the need for the existing situation impact assessment study,

- ✦ Request for determining the scope and content of the existing situation study, or
- ✦ Request for giving consent for the existing situation study.

However, the Law stipulates the fine of RSD 200,000 for this offence, but reduces the upper limit to RSD 2,000,000.

In contrast to the previous Law, the new Law also introduces the responsible person's misdemeanour liability in the relevant body unless that person informs the public about

the requests filed and decisions made in a legally prescribed manner.

Although the modifications of penal provisions point to the legislator's intention of improving the observance of the Law, their efficiency in practice is brought into question. The following issues are particularly emphasized:

- ✦ Short deadlines regarding the obsolescence of economic offences and misdemeanours;
- ✦ Slow and insufficiently consistent application of the penal policy.

## **11. Regulation on the list of projects for which environmental impact assessment is mandatory and the list of projects for which it is obligatory to submit the request for deciding about the need for environmental impact assessment**

According to the Law on Environmental Impact Assessment, it has been established that the Government prescribes the following:

- 1) List of projects for which impact assessment is mandatory;
- 2) List of projects for which it is obligatory to file a request for decision-making about the need for impact assessment.

This bylaw should also prescribe the criteria for deciding about the need for impact assessment which refer particularly

to the project size and characteristics, environmental vulnerability in the place of project implementation, and the type and characteristics of potential effects.

Article 60 of the Law stipulates that the provision from Article 5 of the Law on Impact Assessment will be adopted within six months of the effective date of this Law, while it has been established that until the adoption of the Regulation the regulations made on the basis of the previous Law on Environmental Impact Assessment will be applied unless they are contrary to the provisions of this Law.

In fact, the Regulation from Article 5 of the Law on Impact Assessment represents the alignment with Annex 1 and Annex 2 of the EU Directive on Environmental Impact Assessment from 2011.<sup>17</sup>

Directive 2014/52/EU on the assessment of the effects of certain public and private projects that amended the 2011 Directive identifies two types of projects for which environmental impact assessment is conducted:

- ✦ the projects listed in Annex 1 to the Directive for which environmental impact assessment must be conducted;
- ✦ the projects listed in Annex II to the Directive for which member-states perform the decision-making

procedure regarding the necessity of impact assessment, taking into account the criteria listed in Annex III to the Directive referring to the project characteristics, location and characteristics of potential effects.

Speaking of the projects listed in Annex II to the Directive, i.e., the projects for which it is necessary to conduct the procedure of establishing the need for environmental impact assessment, the EU member-states are allowed to determine decision-making thresholds or criteria, i.e., the EU member-states can independently define more precisely the criteria for determining the need for the preparation of the environmental impact assessment study as long as in doing so they do not deviate from the goal and purpose of the Directive.

Article 2.1. of the Directive obliges the EU member-states to undertake all necessary measures to ensure, before the issuance of consent for project implementation, that the projects with potentially significant environmental impacts, among other things, due to their nature, size or location, should be subject to the obligation of obtaining the approval for the implementation of projects and for their environmental impact assessment.<sup>18</sup> The Court of Justice of the EU has established that the member-states which defined the criteria for the projects from Annex II to

<sup>17</sup> Directive 2011/92/EU of the European Parliament and the Council of 13th December 2011 on the assessment of the effects of certain public and private projects on the environment, codified text, Official Journal of the European Union No. L 26/1 of 28th January 2012.

<sup>18</sup> H. Vojvodić, M. Popović, M. Veljović, D. Macanović, J. Cvijetinić, **Implementation of the Law on Environmental Impact Assessment – Twenty Lost Years**, Regulatory Institute for Renewable Energy and Environment, March 2024, pp. 11-12.

the Directive on Impact Assessment solely on the basis of the project size, without considering the project nature and location, have exceeded discretionary authorities stipulated by Articles 2.1. and 4.2. of the Directive on Impact Assessment.<sup>19</sup> Article 4.3. of the Directive defines the application of the criteria from Annex III to the projects Article 4.2. for which environmental impact assessment can be requested.<sup>20</sup>

The Regulation from Article 5 was not adopted on time, as established by Article 60 of the Law on Environmental Impact Assessment – within six months of the effective date of this Law.

The Ministry of Environmental Protection conducted seven-day-long consultations about the Draft Regulation from Article 5 of the Law on Environmental Impact Assessment in June 2025, namely from 20th to 28th June. Afterwards, the public debate was not held but the Government adopted the Regulation at the end of November.<sup>21</sup>

Regulation on the list of projects for which environmental impact assessment is mandatory, the list of projects for which it is obligatory to file a request for deciding about the need for impact assessment and criteria for deciding about the need for impact assessment (*“Official Gazette*

*of the RS”*, No. 106/25) came into force at the beginning of December 2025.

The Regulation from 2025 differs from the previous Regulation defining this matter and that difference is already evident in the Law which contains a clearer explanation of the content of this bylaw. While Article 4 of the previous law stipulated that the Government should prescribe the list of projects for which impact assessment was mandatory, and the list of projects for which it was possible to demand impact assessment, Article 5 of the new Law provides a more accurate formulation stating that the Government should prescribe the list of projects for which impact assessment is mandatory, and the list of projects for which it is obligatory to file a request for deciding about the necessity of impact assessment. Therefore, so-called List II does not contain the list of projects for which it is possible to demand impact assessment, but the list of projects for which it is obligatory to conduct the decision-making process about the necessity of impact assessment.

Annex III to the Directive on Impact Assessment from 2014 was not fully transferred into the legislation of the Republic of Serbia. In fact, the Directive on Impact Assessment obliges the relevant

19 Judgment of the Court (Fifth Chamber) of 21 September 1999. Commission of the European Communities v Ireland. Environment - Directive 85/337/EEC - Assessment of the effects of certain public or private projects - Setting of thresholds. Case C-392/96

20 H. Vojvodić, M. Popović, M. Veljović, D. Macanović, J. Cvijetinović, *Implementation of the Law on Environmental Impact Assessment – Twenty Lost Years*, Regulatory Institute for Renewable Energy and Environment, March 2024, p. 12.

21 Public call for public participation in the consultation process related to the drafting of the Regulation on the list of projects for which an impact assessment is mandatory <https://www.ekologija.gov.rs/informacije-od-javnog-znacaja/javnerasprave/javni-poziv-za-ucese-javnosti-u-procesu-konsultacija-u-vezi-sa-nacrtom-zakona-oproceni-uticaja-na-zivotnu-sredinu>

body that, when deciding on a case-to-case basis or when determining the criteria or thresholds, should take into account the criteria defined in Annex III to the Directive, while in domestic legislation, however, this decision is made only on the basis of the criteria stipulated in List II of the Regulation.

In the Regulation from November 2025, significant changes were made both in List I and in List II.

In List I, namely in Appendix I listing the projects for which the preparation of the environmental impact assessment study is mandatory, other projects were added, such as nuclear power plants, in addition to the already present nuclear reactors, having in mind the amendments to the Law on Energy referring to the use of nuclear power for peacetime purposes.

Hydropower plants with 10MW or more are included in the list of the projects for which impact assessment is mandatory, as well as the renewable energy projects, such as wind power plants and solar power plants. List I includes wind power plants with more than 10 MW or the projects covering the surface area of 10 ha or more, as well as the projects planned in the vicinity of migration routes, nesting sites, places for raising the young or resting places of migratory and/or protected bird species. Wind power plants also include the projects of used wind turbine treatment or disposal. List I includes stand-alone solar power plants with 10 MW or more, or those taking up the surface area of 10ha or more, including the projects of removing used or damaged solar panels.

List I also includes the plants for producing batteries with the capacity of 15.000 t of battery cells.

In contrast to the previous criteria, the additional activities now include, for example, to the section or renewal of the railway tracks or railway lines, the following description was added: "which by their size or method of implementation are in compliance to the construction of the railway tracks or a railway line for larger distances".

In the construction segment, the activities have also been added such as the construction of highways (state roads) and/or fast (express) roads, while the construction has been deleted of inland waterways, as well as ports and piers located on the inland waterway where the international or interstate navigation regime applies.



In the activities such as hazardous waste treatment by thermal, physical, physical-chemical and chemical procedures, an addition was made of the biological procedure and mobile treatment facilities for which no specific criteria are given, in contrast to the activities of non-hazardous waste treatment, for which the capacity of the landfill for disposal of non-hazardous waste has been changed from 70t to 50 t per day, or of the total capacity from 200,000 ES to 25,000 t.

The addition to List I refers to the construction and placement of pipelines with the diameter of more than 800mm and the length exceeding 40km for carbon-dioxide transportation for the purpose of geological storage, including related compressor stations.

In contrast to the Regulation from 2008, (underground and surface) exploitation of mineral raw materials, all kinds of energy sources, non-metallic mineral raw materials for industrial processing, non-metallic mineral raw materials for the production of building materials, architectural-building stone and metallic mineral raw materials – metal ore, occupies a special place, but without specially defined criteria. Within defining comprehensive exploitation, the addition has been made of the facilities for capturing carbon-dioxide streams for the purpose of geological storage from the plant and geological storage of carbon dioxide, with the criterion that the total amount of carbon-dioxide captured is 1.5 megatons per year or more. These facilities and activities constitute a completely new practice in Serbia.

Item 23 of List I defines the implementation of several facilities, plants, works or activities which are planned and/or implemented simultaneously or in stages, together making an economic and/or technical-technological whole, if as a whole they represent some of the projects specified in this list.

The projects from List II, if planned and/or implemented simultaneously or in stages with the projects from List I and together making a single economic and/or technical-technological whole, are also subject to the mandatory preparation of the environmental impact assessment study.

By defining these two Items, the Regulation has been aligned with the project definition from the Law on Environmental Impact Assessment itself. Namely, the planning, construction or implementation of several temporally or spatially connected facilities, interventions and/or complex systems make a single economic and/or technical-technological whole.

A special item in List I defines the projects specified in List I and the projects specified in List II, regardless of the prescribed criteria, in case they are implemented in a **protected area**, in the protected vicinity of an immovable cultural property or in any other special purpose area. The Regulation first defines “a protected area” as an area with pronounced geological, eco-system and/or areal diversity and that is why the protection act declares them as protected areas of general interest (strict nature reserve, special nature reserve, national park, nature monument, protected habitat,

area of outstanding features and nature park).

List II, which covers the projects for which it is obligatory to file a request for deciding about the preparation of the study, has been modified to a certain extent by the addition of the facilities and activities similar to those in List I. Facilities for energy production, wind power plants and solar power plants, without specific criteria, whereas the difference has been made in comparison to the previous Regulation, when the capacity of 2MW was deleted for wind power plants and of 10MW for solar power plants, but they have become integral part of List I.

Moreover, in the field of extractive industry, the addition has been made of the projects of the exploitation of mineral and thermal waters used for medicinal, spa or recreational purposes, and the exploitation of geothermal waters whose accumulated heat can be used for energy purposes.

The addition to List II refers to the facilities in the field of mineral processing industry, new facilities for the production of glass and glass fibres, including the production of glass made by processing old glass, with the capacities of up to 20 t per day, facilities for melting mineral materials, the production of ceramic products by baking (tiles, sanitary fittings, home equipment made of ceramics and porcelain etc.), as well as the production of building material by baking (tiles, bricks etc.), with the defined capacity from 40 t to 75 t per day.

The addition to infrastructural projects was made of electronic communication facilities, i.e., networks, systems or means of international or major significance, or those built in the territory of two or more local self-government units, and overground and underground railway lines, subways, suspended or similar lines that are exclusively used for passenger transport. However, mobile telephony telecommunication facilities were removed from List II which do not exist in Annex II to the EU Directive from 2011.

Special attention is dedicated to Item 15. **Special Project Categories**, which lists all the previously approved, implemented or currently implemented projects from List I which may have a serious negative impact on the environment (modifications or expansions which were not stated in List I), or all the projects from List II.

**Projects with a cumulative effect** are all projects which, together with other conducted, approved or planned projects, works or activities, may have a substantial effect on the environment, particularly having in mind their size, characteristics or place of implementation.<sup>22</sup> Defining projects with a cumulative effect is included in List II, with the criterion "all projects", while it is unclear whether the projects from List I are subject to the obligation of aligning and analyzing cumulative effects with the projects from List II, which may largely contribute to a selective analysis in the assessment of the project's cumulative environmental effects.

<sup>22</sup> Item 15 of Appendix II to the Regulation.

The new Regulation from 2025 also contains Appendix 3 – the decision-making criteria regarding the necessity of impact assessment. This Appendix is aligned with Appendix 3 to the 2014 Directive and contains three groups of criteria referring to:

- ✦ project characteristics;
- ✦ project location, and
- ✦ potential effects of the project.

This is an important improvement of the legal framework in the field of environmental impact assessment, whereas these amendments and supplements have been anticipated for almost ten years.

## **12. Other bylaws in the field of environmental impact assessment**

The new Law on Impact Assessment stipulates the revision of several bylaws which have not been amended for 20 years because without their thorough amendments it is impossible to implement the new Law on Impact Assessment. For adopting these bylaws, the legislator stipulates extremely long deadlines – within two years of the effective date of the Law. In the course of that period, the regulations enacted on the basis of the previous Law will be applied unless they are contrary to the provisions of the new Law.

Article 12 of the Law on Impact Assessment stipulates that the Minister in charge of the affairs regarding environmental protection will define in further detail the design and content of the request form for necessary impact assessment and the documentation

to be submitted with the request. Until the adoption of this bylaw, the Rulebook on the content of the request about the need for environmental impact assessment and the content of the request for determining the scope and content of the environmental impact assessment study (*“Official Gazette of the RS”*, No. 69/05) will be applied, in its part that is not in contrast to the new Law.

Article 17 of the Law on Impact Assessment stipulates that the Minister in charge of the affairs regarding environmental protection will define in further detail the design and content of the form of the request for defining the scope and content of the project's impact assessment study and the documentation to be submitted with the request. Until the adoption of this bylaw, the Rulebook on the content of the request about the need for environmental impact assessment and the content of the request for determining the scope and content of the environmental impact assessment study (*“Official Gazette of the RS”*, No. 69/05) will also be applied.

Article 22 of the Law on Impact Assessment stipulates that the Minister in charge of the affairs regarding environmental protection will define in further detail the content of the project's impact assessment study and the documentation to be submitted with the study. Until the adoption of this bylaw, the Rulebook on the content of the environmental impact assessment study will be applied. Moreover, it is also necessary to prepare and adopt a new bylaw which will regulate the procedure of public inspection, public presentation and debate about the impact assessment

study and the preparation of a report about the conducted public debate, pursuant to Article 26 of the new Law. Until then, the Rulebook on the procedure of public inspection, presentation and public discussion about the environmental impact assessment study will be applied ("Official Gazette of the RS", No. 69/05).

In the evaluation procedure of the environmental impact assessment study, the technical commission plays an important role – an expert body which evaluates the impact assessment study. Pursuant to Article 29 of the Law on Environmental Impact Assessment, the Minister will adopt a bylaw regulating the method of work of the technical commission. Until then, the Rulebook on the work of the technical commission for evaluating the environmental impact assessment study will be applied ("*Official Gazette of the RS*", No. 69/05).

The specific feature of environmental impact assessment in Serbia is the existing situation impact assessment procedure. Pursuant to Article 37, the developer of the project for which impact assessment is conducted in line with the provisions of this Law and which has been built with no construction permit or is used with no use permit, is obliged to file a request for determining the scope and content of the study about the existing situation environmental impact assessment or a request for deciding about the need for the existing situation impact assessment for the projects as per Article 5, Paragraph 1, Item 2 of the Law on Environmental Impact Assessment. The existing situation impact

assessment was not introduced in 2024 – this institute also existed in the Law from 2009. However, the new law establishes that bylaws will more closely prescribe the design and content of the request about the need for the existing situation impact assessment, as well as the design and the content of the request for defining the scope and content of the existing situation study.

The records about the initiated and implemented procedures and decisions made in the impact assessment procedure must be kept as a public book by each body in charge of conducting impact assessment procedures. The content, design and method of keeping a public book is prescribed by the Rulebook on the content, design and method of keeping a public book about conducted procedures and decisions made about environmental impact assessment ("*Official Gazette of the RS*", No. 69/05). This Rulebook should also be amended in compliance with the new Law on Impact Assessment.

Article 45 of the new Law on Impact Assessment stipulates the establishment of a central electronic data base and a central web-portal as a key instrument for ensuring transparency, timely information and participation of the public in environmental impact assessment procedures. The purpose of this tool should be to ensure, from the very initiation of the procedure and throughout all of its stages, a clear insight to the public and interested bodies into the course of the procedure, deadlines, methods of providing the opinion, as well as the place and time

of public consultations, including cross-border consultations when they have been planned.

At the same time, the legislator has clearly divided responsibilities: the Ministry is in charge of running and maintaining the central base and the web-portal, while relevant bodies are obliged to enter all relevant data from public books into the data base, including the information about the initiated and conducted procedures, decisions made, as well as the complete documentation and announcements about the course of the impact assessment procedure. In this manner, the legislator wanted to prevent the fragmentation of the information, selective publication and harder access to documents, and to ensure unobstructed, electronic and equal public access to all data of importance for making decisions with a potential environmental impact, in compliance with the Law.

Article 40 of the Law on Environmental Impact Assessment stipulates that the relevant body will ensure access to the documentation regarding environmental impact assessment procedures through the web-presentation intended to inform the public about the submitted requests and the decisions made in the impact assessment procedure.

Pursuant to Article 61 of the Law on Environmental Impact Assessment, the relevant body was supposed to make an Internet web-presentation from Article 40, Paragraph 4 of this Law within the period of one year of the effective date of this Law, while the Ministry was obliged to establish the central electronic data base and the central web portal within three years of the effective date of this Law.