



Republic of Serbia  
Ministry of Environmental Protection

# Access to justice in cases related to spatial planning in the Republic of Serbia

Fourteenth meeting of the Task Force on Access to Justice in Geneva,  
Palais des Nations, 27 -28 April 2022

# Legal framework

## Main legal acts:

- Law on Environmental Protection (LEP) (“OG of RS”, No. 135/04, 36/09, 72/09, 43/11, 14/16 and 76/18)
- Law on Strategic Environmental Impact Assessment (OG of RS No. 135/04 and 88/10) (LSEIA)
- Law on Planning and Construction (Official Gazette of the Republic of Serbia No. 72/09, 50/13, 132/14, 145/14, 83/18, 31/19, 37/19, 9/20 and 52/21) (LPAC)
- Rulebook on the content, method and procedure of drafting spatial and urban planning documents (RCMPDSUPD) (“Official Gazette of RS”, No. 32/19)

# Competent authorities

- ▶ The Spatial Plan of the Republic of Serbia shall be adopted by the National Assembly of the Republic of Serbia, at the proposal of the Government.
- ▶ The spatial plan of the special purpose area shall be adopted by the Government, on the proposal of the ministry in charge of spatial planning, and for the areas that are entirely located on the territory of the autonomous province, on the proposal of the assembly of the autonomous province.
- ▶ The regional spatial plan, shall be adopted by the Government, at the proposal of the ministry in charge of spatial planning.
- ▶ The regional spatial plan for the territory of the autonomous province shall be adopted by the assembly of the autonomous province.
- ▶ The regional spatial plan for the area of the city of Belgrade shall be adopted by the assembly of the city of Belgrade.
- ▶ The spatial plan of the local self-government unit shall be adopted by the assembly of the local self-government unit.
- ▶ The urban plan is adopted by the assembly of the local self-government unit.

# Law on Environmental Protection

- ▶ LEP states that the participation of the public regarding strategic impact assessment shall be ensured by opening spatial and urban plans, i.e. any other plan or programme from Article 35 of this law to the public scrutiny (Article 81)
- ▶ The strategic environmental impact assessment is developed for certain plans, programs and principles in the domain of spatial and urban planning or land utilization, agriculture, forestry, fishing, hunting, energy, industry, traffic, waste management, water management, telecommunications, tourism, infrastructure systems, protection of natural and cultural resources, flora and fauna and their habitats etc., and is an integral part of the plan, program or basis (Article 35).

# Law on Strategic Environmental Impact Assessment

- ▶ Law on SEIA prescribes that authority responsible for plan and program preparation cannot continue further procedure of adoption of plans or programs without having obtained the approval of the report on the strategic environmental impact assessment (SEIA report), issued by the competent environmental protection authority for the SEIA report.
- ▶ Prior to submitting the request for approval of the SEIA report the competent authority responsible for preparation of plans and programs shall provide for public participation in reviewing the SEIA report. The public shall review the report within the process of displaying the plans and programmes for public scrutiny and during public debate.

# Law on Planning and Construction (1)

- ▶ Law on Planning and Construction prescribes that SEIA report is an integral part of the documentation basis of the planning document (spatial plans).
- ▶ The decision on developing planning documents also includes, the obligation, or absence thereof, of producing the strategic environmental impact assessment.
- ▶ Before making a decision on the development of a planning document, the bearer of the plan development obtains the opinion of the competent authority for environmental protection on the need to prepare a strategic environmental impact assessment.

# Law on Planning and Construction (2)

- ▶ The decision on the preparation of the planning document is made by the authority responsible for its adoption.
- ▶ The Law on Planning and Construction stipulates that public participation, as regards urban and spatial planning, takes place during public discussion, meaning that the strategic impact assessment report is reviewed at the same time.
- ▶ Planning documents with annexes must be accessible for public insight during the period of validity of the documents, in the premises of the entity of the decision-maker.

# Early public insight

- ▶ After making a decision on the development of a spatial or urban plan, the bearer of the plan development organize an early public insight, i.e. informing the public with the overall objectives and purpose of the development of the plan, possible solutions for urban renewal, as well as the effects of planning.
- ▶ Early public insight is announced in the media and in electronic form on the website of the local self-government unit and on the website of the plan owner. The early public insight procedure lasts 15 days.
- ▶ During the early public insight conditions and other important data for the preparation of the planning document are obtained from the public authorities, special organizations, holders of public authorizations and other institutions.



# Public insight

- ▶ Presentation of the planning document for the public insight is performed in the further process of drafting the plan, after the technical control.
- ▶ The presentation of the planning document for public insight is announced in the daily and local newspapers and lasts 30 days from the date of announcement.
- ▶ The competent authority, i.e. the Committee for plans, compiles a report on the conducted public insight of the planning document, which contains information on the completed public insight process, with all the remarks and decisions on account of every remark.
- ▶ The report is submitted to the bearer of the plan development of the planning document, who is obliged to act upon these decisions within 30 days from the day of delivery of the report.

# ATJ related to spatial planning

- ▶ Submission of amendments to the Draft Spatial Plan during the Public Insight which may or may not be accepted.
- ▶ Filing appeal against the Decision on approval of SEIA Report, issued by the competent environmental protection authority for the SEIA report, in accordance with the Law on General Administrative procedure.
- ▶ Every legal or natural person have the right to initiate a procedure for assessing the constitutionality or legality of planning document before the Constitutional Court. Procedure before the Constitutional Court is a long-term procedure.
- ▶ Filing a complaint to the Protector of Citizens.
- ▶ In the Republic of Serbia, there are just a few cases related to spatial planning.

# Spatial Plan of the special purpose area for the implementation of the project of exploitation and processing of Jadarite minerals "Jadar" (Jadar project)

- ▶ The Government of the Republic of Serbia issues Decision on the development of the Spatial Plan of the special purpose area for the implementation of the project of exploitation and processing of Jadarite minerals "Jadar", ("O. G. of RS", No. 60/17) (June 20, 2017).
- ▶ The content and basic solutions of the Spatial Plan are harmonized with the provisions of the Law on Planning and Construction, Law on Spatial Plan of the Republic of Serbia from 2010. until to 2020 ("Official Gazette of RS", No. 88/10) and the Rulebook on the content, method and procedure of drafting spatial and urban planning documents ("O. G. of RS", No. 32/19).



# Jadar project (2)

- ▶ The Report on Strategic Environmental Impact Assessment of the Spatial Plan was prepared, in accordance with the Decision on the development of the Strategic Environmental Impact Assessment of the Spatial Plan of the Spatial Plan of the Special Purpose Area for the implementation of the Jadar mineral exploitation and processing project („O. G. of RS”, No. 36/17).
- ▶ The initiative for the development of the Spatial Plan was submitted to the Ministry of Construction, Transport and Infrastructure (MCTI) in December 2016 by the company "Rio Sava Exploration d.o.o. Belgrade "from Belgrade, a company that operates within the global mining corporation“ Rio Tinto ”.
- ▶ The MCTI announced public insight into the Draft Spatial Plan and the Report on Strategic Impact Assessment of the Spatial Plan, in the period from November 25 to December 24, 2019. for 30 the duration of days at the headquarters of local self-government units, in the city of Loznica and the city of Krupanj, as well as on the website of the MCTI.

- ▶ The public presentation of the planning document was held on December 11, 2019 in the Assembly of the City of Loznica.
- ▶ The public session of the commission for public insight was held after the completion of the public insight, on January 13, 2020, in the Assembly of the City of Loznica. Individuals and representatives of legal entities that submitted objections in writing during the public review could attend the public session and verbally explain them.
- ▶ The Government of the Republic of Serbia enacted Regulation on determining the Spatial Plan of the special purpose area for the implementation of the "Jadar" project ("O. G. of RS", No. 26/20), on March 13, 2020.



- ▶ In December 2021, environmental organizations across Serbia organized roadblocks to protest lithium mining and Rio Tinto's Jadar project. In response to these protests, the Government passed the Decree on repealing the Decree on the determination of the Spatial Plan of the special purpose area for the implementation of the "Jadar" project on 20 January 2022 ("O. G. of RS", No. 8/22 ).
- ▶ On the day this Decree enters into force, the competent authorities will without delay repeal individual acts adopted for the implementation of the Decree on the determination of the Spatial Plan of the special purpose area for the implementation of the "Jadar" project.



# Plan of detailed regulation of the part of Makisko field (1)

- ▶ The Assembly of the City of Belgrad at the session held on January 26, 2017 issued a Decision on development of the Plan of detailed regulation of the part of Makiško field (PDR Makisko field).
- ▶ The draft PDR Makisko field was presented at the Early Public Insight during the period from 13 to 27 September 2017.
- ▶ Public insight into the draft PDR Makisko field, with the SEIA report, was held during the period from October 26 to November 27, 2020.



# Plan of detailed regulation of the part of Makisko field (2)

- ▶ The public session of the Commission for Plans of the was held on December 15, 2020. In order to prevent the spread of the pandemic caused by COVID 19 at the public session of the Commission for Plans the access was denied to a large number of gathered citizens who met the condition to attend based on their previous submission of comments regarding the Draft plan. The access is allowed to the public representatives who submitted comments and it was limited to only one public representative of each organization.
- ▶ Public presentation of reports on strategic impact assessment for Plan of detailed regulation of the part of Makisko field was not held.



# Spatial Plan of the Municipality of Backa Palanka

- ▶ At the request of the environmental association "Let's save Vojvodina", an extraordinary inspection of the procedure of drafting and adopting the Spatial Plan of the Municipality of Backa Palanka (O.G. of the Municipality of BP, No. 20/12) was performed.
- ▶ In the inspection control procedure it was determined that the procedure of drafting and adopting the Spatial Plan of the Municipality of BP was not implemented in full accordance with the law.
- ▶ At the proposal of the Ministry of Construction, Transport and Infrastructure a procedure was initiated before the Constitutional Court to assess the legality of the Spatial Plan of the Municipality of BP.
- ▶ At its session held on May 9, 2019, the Constitutional Court brought Decision No. IUo-175/2015 by which it determined that the Spatial Plan of the Municipality of BP is not in accordance with the law.

# Major challenges and needs in implementation

- ▶ Only legal remedy against the decision on the adoption of the planning document is to initiate a procedure for assessing the constitutionality or legality of planning document before the Constitutional Court.
- ▶ It is necessary to improve the legislation implementing the ATJ regarding the planning documents.
- ▶ There is a need of the exchange the experiences and good practices and related legislation on access to justice in cases related to spatial planning with the other countries.
- ▶ The organization of training, workshops and raising awareness is very important.

**THANK YOU FOR YOUR ATTENTION!**

**Tina Janjatovic**  
**email: [tina.janjatovic@ekologija.gov.rs](mailto:tina.janjatovic@ekologija.gov.rs)**  
**Ministry of Environmental Protection**  
**Republic of Serbia**