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THE NORMATIVE REGULATION OF THE AIR PROTECTION IN LEGISLATION OF REPUBLIC OF SERBIA

ABSTRACT: Clean environment is a basis of people's health, but of their daily lives too. Air, water and environment are increasingly polluted under the influence of various threatening factors, which requires a legislative support. Through the provisions of the Law on Environmental Protection (2004), the air protection has in principle been provided, while the specific solutions have been given by the Law on Air Protection (2009), as a *lex specialis*, which regulates in detail the management of air quality and determining measures, the methods of organizing and controlling the implementation of protection and improvement of air quality as natural values of a general interest enjoying a special protection. In addition to the aforementioned laws, air protection is also regulated by by-laws, namely by various decrees and regulations. The subject of this paper is the analysis of normative solutions for air protection (ambient) according to the legislation of Republic of Serbia and the impact of the important factors on air pollution.

Key words: *quality air, air pollution, environment, causes of air pollution in Republic of Serbia.*

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1. Introduction

Air pollution implies the transfer of harmful natural and synthetic substances into the atmosphere as a direct or indirect consequence of human activity (Stevanović, 2003. p. 145). The transformation of environmental awareness into visible results began only in the seventies of the twentieth century, when the first regulations were adopted at the international level which regulate various aspects of environmental protection.

The 1991 Law on Environmental Protection is the first systematic law that provides for certain issues to be regulated by special laws, such as assessment of the impact of plans, programs and projects on the environment, integrated pollution prevention and control, nature protection, air protection, water, land, forests, geological resources, chemical management, waste management, noise and vibration protection, etc.

Until the 1990s, more precisely, until 1997, air quality was regulated on the basis of emission limit values by the Rulebook on emission limit values, manner and deadlines for recording data (1997). Which determines the limit values of emissions of harmful and dangerous substances in the air at the source of pollution, manner and deadlines for measurement and recording of data on emission measurements, sources of pollution, but that was not enough, so the Law on Air Protection was passed.

It is concluded that the laws on environmental protection, as well as on air protection were passed relatively late, which should not be surprising, although Serbia aspires to EU membership, and it was not up to date on this issue, moreover, the Treaty establishing the European Union. Union and the Treaty establishing the European Community does not clearly define the concept of the environment, they are mentioned as a goal, but not clearly enough.

So, only in the last couple of decades has the awareness of environmental protection been aroused, more precisely when nature “rebelled” and hundreds of thousands of people died. The Republic of Serbia has been in the process of harmonizing internal regulations in the field of air protection with EU regulations for more than ten years (Todić & Dujić, 2020. p. 39). The first RS regulations in the field of environment, whose harmonization with EU regulations started in 2002, through the activities of the Regional Center for the Environment for Central and Eastern Europe, there were four systemic laws adopted in 2004 - Law on Air Protection, Law on Environmental Impact Assessment, Law on Strategic Environmental Assessment and the Law on Integrated Prevention and environmental pollution control (Todić & Dujić, 2020. p. 39).

The paper will not proceed to a detailed analysis of all regulations at the national and international level that regulate air protection, but those that the authors consider important to mention in this paper. This is stated for the reason that a detailed analysis, ie an individual analysis of all regulations governing the subject matter would exceed the set framework of work.

In the next part of the paper, we will talk in general about the causes of air pollution, and then about its normative regulation in the Republic of Serbia. The authors of the paper will also refer to the harmonization of regulations at the national level with EU regulations, regarding air protection.

2. Sources of air pollution (general)

Air pollution has reached worrying proportions (Marković & Ditrih, 2018. p. 19). Various forms of classical industrial production, mining, production of final products, marketing of the same and final disposal in the form of solid waste are the basic elements of the phenomenon of pollution (Mišković, 2011, p. 7). Pollution has evolved with the progress of civilization from minimal pollution of air (fires), water and land to today's radioactive pollution (nuclear tests, accidents at nuclear power plants, use of illicit weapons in military interventions) and pollution with various toxic substances (Đorđević, 2019, p. 196).

The causes of environmental and air¹ pollution can be divided into natural and artificial. Natural causes of pollution occur beyond human activity, such as volcanoes, earthquakes, floods, while artificial pollutants are products of human activity, ie his hands. Regardless of whether they are natural or artificial pollutants, it is a matter of how they are changing the environment, to the detriment, not only in regards to environment by herself, but also of man, so it is necessary to act quickly, effectively, and help preventively.

The biggest polluters are considered to be the industries of construction material, the plastics, pulp and paper industries, road, rail, city, river and air transport, households in villages and cities, as well as various energy facilities. However, pollutants can be further divided into local and global, with local pollutants affecting narrower areas, while global pollutants represent mass flows that carry polluted particles over long distances such as the 1986 Chernobyl disaster and Fukushima in 2011.

Long-term air pollution can, in addition to deteriorating its quality, have consequences, such as massive negative hereditary mutations, acid

¹ Air is a mixture of gases consisting of 78% nitrogen, 21% oxygen, 0.03% carbon dioxide and small amounts of other gases (neon, argon), water vapor, dust and bacteria.

rain, reduced oxygen content in the atmosphere, ozone depletion, increased CO₂ in the atmosphere and its impact on the Earth's energy balance, general environmental pollution (Đarmati, 2007, p. 12).

Having in mind the above and understanding the harmful consequences that various causes of air pollution could produce, the competent authorities of the Republic of Serbia took this problem very seriously by somehow "obliging" the Republic of Serbia to implement EU regulations on air quality protection.

The causes of air pollution are not only external, but also physical sources of pollution. The work of the state of the Republic of Serbia in combating harmful causes is important here. It should not only be accepted that the adoption and signing of international agreements, directives or regulations is sufficient, their implementation is more important.

Air protection in developed countries takes place in institutional form in the form of implementation of the Convention on the Reduction of Transboundary Air Pollution (Long Range Transboundary Air Pollution – LRTAP) and a number of regulations and measures at local and regional level, primarily related to the control of air pollution in urban areas (Bogdanović, Marjanović & Pilipović, 1993, p. 35).

The National Assembly of Serbia ratified the Aarhus Convention on May 12, 2009 in order for the Government of Serbia to adopt the Strategy for the Implementation of the Convention on Access to Information, Public Participation in Decision-Making and the Right to Legal Protection in Environmental Matters (2011). The reasons for developing the strategy for the implementation of the Aarhus Convention are reflected in the indisputable fact that the Aarhus Convention is one of the most advanced international treaties for environmental protection, including air, although it requires access to all information to civilians and stakeholders, environmental policies, as it respects people's right to live in a healthy environment. Namely, according to Section A.2 (Section A.2: European Pollutant Release and Transfer Register (E-PRTR)) of the said Convention, whether it is air or water, for each installation there is information on the amount of pollutants they emit. The European Environment Agency (EEA) 10 coordinates EIONET (European Information and Observation Network in the field of environment) with the aim of ensuring the flow of information between national systems and the European Information System. If the concentration of a particular pollutant is dangerous to human health, the Ministry, the competent authority of the Autonomous Province and the competent authority of the local self-government unit shall inform the public via radio, television, daily newspapers, Internet and / or other appropriate means (Article 23 of the Law on air protection).

Namely, air pollution is an environmental problem of a transnational character, although it does not only affect the environment where the epicenter of pollution is, but is transmitted at high speed. Also, the consequence does not occur only in the place of pollution, but it can also occur in a completely different location, even in another country. Namely, certain issues such as legal protection, information, etc. it should be regulated in detail by law. The Commercial Court is up-to-date and correctly judges when it comes to polluting emissions from legal entities.

2.1. Sources of pollution in the Republic of Serbia

The most common causes of air pollution in Serbia are poor quality fuel combustion, poor quality motor fuels, use of old vehicles without catalysts, outdated technology in the industrial and energy sectors, lack of national cadastre of air pollutants, lack of national greenhouse gas inventory and inadequate air quality monitoring network (Besermenji, 2017, p. 3).

Every year, the Government adopts the List of zones and agglomerations in which exceedances of limit values originating from natural sources have been established (article 24, paragraph 1 of the Law on Air Protection). The list of zones and agglomerations is adopted at the proposal of the Ministry, based on data on concentrations and sources, as well as evidence showing that these exceedances can be attributed to natural sources (article 24, paragraph 2 of the Law on Air Protection). However, if the overruns can be attributed to natural causes, such overruns will not be considered overruns within the meaning of the Air Protection Act.

The goal of air control is reflected in determining, measuring the degree of air pollution and eliminating pollution to protect human health. However, a seemingly very simple procedure can become very complicated. Namely, since the instruments are set to 24 hour measurements, when the concentration of emitted particles is divided into 24 hours, the concentration is within normal limits, although within half an hour, there was “something” in the air, maybe 40 times more than the maximum allowed (Besermenji, 2007, p. 7). It happens when measuring air pollution in Serbia that some industrial production releases illegal substances from chimneys during 30 minutes or an hour, and then citizens complain that they feel bad (Besermenji, 2007, p. 7).

Therefore, the underdeveloped economy in Serbia is not only an impact on the existence of its population, ie its economy, but also on the health of the people living on its territory. Modernization, in addition to huge progress in improving the socio-economic conditions for human life, has brought

environmental dangers (Pejić, 2015, p. 2). Most companies are on the verge of liquidity, and better quality, and therefore more expensive equipment, such as. For them, better filters are, from an economic point of view, an unnecessary expense. Namely, companies have protection equipment, but not quality. The appeal to the competent authorities is to “try” to participate in part in the purchase of better equipment for environmental protection companies, regardless of being private, and not to individuals but to all, because such companies employ the population in Serbia and indirectly affect its economy.²

Therefore, the state has an interest in allocating subsidies from its budget to all private companies, even though they employ workers, ie citizens of Serbia, and in that way will reduce air pollution, provide a healthier environment for their citizens and themselves.

3. Consequences of air pollution and prevention measures

The law on the protection of the air from pollution was passed in 1965, when the environmental awareness of the competent authorities began to awaken. As stated, consciousness began to awaken only when catastrophic consequences occurred not only on Earth but also on human health.

The website of the Provincial Secretariat for Urbanism and Environmental Protection of the APV contains the adopted laws, decrees and regulations of air protection for review of basic information. Reports on the state of ambient air quality for 2003-2008, then from 2012-2019 are also available years.

Air pollution is a global problem. Despite the prohibitions listed in the law regarding the production of substances that damage the ozone layer, the consequences are increasingly visible without the possibility of “repair”. This refers especially to the diseases³ we encounter. Furthermore, one of the biggest polluters are cars, and even gasoline is a dangerous thing. From the explanation of the Judgment of the Supreme Court of Serbia (U. 4360/2004 of 8 June 2006 years): ...” Based on these facts, the first-instance decision correctly ordered the defendant to repair the accident site - gasoline tank, as a dangerous substance owned by the defendant, for whose needs gasoline was transported and to repair it. According to the project of the authorized professional organization, the second-instance decision rejecting

² This is not about subsidies for starting a “business” or a competition for projects announced by the state in order to co-finance only “selected companies”, but an appeal for at least participation, if not the purchase of equipment by the state authorities to all companies. for the protection of the environment in Serbia.

³ Based on some research, it is evident that people living in the region where, for example. oil refineries are more likely to get cancer than people who do not live.

the prosecutor's appeal as unfounded is also correct. Transporter of hazardous and harmful substances is obliged to bear the costs of recultivation, ie remediation of land and to pay compensation for permanent change of land use in accordance with the law. Based on the provision of Article 86, paragraph 2 of the said Law, which stipulates that in case of damage caused by an accident which endangers or pollutes the environment, the company that caused the damage is liable for the damage, according to the principles of liability without guilt."

Namely, the court correctly ruled, bearing in mind that motor gasoline spilled on the street and surrounding land after a traffic accident resulted in environmental pollution, and the owner as the holder of the dangerous thing (assenger motor vehicle) is responsible in accordance with the Law on Obligations (article 174).

What most do not understand, and there is a low level of consciousness, is that if people do not see something with their own eyes, they do not understand the seriousness of the damage that has occurred or may occur. Air is a substance that is not visible, not tangible and what is not understood is that it doesn't have to be black or any other color to be polluted. Just as people's awareness has risen to the level of understanding that they can get sick from viruses in the air which are not seen, so people need to understand that certain particles in the air can be extremely dangerous and can have the most serious consequences, such as death of hundreds thousands of people, and at that moment it does not matter how much a company earns and whether better equipment has a higher cost, because that is more important than man, machine, equipment or law.

The competent authorities adopted the Decree on Monitoring Conditions and Air Quality Requirements (2010), where are prescribed the conditions for monitoring and requirements for better air quality. The Law on Air Protection prescribes solutions regarding the monitoring system in a general manner, in this regard, the powers have been transferred to the Government of the Republic of Serbia to specify the legal provisions by a decree. The Rulebook on Conditions for Issuing Approvals to Operators for Measuring Air Quality and/or Emissions from Stationary Pollution Sources (2012), prescribes even closer conditions for issuing approvals to operators that independently measure air quality and/or measuring emissions from stationary sources of pollution. Measurement of air pollution is performed by automatic and manual measurements by numerous professional institutions.

Pursuant to Article 3 of the Regulation, the requirements for better air quality are the limit values for the level of pollutants in the air; upper and lower limits for assessing the levels of air pollutants; tolerance limits and tolerance values; concentrations hazardous to human health and concentrations reported

to the public; critical levels of air pollutants; target values and (national) long-term targets of air pollutants; deadlines for reaching limit and / or target values. The results of air quality monitoring for September 2019 show that the air in Novi Sad is polluted in terms of coarse suspended particles, which are marked as PM₁₀ and amount to 61.87 µg / m³, which is alarming, and in 2013 the air in Novi Sad was reached the category of clean where no measuring stations exceeded the reference limits for the concentration of pollutants.

According to the Report on the state of air quality in the Republic of Serbia for 2020 issued by the Environmental Protection Agency, air quality has deteriorated from previous years. Automatic air monitoring stations show data that exceed the limit values. According to the report, exceedances of the permitted limits were observed in the results of measurements of sulfur dioxide, nitrogen dioxide, suspended particles PM₁₀, PM₂₅, while in terms of carbon monoxide it was not.

The measurement results are available on the website of each individual value. Also, it would be preferable for the competent authorities to inform civilians on the same site about the actions taken to reduce pollution and prevention measures, which can then be used to warn citizens not to move to certain parts of the city where the concentration of harmful matter is high, or to not drink water from household taps, etc.

Furthermore, landfills, which also cause air pollution, should not be neglected. Inadequate sorting and disposal of garbage dumps in not designated area, and especially in illegal places, is a source of feces, bacteria harmful to human organisms, but also to the air we breathe. Most people today resort to burn landfills, which reduces their surface area by up to 90%, but destroys the ground, the greenery on which it is located. Plants intended for proper way of removing waste should be formed, instead of burning on greenery, which leads to environmental pollution, and thus air, and it is likely that, under the influence of wind, it can expand and reach other areas, or in the worst case take away people's lives.

According to the information available on the website of the Provincial Secretariat for Urbanism and Environmental Protection of the Autonomous Province of Vojvodina, a meeting was held to discuss the analysis and implementation of activities related to improving sustainable environmental planning by improving public service (administration, inspection and supervision). and wastewater management, through joint initiatives on both sides of the border, including the creation of databases on waste, wastewater and environmental pollution caused by illegal landfills.

Regarding the harmonization of regulations of the Republic of Serbia with EU regulations, it should be noted that the structure of EU regulations

related to “air protection” includes a total of 26 legal acts of this organization which are classified into the following groups: “air quality”, “pollution” atmosphere“, “motor vehicles”, “other vehicles” and “industry”, and the largest number of regulations is in the group related to “air pollution” with a total of nine regulations (Todić & Dujić, 2020. p. 42).

During the drafting of the Law on Air Protection, in 2009, the legislator harmonized the solutions related to air protection with the EU regulations governing this matter. As there were changes to the law after the year of its adoption, we are of the opinion that it is largely in line with EU regulations, and that bylaws are in line with the law. A comparative review of the norms contained in the regulations of the Republic of Serbia and the EU on several specific issues shows that in the Republic of Serbia, based on the Law on Air Protection, established a basic normative framework containing all elements of Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air in Europe, with the proviso that some of these elements are not fully in line with the said Directive, such as RS does not have an appropriate strategic document that would define the framework of national policy in the field of air protection, although the Law on Air Protection prescribes the adoption of such a document (Todić & Dujić, 2020. p. 49). In the case of “air quality” relate to the limit values, target values and obligations regarding the concentration of exposure for air quality set out in Directive 2008/50/EC and Directive 2004/107/EC of the European Parliament and the Council (Todić & Dujić, 2020. p. 45). Article 3 of Directive 2008/50/EC stipulates that Member States are required to designate competent authorities to be responsible for matters in the context of measuring and assessing ambient air quality and for coordination within their territory. How is it, for example, on the website of the Provincial Secretariat for Urbanism and Environmental Protection it is stated that monitoring of ambient air quality in APV is carried out by numerous professional institutions, it would be desirable, especially for the purpose of public information of citizens, to appoint indebted institutions.

4. Conclusion

The progressive development of civilization has led to the disruption of natural balance. Decades ago, man used nature relatively modestly, although he did not have any knowledge about it, but back then the modern technique and technology were not yet developed.

After the conducted research, and better acquaintance of man with nature and its riches, there has been a constant exploitation of her. Man exploits

nature to its limits, and exclusively in his own interest, not caring about the potential consequences that are becoming more and more catastrophic and do not end only with diseases but also with the death of people.

The aspiration of the state should be to develop the economy and provide a better material standard to its citizens, and that is an indisputable fact, but not if it harms people's health. Despite a number of acts adopted in the field of air protection, air pollution has not been reduced, moreover, measurements show that the concentration of harmful substances has increased.

Serbia is showing readiness to implement regulations of an international character, which has been done to a large extent, but we are still of the opinion that it should be taken more seriously by implementing them with pre-set goals. Therefore, it is indisputable that measuring instruments are provided, however, a commission or simply a team of experts should be formed who would have their headquarters in several parts of Serbia and study ways and measures to reduce air pollution. It is not enough to implement regulations and provide instruments, ie measurement conditions, but also to take those actions that would reduce air pollution

Furthermore, Serbia is one of the developing countries, and its economic development is very low, so that the measurements show a high degree of air pollution. Companies that employ citizens, but are not equipped with quality protective equipment for workers or quality equipment of plants that emit negative particles into the air that can be fatal for every citizen, are a risk with a large potential number of side effects, are not good investment.

Therefore, the entire economy of the state and its development should be in accordance with the "laws of nature" and should be accompanied by quality equipment, quality measuring instruments that were discussed in the paper.

Instead of open tenders for projects co-financed by the state, the state should participate in the purchase of equipment for all companies, and control that they are properly used, if necessary on a daily basis. Control of the proper use of equipment, such as filters, would be achieved by entrusting the same to the inspection bodies in the competence. It is a proposed "difficult" task for the state and requires the allocation of a larger amount of money⁴, however, the state is the home of all its citizens and it should be the first to make sure to provide a healthy environment to its citizens.

⁴ Pursuant to Article 71 of the Law on Air Protection, funds for financing the protection and improvement of air quality are provided in the budget of the Republic of Serbia and from the obligations of operators in accordance with the law.

The state should severely punish every offender with a fine, and the competent authorities including courts should resolve the proceedings as soon as possible in order to make the effect more pronounced and faster. Although Serbia aspires to join the European Union, in addition to good normative legislation, it is necessary to take serious steps regarding all of the above.

Neither the Law on Air Protection, nor the regulations or ordinances define what is meant by quality air. Analyzing the legal solutions, it is concluded that polluted air is considered to be the presence of harmful ingredients in excess of the permitted quantities, which are strictly prescribed by the Decree on conditions for monitoring and air quality requirements.

Adequate mechanisms need to be found at both the national and international levels to prevent an increase in air pollution. The best results would be shown by international cooperation of states on this issue, as prescribed by Directive 2008/50/EC itself. At the national level, the goal of reducing air pollution could be achieved by hiring a team of experts in the field of environmental protection, ie air protection who would approach a detailed analysis of the causes of air pollution in the Republic of Serbia and determine how to eliminate it. Setting original conclusions based on a thorough analysis of relevant regulations at both national and international level should resolve the doubts that arise regarding air pollution, ie to determine not only the degree of harmfulness of pollution, but to identify and implement measures to air pollution has decreased.

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NORMATIVNO REGULISANJE ZAŠTITE VAZDUHA U PRAVU REPUBLIKE SRBIJE

REZIME: Čista životna sredina je osnov zdravlja ljudi, ali i njihovog svakodnevnog života. Vazduh, voda i okolina su sve više zagađeni pod uticajem različitih ugrožavajućih faktora što iziskuje legislativnu potporu. Odredbama Zakona o zaštiti životne sredine (2004) načelno je obezbeđena zaštita vazduha, dok su konkretna predmetna rešenja predviđena Zakonom

o zaštiti vazduha (2009), kao *lex specialis*, a kojim se detaljno uređuje upravljanje kvalitetom vazduha i određivanje mera, načina organizovanja i kontrole sprovođenja zaštite i poboljšanja kvaliteta vazduha kao prirodne vrednosti od opšteg interesa koje uživaju posebnu zaštitu. Pored navedenih zakona, zaštita vazduha je uređena i podzakonskim aktima, odnosno uredbama, pravilnicima. Predmet rada je analiza normativnih rešenja zaštite vazduha (ambijentalnog) prema pravu Republike Srbije i uticaj bitnih faktora na zagađenost vazduha.

Ključne reči: *kvalitetan vazduh, zagađenje vazduha, životna sredina, uzroci zagađenosti vazduha u Republici Srbiji.*

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