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Environmental Law 2021

Serbia: Law & Practice
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SERBIA

Law and Practice

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CONTENTS

1. REGULATORY FRAMEWORK

1.1 Key Environmental Protection Policies, Principles and Laws

Key policies governing environmental protection in Serbia are contained in strategic documents such as the National Strategy of Sustainable Use of Natural Resources, the National Programme of Environmental Protection (expired, with a new one expected), the Waste Management Strategy (expired, with a new one expected), the Strategy for Water Management on the Territory of the Republic of Serbia until 2034 and the National Strategy of Sustainable Development, as well as provincial and municipal plans and programmes.

Key principles in the environmental area are the following.

- Integration – authorities are to secure integration of environmental protection and development into all sectoral policies.
- Prevention and precaution – each activity needs to be planned and implemented so that it: causes least changes in the environment, and people's health; reduces the burden on the space and consumption of raw materials and energy, includes the recycling option; prevents or limits impact on the environment at the source (this principle is implemented through environmental impact assessments); uses best available techniques, technology and equipment.
- Preserving natural resources – using natural resources (air, water, soil, geological resources, flora and fauna) so as to secure preservation of geodiversity, biodiversity, protected natural assets and areas.
- Sustainable development – a coherent system of technical-technological, economic and social activities in the overall development, aimed at preserving and enhancing the quality of the environment for the current and future generations.
- Liability of the polluter and its successor – an entity that causes pollution of the environment through illegal or wrongful actions is liable for it, and is obliged to eliminate the cause of pollution and consequences of direct or indirect pollution.
- "Polluter pays" – the polluter is to pay a fee for polluting the environment if its activities cause or may cause burden on the environment (ie, if it produces, uses or places on the market raw materials, semi-products or products that contain environmentally harmful substances).
- "User pays" – each person using natural resources has to pay a realistic price for such use and for recultivation of the area.
- Subsidiary liability – state bodies are obliged to, within their financial capabilities, eliminate the consequences of environmental pollution and reduce damages if the perpetrator is unknown or if the source of pollution is outside of the Republic of Serbia.
- Applying incentives – authorities take measures of preservation and sustainable management of environmental capacities, in particular by reducing use of raw materials and energy and prevention or reduction of environmental pollution, via economic instruments and other measures, choosing best available techniques, plants and equipment that do not require excessive costs, etc.
- Informing the public and public participation – as part of enjoying the right to a healthy environment, everyone is entitled to be informed on the state of the environment and to participate in the decision-making process where the decisions could have an impact on the environment.
- Protection of the right to a healthy environment and access to justice – citizens or groups of citizens, their associations, professional or other organisations enforce their

rights to healthy environment before competent authorities (ie, courts), in accordance with the law.

A key piece of legislation governing this area is the Environmental Protection Act (*Zakon o zaštiti životne sredine, "Sl. glasnik RS",* No 135/2004, as amended and supplemented). In addition to this, there are numerous laws governing particular areas, such as the Air Protection Act, the Nature Protection Act, the Act on Protection from Noise in the Environment, the Soil Protection Act, the Climate Change Act, the Waste Management Act, the Package and Package Waste Act, the Water Act, the IPPC Act, the Environmental Impact Assessment Act, the Strategic Impact Assessment Act, the Act on Protection from Non-Ionising Radiation, the Act on Radiation and Nuclear Security and Safety, the Chemicals Act and the Act on National Parks.

Serbia is also party to a number of international treaties governing the environmental area, including all three Rio conventions (the Convention on Biological Diversity, UNFCCC, the United Nations Convention to Combat Desertification), the Paris Agreement, the Kyoto Protocol, the Vienna Convention for the Protection of the Ozone Layer, the Stockholm Convention, the Aarhus Convention, the Espoo Convention and the Basel Convention. International treaties are hierarchically above national laws.

Serbian authorities are currently working on the draft of a new law on liability for damages to the environment, with the aim to harmonise Serbian law with EU Directive 2004/35/EC and introduce an efficient system of compensation for environmental damages, based on the principle "polluter pays".

2. ENFORCEMENT

2.1 Key Regulatory Authorities

The key regulatory authorities responsible for environmental policy and enforcement in Serbia are the Ministry of Environmental Protection (MEP) (including environmental inspection, as its part) and the Agency for Environmental Protection. Provincial and municipal secretariats and inspections also play an important role in law enforcement within the competences of an autonomous province (ie, municipality).

3. ENVIRONMENTAL INCIDENTS AND PERMITS

3.1 Investigative and Access Points

Environmental inspection is the most common form of procedure the market players face in the realm of environmental compliance checks. When it comes to investigative powers and authorities, these may differ, depending on the specificities of incidents and breaches. By way of example, the powers and authorities of environmental inspection may include:

- ordering that the irregularities in implementing measures on protection, recultivation and remediation be eliminated;
- prohibiting use of natural resources without, or contrary to, approval of environmental protection and remediation design, and ordering remediation or other measures prescribed by law;
- prohibiting development and use of facilities or complexes and performing activities if the requirements and norms regarding emissions and thresholds of pollutants are not complied with, if the adequate and functional equipment and appliances to eliminate or reduce emissions of pollutants or energy are missing, or if other measures and conditions for environmental protection are not taken;

- prohibiting emission of pollutants and hazardous substances, waste waters or energy into air, water and soil in the manner and in quantities or concentrations or levels exceeding the prescribed ones;
- prohibiting operation or use of technology or technological process or use of products, semi-products or raw materials, prohibited by law;
- prohibiting the work of a Seveso facility (ie, facility that may contain hazardous substances above prescribed thresholds – this concept is introduced into Serbian legal system as part of its on-going harmonisation attempts related to EU *acquis* on the control of major-accident hazards involving dangerous substances);
- if the relevant measures are not being (adequately) implemented;
- ordering proper monitoring;
- ordering implementing environmental protection measures set by law;
- blocking bank accounts (based on enforcement order);
- taking samples of soil, water, waste, air (via licensed organisation).

While performing the inspection, the inspector can temporarily take away the items, goods or appliances the use of which is not permitted, or which originate from, or were utilised to perform, illegal activities.

Each of the separate environmental laws sets numerous further authorities of environmental inspectors, which may include: prohibition of performing works and activities without approved environmental impact assessment (where applicable); prohibition of using building – ie, operating facility and performing activities before an IPPC permit is issued (if applicable); prohibiting operation of stationary source of pollution or other activity performed contrary to law; and prohibiting waste treatment contrary to a waste management permit.

In addition, the environmental inspectors have all the powers and authorities that are available to them under general inspection legislation. For instance, a fact-finding mission entitles the inspector to, under conditions and limitations set by law:

- inspect and copy public documents and registries;
- check personal or other ID document of relevant persons;
- take statements from inspected persons;
- order that books, corporate documents, databases, contracts and other relevant documents be provided for inspection;
- perform physical inspection of location, land, buildings, business and other non-residential area, facilities, equipment, tools, vehicles, other means of work, products, items placed on the market, goods in circulation and other relevant items – note that inspection of residential space has special rules, and in principle requires a court order (if the resident does not voluntarily allow inspection);
- take relevant samples;
- take photos and videos of the area where it is performing inspection and items that are being inspected;
- secure evidence.

In case of the most serious violations, criminal prosecution is possible; in such cases, standard criminal investigation powers are at the disposal of public prosecutors and other investigative authorities.

3.2 Environmental Permits

For certain projects in the area of industry, mining, energy, transportation, tourism, agriculture, forestry, water management waste management, communal activities, and projects planned

in protected natural assets or the surroundings of immovable cultural assets, the project developer has to obtain an approval to the environmental impact assessment study (EIAS) it had prepared, or (if applicable) a decision that such study is not required.

Depending on the specificities of the project, the approval is to be obtained from national, provincial or municipal authority in charge for environmental affairs. The process may have two or three stages, depending on the features of the project:

- deciding on whether the EIAS is required (applicable only to projects that are listed as those where the authorities may choose whether to require EIAS);
- deciding on the content and scope of the EIAS; and
- deciding on the approval of the EIAS.

The first two stages entitle the applicant and interested public to appeal to the second instance authorities, and eventually to file administrative suit. The decision on approval of the EIAS is not appealable in administrative procedure, but may be challenged before administrative court.

Certain facilities and activities that may have negative impact on people's health, environment or material goods need to obtain integrated pollution prevention and control (IPPC) permit. Depending on the specificities of the project, the approval is to be obtained from national, provincial or municipal authority in charge for environmental affairs. The decision on IPPC is not appealable in administrative procedure, but may be challenged before administrative court.

Apart from the aforementioned permits, certain activities may also require permits. These include, for example, waste management activities (collecting, transporting and treating waste). Such permit is not required for activities covered by an IPPC permit (although, before the IPPC permit is issued, the operators are likely to need a temporary waste management permit in order to be able to start their operations whilst waiting for the IPPC permit to be issued), and certain other exceptions where a waste management permit is not required. The waste management permit is issued by the MEP, competent provincial authority or municipality, depending on the type of waste and other features of waste management operations. An unsatisfied party is entitled to lodge an appeal to the second instance authority.

Further, according to the new Climate Change Act, operators of facilities emitting greenhouse gases (GHG) will need to have a permit issued by the MEP before they start operations; the government is yet to define the kinds of operators that will need to apply for this permit, but it is anticipated that at least 137 current operators will fall under this permitting requirement. This permitting requirement is still not operational, and is not expected to become functional before mid-2022. This permit is to be issued by the MEP; it will not be appealable in administrative procedure, but will be challengeable before an administrative court.

4. ENVIRONMENTAL LIABILITY

4.1 Key Types of Liability

Environmental damage and breaches of environmental laws may, depending on the particularities of the case, result in penal and/or civil liability. In case of penal liability, the most serious violations trigger criminal liability, while the less serious ones trigger liability for economic offences (*privredni prestupi*), and the less serious from those result in liability for misdemeanours (*prekršaji*).

5. ENVIRONMENTAL INCIDENTS AND DAMAGE

5.1 Liability for Historical Environmental Incidents or Damage

One of the key principles of Serbian environmental law is the liability of the polluter and its successor. According to this principle, the polluter or its legal successor is obliged to eliminate the cause of pollution and the consequences of direct or indirect environmental pollution. Although the law is not crystal-clear on this matter, it implies that the liability extends also to the successor in title. This means that the current owner will be liable to third parties for historical damages.

5.2 Types of Liability and Key Defences

The most serious violations trigger criminal liability – for example, polluting the environment contrary to law to a greater extent or on a wider area, failure to take environmental protection measures or to act upon instructions of authorities to take such measures – which may result even in imprisonment.

Companies may also be subject to criminal prosecution if (i) their responsible person (director) commits a crime within his or her affairs/authorisations with the aim to gain benefit for the company, or (ii) the lack of supervision or control by the responsible person (director) enabled committing of a crime in favour of the company by a physical person acting under the supervision/control; sanctions and some other criminal law aspects related to a company's criminal liability are somewhat specific, when compared to natural persons.

Given that the criminal code, in some cases, contains vague provisions (for example, it does not define what is considered as pollution of greater extent or pollution of a wider area), the defendants tend to prove that the thresholds for applying the criminal code are not met. Further, intentional pollution is not the dominant form of pollution, nor is such intent easy to prove, so many defendants aim to prove that there was no intent. Nevertheless, for some crimes, the law stipulates criminal prosecution also for negligence; in such cases, however, the sanctions are less severe. Finally, given that Serbian courts are notorious for their slowness, the statute of limitation may even be used as defence in some cases.

Apart from criminal liability, various environmental regulations impose liability for economic offences and misdemeanours, the former being aimed at more serious violations. Both are usually sanctioned with monetary fines, but may also result in other sanctions, such as prohibition of performing certain activities to the liable company (ie, prohibition of performing certain duties to its director). Defence on the economic offence could be based on the lack of social wrongfulness of the act in question. However, the applicability of this defence depends on the particularities of the case.

When it comes to the misdemeanour proceedings, due to the notorious slowness of Serbian courts as previously mentioned, the statute of limitation could often be invoked as the defence, since the statute of limitations terms are shorter in misdemeanour proceedings (compared to the criminal and economic offence proceedings statute of limitations). Also, depending on the circumstances, the defence could often be based on the request for release from punishment. This can be applied if, after the misdemeanour has been committed, and before the accused has learned that he or she has been prosecuted, the accused person has removed the consequences of the act or compensated the damage caused by the misdemeanour.

In case of any damages, the perpetrator is exposed also to civil liability. There is a general rule that if a company or individual causes damages, it is obliged to compensate it, unless it can prove that the damages occurred without its fault. This means that the defendant has the burden of proof. Further, if the damages originate from dangerous items or dangerous activities, the liability exists regardless of the fault. Polluters are by laws liable for the pollution they cause based on strict (objective) liability (ie, liability regardless of their fault), meaning that they have less defences available. However, the law does foresee several defences against strict liability – for example, if the damages were caused by the damaged person or third person and the defendant was not able to foresee the damages or to overcome their consequences, or if the damages originate from a cause outside the dangerous item, the effects of which were not foreseeable, nor could have been avoided or overcome, or if the dangerous item was illegally taken away from the owner.

Damages include both actual damages and lost profit. Damage compensation as priority requires reinstatement (returning things to the state before damages), and, if this is not possible, or does not completely eliminate damages (or, in certain other cases, monetary compensation). Key defences against civil liability naturally depend on the facts of the case, and may include contesting the causality link between activities of the defendant and the damages, and the contribution of the plaintiff to the damages. Statute of limitations is also a possible defence, but for environmental damage claims such defence is less plausible, because the statute of limitation term is longer in case of environmental damages than the statute of limitation for standard damages; the subjective term is the same – three years from learning of the damages and the tortfeasor – but the objective term is much longer – 20 years, compared to five.

Further, as a general rule, each person is entitled to request from another to eliminate the source of damages that threatens to cause greater damages to him or her or to an unspecified number of people, and to refrain from activities that cause nuisance or risk from damages, if the appearance of nuisance or damages cannot be prevented with adequate measures.

6. CORPORATE LIABILITY

6.1 Liability for Environmental Damage or Breaches of Environmental Law

There is no separate set of rules for liability of a corporate entity for environmental damage or breaches of environmental laws, but there may be some differences in terms of liabilities (eg, natural persons cannot be liable for economic offences whereas companies can, and companies are only criminally liable if certain conditions are met) and sanctions (eg, fines for natural persons and entrepreneurs are usually smaller than for companies, and the list of law breaches may differ). However, such differences are not specific for the environmental sector.

6.2 Shareholder or Parent Company Liability

As a general rule, shareholders or a parent company are legally not considered liable for environmental damage or breaches of environmental law, except in case of piercing the corporate veil.

7. PERSONAL LIABILITY

7.1 Directors and Other Officers

The directors are liable for the legality of the entire business in a company, including for breaches of environmental laws. In addition to the exposure to liability for criminal acts, economic offences and misdemeanours, under certain conditions they are also exposed to civil liability. A director

may delegate its responsibilities to another person, which may, under certain conditions, shift the liability onto such person. Nevertheless, the director is always bound to employ due care, proper supervision and other duties imposed onto him or her by company law.

Penalties for breach of environmental laws are set in numerous laws and can take the form of sanctions for misdemeanour, economic offence or, in the most severe cases, criminal liability. Also, as previously stated, in addition to the sanctions, additional measures can be imposed on the directors, such as prohibition of performing certain duties.

7.2 Insuring against Liability

There is no legal prohibition to insure against potential environmental damages caused by directors, although one does not see those often in practice. The insurance per se does not exclude the director's liability for fines or other penalties.

8. LENDER LIABILITY

8.1 Financial Institutions/Lender Liability

In principle, financial institutions/lenders are not liable for environmental damage or breaches of environmental law, assuming that the financial institutions/lenders are not involved in decision making, directing actions of the perpetrator, inducing damages or breaches, or taking similar actions.

8.2 Lender Protection

Financial documents for projects including environmental risks usually contain obligations of the debtor to comply with certain environmental standards (eg, IFC standards), as well to take out adequate insurances and assign them in favour of the financing parties.

9. CIVIL LIABILITY

9.1 Civil Claims

In general, whenever there are damages, or risk of danger, civil claims can be brought. See also **5.2 Types of Liability and Key Defences**.

9.2 Exemplary or Punitive Damages

The general position of Serbian civil law is that damages are aimed to compensate the claimant for the sustained damages, and not to penalise the tortfeasor; monetary fines and other sanctions are the subject matter of penal codes, and these codes contain refined set of provisions on measuring sanctions. There are certain minor deviations from this principle – for example, if an item was intentionally damaged or destroyed by criminal act, the court may set the value of compensation based on the value the item had for the damaged person.

9.3 Class or Group Actions

Class actions are not available under Serbian procedural laws. Group actions could theoretically be filed if the claimants in the group meet the conditions for active co-litigants, as prescribed by the Civil Procedure Act.

9.4 Landmark Cases

While there are numerous environmental litigations and criminal prosecutions, not many judgments have caught public attention. There is, however, a pending litigation which is promising to become a landmark case. A suit was initiated by a local NGO against the Serbian state-owned power company due to exceeding permitted thresholds for sulphur dioxide (SO_2) emissions from thermal power plants, alleging danger to people's health. Serbia and its power company are notorious for air pollution from thermal power plants, so the decision in this litigation will for sure to play a valuable role in setting the trends in the enforcement of pollution protection laws.

10. CONTRACTUAL AGREEMENTS

10.1 Transferring or Apportioning Liability

Liability before authorities or towards third parties cannot be transferred or apportioned via contract. However, although the liability vis-à-vis third parties (or Serbian authorities) cannot be modified or excluded via contract, it is possible to contractually regulate the indemnification/reimbursement in favour of the party which had to indemnify the third party (or was fined by authorities) for damages caused by the other party. It is even possible to contractually expand the liability of the other contracting party for the cases for which it is generally not liable, but such expansion would not be enforceable if it is contrary to good faith.

10.2 Environmental Insurance

Although available on the market, environmental insurance is not often used in Serbia. However, there is a statutory requirement to hold a third-party liability insurance for polluters whose production plant or business activity poses a high risk to people's health and the environment. This statutory requirement is under-regulated and, to some extent, vague, so its reach is not as wide as one would have expected.

In addition, a company can obtain an environmental insurance as an additional risk covered by a general liability insurance. Such insurance usually covers third-party claims for damages due to a sudden, unexpected adverse event that causes air, land or water pollution (ie, an environmental accident), provided that personal injury or property damage occurs as a result of such event. Environmental insurance policies typically cover damages caused by sudden and unexpected events such as environmental accidents, but not a long-term negative impact that a polluter may have on the environment.

11. CONTAMINATED LAND

11.1 Key Laws Governing Contaminated Land

Key laws governing contaminated land are the Environmental Protection Act and the Soil Protection Act (*Zakon o zaštiti zemljišta, "Sl. glasnik RS",* No 112/2015). The general principle is that a person who contaminated the land needs to perform remediation at its own cost. To that end, it has to prepare a remediation design, to be approved by the MEP. If such a person is unknown, unavailable or does not comply with an inspection order, the remediation is to be taken by municipality, province or the state in accordance with its budget and via a licensed company. Upon completion of remediation, the investor needs to submit a report to the MEP. Environmental inspection is authorised to order remediation (and preparation of the relevant design). Failure to perform remediation represents an economic offence of the liable company, punishable with a fine of up to approximately EUR25,000 (plus EUR1,700 for the director).

12. CLIMATE CHANGE AND EMISSIONS TRADING

12.1 Key Policies, Principles and Laws

The Climate Change Act (*Zakon o klimatskim promenama, "Sl. glasnik RS",* No 26/2021) was enacted in Serbia in March 2021. This law establishes the main policies and principles related to climate change, with the aim to establish a system that leads to the reduction of greenhouse gas emissions, in order to avoid the dangers and negative effects of global climate change. The law foresees adoption of the following policies:

- a low-carbon development strategy;
- an action plan for the implementation of the strategy; and
- a climate change adaptation programme.

The strategy is to be adopted by the government for a ten-year period, and it is to define the necessary measures and public policies to limit greenhouse gas emissions, as well as to establish a transparent and accurate system to monitor the achievement of these goals. The action plan for the implementation of the strategy is to be adopted for a period of at least five years. The climate change adaptation programme is to be adopted by the government in order to identify the impact of climate change and determine climate change adaptation measures for the sectors in which adverse impact needs to be reduced. Given that the law has just been enacted, these strategic and policy-related instruments are yet to be adopted.

12.2 Targets to Reduce Greenhouse Gas Emissions

Based on the above-mentioned strategy and action plan, the government will determine acceptable greenhouse gas (GHG) emission levels from sources at the national level, production and other plants, aviation activities, fossil fuel combustion, industrial processes and product use, agriculture and greenhouse gas emissions from waste.

For the time being, since the strategy and the action plan are still not available, the Act on Air Protection contains the mechanism for preventing and reducing air pollution which affects climate change, by stipulating measures aimed to reduce the GHG emissions, and monitoring of GHG emissions. Further, certain fluorinated GHG and equipment and appliances containing GHG enjoy a special legal regime (in terms of production, maintenance, disposal, etc).

Serbia is a non-Annex I party to the Kyoto Protocol, meaning that it has not taken quantitative emission reduction commitments. Thus, it is no wonder that the Act on Air Protection does not prescribe specific thresholds applicable specifically to GHG. However, there are certain thresholds for nitrous oxide (N_2O) for certain activities specified in the by-laws that set the thresholds for air pollutants; nitrous oxide is generally considered as a GHG, although the by-law that has, for certain activities, set a threshold for nitrous oxide, is not particularly aimed at GHG, but more generally at air pollution. As part of its efforts under the Paris Agreement, Serbia pledged to reduce GHG emissions by 9.8% by 2030, compared to 1990 (the base year). Further, the fact that the country is a party to the Energy Community Treaty and an EU candidate will surely induce Serbia to take further efforts in limiting the GHG emissions.

13. ASBESTOS

13.1 Key Policies, Principles and Laws Relating to Asbestos

Asbestos is primarily regulated from the aspect of chemicals management, health, health and safety at work, transportation and waste management.

Serbia has, via the Chemicals Act and its by-laws, prohibited production, placement on the market and use of asbestos fibres, as well as placement on the market and general use of asbestos as a substance, and use of asbestos as an ingredient or part of a mixture (above certain thresholds).

In respect of work safety, Serbia has ratified the ILO Asbestos Convention, aimed to increase safety in use of asbestos. Serbian by-laws regulate in detail the asbestos-related concerns in relation to health and safety at work. These by-laws heavily restrict activities related to asbestos: they prohibit performance of activities in which the employees are exposed to asbestos fibres during asbestos exploitation or producing and processing products made of asbestos

or products to which asbestos was intentionally added (except processing and disposal of products resulting from demolition and removal of asbestos).

In respect of waste management, asbestos is considered as a special waste stream. According to the Waste Management Act, waste containing asbestos is to be collected, packaged, stored and landfilled at a clearly marked place intended for disposal of waste containing asbestos. The producer or owner/holder of waste containing asbestos has to apply measures to prevent spreading asbestos fibres and dust into the environment. The owner/holder of such waste has to maintain records on the quantities of waste it stores or landfills, and deliver the relevant data to the Agency for Environmental Protection.

14. WASTE

14.1 Key Laws and Regulatory Controls

Waste management is primarily regulated by the Waste Management Act (*Zakon o upravljanju otpadom, "Sl. glasnik RS",* Nos 36/2009, 88/2010, 14/2016 and 95/2018) and the Act on Packaging and Packaging Waste (*Zakon o ambalaži i ambalažnom otpadu, "Sl. glasnik RS",* Nos 36/2009 and 95/2018).

Key authorities related to waste management are the MEP and the Agency for Environmental Protection, as well as various secretariats and administrative bodies within the autonomous province and municipalities.

14.2 Retention of Environmental Liability

This matter has not been clearly defined under the waste management regulations. On the one hand, according to the principle of liability, there is a rather generalised requirement that the producers, importers, distributors and sellers of products that lead to the increase of waste quantities are liable for the waste caused by their activities, with the producer bearing the greatest liability due to its influence on the content and features of the products and their packaging. Thus, producers are obliged to take care to reduce additional waste, develop recyclable products, and develop a market for re-use and recycling of their products.

On the other hand, the owner/possessor (including indirect possessor) of waste is explicitly held liable for all costs of waste management (ownership/possession is transferred when the next owner/possessor takes over the waste and receives the waste movement document). Waste disposal (landfilling) costs are to be borne by the owner/possessor who directly supplies the waste to the entity collecting the waste or to the waste management facility, and/or the former owner/possessor, or the producer of products. This implies that producers can remain liable (consignors are not regulated in this respect), although it is not clear how the liability for the costs is allocated between the product producer and other entities liable for costs, and whether this liability remains with the product producer only if it retained the liability contractually.

14.3 Requirements to Design, Take Back, Recover, Recycle or Dispose of Goods

The duties of a producer of goods in terms of taking back and similar obligations are prescribed for several cases, including the following.

- The producer (or importer) of products which, after use, become hazardous waste is obliged to take back such waste after use, free of charge, and manage such waste in accordance with the law; the producer/importer may authorise a third party to take back waste after use in its name and on its behalf.

- Producers (as well as importers/packers/fillers and suppliers) are obliged to, at the end-user's request and free of charge, take back waste from secondary (group) packaging or tertiary (transport) packaging, and to take back packaging waste which is not communal waste and originates from primary packaging (unless such packaging falls under a different regulatory regime).

15. ENVIRONMENTAL DISCLOSURE AND INFORMATION

15.1 Self-Reporting Requirements

In certain cases, there does exist an obligation of reporting incidents to the authorities; informing the public, on the other hand, is primarily the obligation of the authorities. For instance, Seveso facility operators (see **3.1 Investigative and Access Points**) are obliged to notify the MEP, municipality and other competent authorities on chemical accidents. IPPC facility operators, landfill operators and waste treatment facility operators are also obliged to notify the authorities on accidents.

15.2 Public Environmental Information

Public authorities (including state, provincial and municipal bodies, licensed or other organisations) are obliged to regularly, timely and objectively inform the public on the status of the environmental events that are being tracked (as part of monitoring the polluting substances and emissions), as well as on the warning measures or development of pollution that could cause danger to life and health of people.

Access to information on the environment is enforced via regulations on free access to information of public importance.

Public authorities have the duty to regularly update and publish/disseminate environmental information, including international treaties and domestic regulations on environment, strategies, plans, programmes and other environmental documents, as well as the reports on implementing the foregoing, data from monitoring activities that may affect the environment, environmental reports, permits and licenses in respect of performing activities with significant environmental impact, contracts aimed at environmental protection, environmental impact assessment studies and decisions related thereto.

In the event of danger to life and people's health, the environment or material goods – regardless of whether it was caused by human activities or by nature – public authorities are obliged to inform the public without delay via public media; failure to do so may expose the authorities to damage claims.

15.3 Corporate Disclosure Requirement

Accounting legislation contains a general obligation for companies (which fall under the duty to publish annual business reports) to publish environmental information, including on investments into environmental protection; micro and small companies are generally exempt from such duty. Certain large companies are also obliged to publish reports on non-financial issues, which should also contain information on the effects of their business on the environment.

Further, under certain environmental laws, companies engaged into certain lines of business have reporting duties – for instance, annual reporting in relation to waste management.

16. TRANSACTIONS

16.1 Environmental Due Diligence

Whether an environmental due diligence will be conducted depends on the business of the target. If such business causes environmental concerns, then a prudent buyer would perform an environmental due diligence. The scope of the environmental due diligence also depends on the business of the target and on the target's history. Soil testing, waste management, waste water treatment, handling chemicals, and compliance checks with laws, permits and environmental impact assessment studies (if applicable) are some of the typical environmental due diligence exercises.

16.2 Disclosure of Environmental Information

Under general rules of law, each party needs to act bona fide in a legal transaction. Withholding of important environmental information would be a breach of such rule. A purchaser in an asset deal would be able to invoke provisions on material defects, and even if the liability for material defects was excluded by contract, such exclusion would be null and void if the defect was known to the seller and the seller failed to disclose it to the purchaser. In share deals, however, the purchasers of shares do not have the benefit of such liability – since they are not purchasing (defective) assets, but shares in a company owning the assets – so they need to protect themselves via contractual representations and warranties.

17. TAXES

17.1 Green Taxes

The Republic of Serbia decided to focus primarily on public fees (parafiscal tax) as the primary form of environmental taxation. There are eight such public fees, all laid down in the Act on Fees for Use of Public Goods (*Zakon o naknadama za korišćenje javnih dobara, Sl.glasnik RS* Nos 95/2018, 49/2019, 86/2019, 156/2020, 15/2021):

- for use of fishery area;
- for use of protected area;
- for collecting, using and trade of species of wild flora, fauna and mushrooms;
- for pollution;
- for protection and improvement of the environment;
- for products which become special waste streams after use;
- for packaging or packed product which after use becomes packaging waste;
- for water pollution.

The law and its by-laws set the details on the trigger for payment of the fee, who is considered as tax payer, tax basis, tax rate and exemptions.

BDK Advokati is a full-service commercial law firm for corporate, institutional and HNW clients with multiple specialisations and with offices in Serbia, Montenegro, and Bosnia and Herzegovina. The firm advises clients on deals, supports and represents them in contentious situations and provides legal advice in relation to their business. The firm's focus is on high-level expert work and complex cross-border deals, but it is also able to work on bread-and-butter matters in an efficient manner due to its institutionalised know-how and well-organised processes. BDK Advokati's environmental practice assembles lawyers with a range of relevant expertise, who have advised leading multinational companies on the environmental aspects of their projects. Present and former clients include Rio Tinto, Urbaser, Halliburton and Azvi.

BDK Advokati would like to thank the following for their contribution to this Law and Practice article: Tomislav Popović, counsel; Jelena Zelenbaba, associate; David Vučinić, junior associate; and Tijana Martinović, junior associate.

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