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Legal Framework of Environmental Protection in Republic of Serbia – Challenges and Perspective

ABSTRACT: *In Serbia, the legal framework for environmental protection has undergone significant evolution, reflecting the country's commitment to aligning its legislation with international standards while addressing local environmental challenges. The legal landscape encompasses a comprehensive array of laws, regulations, and policies aimed at safeguarding the environment, promoting sustainable development, and mitigating pollution. The foundation of Serbia's environmental legal framework lies in its Constitution, which recognises the right to a healthy environment as a fundamental human right. Building upon this, Serbia has enacted numerous laws addressing various aspects of environmental protection. The Law on Environmental Protection serves as a cornerstone, outlining principles, standards, and mechanisms for preserving nature, regulating waste management, and controlling air, water, and soil quality. Additionally, specific legislation targets biodiversity conservation, industrial emissions, and environmental impact assessments for proposed projects.*

Serbia's alignment with the European Union (EU) accession process has driven the adoption of legislation that harmonises environmental standards with EU directives. This integration aims to enhance environmental governance, strengthen institutions, and improve compliance monitoring and enforcement mechanisms. However, challenges persist in effectively implementing and enforcing these regulations. Issues such as inadequate resources, insufficient institutional capacity, and gaps in enforcement hinder the full realisation of environmental protection goals. Moreover, the complexity of environmental issues requires continuous adaptation and refinement of legal frameworks to address emerging challenges, such as climate change impacts and the transition to renewable energy sources. Therefore, this paper analyses the general status and legal framework of environmental protection in Serbia, the challenges faced, and future perspectives.

KEYWORDS: *Environmental Protection, Legislation, Serbia, Constitutional Court, Law on Environmental Protection*

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1.

Environmental Protection and Human Rights

The subject of this paper concerns the existing legal and practical challenges relating to environmental protection in the Republic of Serbia. Environmental protection has emerged as a crucial area within the framework of human rights law, reflecting the growing recognition of the intrinsic connection between a healthy environment and the enjoyment of fundamental human rights. Since the 1972 Stockholm Conference, the first United Nations environmental conference, which proclaimed that “both aspects of man’s environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights – even the right to life itself”,¹ the relationship between environmental protection and human rights law has evolved significantly.

In general, the right to a healthy environment is closely intertwined with other rights, such as the right to life, health, and privacy, that is, with first- and second-generation human rights. Historically, the third generation of human rights emerged in the 1970s, known as “solidarity rights”,² amongst which the right to a healthy environment was particularly recognised following the Stockholm Declaration.

Although environmental rights are frequently categorised as third-generation of human rights, it should be emphasised that they manifest across all three generations of human rights.³ As part of the first group of civil and political rights, they provide groups and individuals with the right to information, legal intervention, and participation in political processes. In this sense, they strive to ensure minimum standards sufficient to protect the right to life and property in the event of environmental harm. Furthermore, a healthy and sustainable environment may be understood as an economic and social right, ensuring certain standards and quality in environmental protection. Finally, the right to a healthy environment also appears as a core component of solidarity rights.⁴

Consequently, on 28 July 2022, marking the fiftieth anniversary of the Stockholm Declaration, the United Nations Assembly adopted a resolution confirming the views of the UN Human Rights Council and declaring access to a clean, healthy and sustainable environment as universal human right.⁵ The main conclusion drawn from this development is that the Resolution represents a significant milestone in advancing environmental protection and enables a coordinated response to the *triple planetary*

1 UN Conference on the Human Environment, 1972, A/CONF.48/14/Rev.1.

2 Zieck, 1992, p. 322.

3 Kolednjak and Šantalab, 2013, p. 327.

4 Ibid.

5 UN General Assembly, 2022, A/RES/76/300.

crisis, caused by: climate change, environmental pollution and loss of biological diversity.⁶

At present, more than ninety countries,⁷ or even more than 150⁸ by some accounts, have adopted a constitutional right to a healthy environment. This demonstrates that environmental protection is increasingly embedded within national legal frameworks, rather than remaining solely within the domain of international law.

Based on the historical development and on the inherent structure of the right to a healthy environment, it may be observed that this right functions as an interdisciplinary right, which enables the fulfilment of other, related human rights. It represents a right that connects and integrates other rights within the same corpus.⁹ According to several relevant UN resolutions, the right to a healthy environment is among the basic human rights, which are “universal, indivisible, interdependent, and interconnected”¹⁰.

In Serbia, the intersection between environmental protection and human rights poses specific challenges. Balancing competing interests, such as economic development and environmental preservation, is often complex for policymakers and judicial authorities. Therefore, this paper explores the challenges faced in implementing environmental protection measures within Serbian law, examining the interplay between environmental concerns and human rights.

2.

Status of Environmental Protection in Serbia

Serbia, as an EU candidate country, faces various challenges in effectively integrating environmental protection into its legal framework. As mentioned in the 2015 EU Commission Screening Report on Chapter 27 – Environment, the legal framework in this area shows a satisfactory level of alignment with the *acquis communautaire*. However, the Commission underlined that there was “a substantial amount of work to be undertaken as regards the implementation of legislation and the establishment of the necessary administrative and enforcement and control capacities required by the *acquis*”¹¹. Additionally, the Commission notified that Serbia has a comprehensive strategy for the environment and climate change sectors and that the institutions

6 Nikolić, 2023, p. 74.

7 Knox, 2015, p. 519.

8 Nikolić, 2023, p. 72.

9 Ibid., p. 74.

10 UN General Assembly, 2022, A/RES/76/300.

11 European Commission, 2016, p. 17.

responsible for policy development, implementation, and enforcement are in place, but require considerable strengthening.¹²

The current status of environmental protection in Serbia is presented in the 2022 EU Commission Report, which states that Serbia has achieved some level of preparation in the area of environment and climate change.¹³ Overall, Serbia has made limited progress in implementing the EU's earlier recommendations, especially with respect to increasing environmental funding and investment, improving trans-boundary cooperation, and developing its national energy and climate plan.

The adoption of important legislation and strategic documents is still pending, particularly in view of EU recommendations that Serbia should considerably step up ambitions toward a green transition. This mainly refers to:¹⁴

- Adopting and starting the implementation of an ambitious national energy and climate plan, through transparent consultative procedures, consistent with the European Green Deal's zero emission target for 2050 and the Green Agenda for the Western Balkans;
- Intensifying implementation and enforcement, including ensuring strict adherence to environmental impact assessment rules, closing non-compliant landfills, increasing investing in waste reduction, separation, and recycling, improving air and water quality, including through phasing out coal, further intensifying trans-boundary cooperation, improving enforcement by inspectorates and the judiciary, adopting Serbia's river basin management plan 2021-2027, and continuing preparations for Natura 2000;
- Enhancing administrative and financial capacity of central and local authorities, particularly the Serbian Environmental Protection Agency and environmental inspectorates, by improving inter-institutional coordination, raising staff levels, raising environmental investments, and improving strategic investment planning and management, including transparency of procedures, while ensuring a coordinated institutional structure capable of delivering the size and quality of investments needed in Serbia.

From a different point of view, although Serbian legislation, particularly the Constitution of the Republic of Serbia, proclaims certain environmental rights, including the right to a healthy and ecologically balanced environment, obstacles remain in their practical realisation, particularly regarding the protection of the right to a trial within a reasonable time. Also, limited enforcement mechanisms, inadequate

12 Ibid.

13 European Commission, 2022, p. 122.

14 Ibid.

implementation of legislation, and insufficient access to justice pose significant barriers to environmental protection.

In addition, the lack of coherent policies contributes to inconsistencies in the implementation and enforcement of existing legislation. This presents challenges in addressing issues such as air and water pollution, waste management, and environmental degradation.

3. Constitutional and Legislative Framework

From a historical and legislation perspective, the issue of environmental protection was first recognised in the Serbian Constitution known as the 'Sretenjski', enacted in 1835. Its art. 129 stipulated that forests, mountains, and other natural resources were people's property, and the entire nation had the right to use it. The government, local authorities, merchants, and peasants were prohibited from fencing or preventing people from other areas from using common goods.

During the era of the Kingdom of Serbs, Croats, and Slovenes (and afterwards Kingdom of Yugoslavia), environmental protection was acknowledged as a matter requiring legislative regulation, although no systematic law dealt specifically with the topic. Several laws indirectly addressed environmental protection, such as Law on Forestry (1929) and Construction Law (1931). Only in the 1970s and 1980s did a more detailed approach emerge. During this period, several sectoral laws were introduced as initial attempt to give more comprehensive, but sectoral response for environmental protection, including the Law on Air Protection from Pollution, the Law on the Protection of the Population from Noise, the Law on the Implementation of Protection Measures Against Ionising Radiation, and the Law on Nature Protection.

The first systemic law comprehensively regulating environmental protection and establishing basic standards in Serbia was adopted in 1991.¹⁵ The law was modelled on the 1969 Swedish Environmental Protection Act. With its entry into force, previously adopted special laws ceased to apply.

When it comes to constitutional framework, the norm on environmental protection was first included in the Constitution of the Socialist Federal Republic of Yugoslavia (SFRY) through an amendment to the 1963 Constitution. This amendment provided that the federation, through federal bodies and organisations, regulated the protection of the human environment from threats to life and health affecting the entire country; the transport of flammable liquids, gases, explosives, and radioactive and other dangerous substances when of national interest; and the trade in poisons

15 Drenovak-Ivanović, 2015, p.10.

and the production of narcotic drugs. This amendment formed one of the bases and inspiration for the regulation of environmental protection and the right to a healthy environment in the 1974 SFRY Constitution.

The Constitution of 1974 stipulated in its basic principles that:

'For the sake of protection and improving the human environment, working class and citizens, organisations of joint work, other self-governing organisations and communities, socialist society provides conditions for the preservation and improvement of natural and other values of the human environment which are of interest for the healthy, safe and effective life and work of the present and future generation.'

The Constitution precisely determined the subjects responsible for environmental protection and improvement. A healthy environment was described as one suitable for healthy, safe, and effective living, significantly affecting people's quality of life and work ability. In that period, the SFRY Constitution was the only constitution in the world to provide for the right to a healthy environment.¹⁶

Subsequent constitutions also included the provisions guaranteeing the right to a healthy environment. The 1990 Constitution of the Republic of Serbia contained a general provision which recommended the lower-tier legislative levels the competence to protect and improve the environment. The 1992 Constitution of the FRY stipulated that individuals had the right to a healthy environment and to timely information about its condition. It imposed an obligation on everyone to protect and purposefully use the environment. The state was required to take care of a healthy environment and determine the conditions and manner for performing economic and other activities accordingly. Unlike the 1974 Constitution, the 1992 Constitution replaced the term 'human environment' with 'healthy living environment' and emphasised access to information about the state of the environment.

The current constitutional framework recognises the environmental protection under art. 74 of the Serbian Constitution of 2006, which states:

'Everyone shall have the right to a healthy environment and the right to timely and full information about the state of the environment. Everyone, especially the Republic of Serbia and autonomous provinces, shall be accountable for the protection of the environment. Everyone shall be obliged to preserve and improve the environment.'

16 Popović, 1976, p. 27.

It is important to notify that this environmental protection was recognised as a constitutional category within the Constitution of Serbia as an independent state in 2006.

On the level of the laws, the Law on Environmental Protection represents an integral regulation¹⁷, containing general provisions regulating the environmental protection framework in Serbia. In addition to this law, Serbian legislators have adopted a large number of special legal regulations addressing various environmental sectors. These are the following:

- The Law on Environmental Impact Assessment;
- The Law on Strategic Environmental Impact Assessment;
- The Law on Integrated Prevention and Control of Environmental Pollution.

The aforementioned laws represent a catalogue of regulations forming a comprehensive system of environmental legislation in Serbia. From a structural point of view, it may be concluded that the legal writers attempted to create a systematic framework encompassing different fields and sectors associated with environmental protection. However, from another perspective, this approach resulted in insufficient alignment among the laws and in problems concerning their horizontal and vertical interrelationship, leading to factual problems in practical application of relevant provisions.¹⁸

In addition, a series of environmental laws aimed at harmonising domestic regulation with European standards has been adopted. These include laws regulating protection against non-ionising radiation, air protection, nature protection, noise protection, chemicals, biocidal products, and other related matters.¹⁹

The Law on Environmental Protection, as the most comprehensive statute regulating matters of environmental protection, prescribes eleven basic principles on which environmental protection is founded for the prevention and elimination of harmful consequences. Among the most important are the principles of prevention and precaution, the 'pollutant pays' principle, the 'user pays' principle, the responsibility of the polluter and its legal successor, and the subsidiary responsibility of state authorities.²⁰ These principles form the pillars of the Law and subsequent rules derived from them. Their purpose is to provide adequate measures for environmental protection, preventing that the damage does not occur, and if it does, it is remedied in an efficient and safe manner.²¹

17 Joksić, Milojević and Đuričić, 2019, p. 138.

18 Tadić, 2017, p. 13.

19 Lilić and Drenovak-Ivanović, 2014, p. 117.

20 Cvetić, 2013, p. 126.

21 Ibid., p. 128.

A particularly significant principle, amongst the abovementioned ones, is the ‘pollutant pays’ principle. It derives from the general principle regulating the responsibility to compensate the damage, following the ancient Roman law rule *neminem laedere*. According to art. 9 (1) (6) of the Law on Environmental Protection:

‘The polluter shall pay a fee for environmental pollution for the actual or potential environmental burden caused through their activities, i.e. if they produce, use or trade in a raw material, semi-finished product or a product that contains substances that are noxious to the environment. The polluter shall, in compliance with the regulations, bear the total costs of the measures for the prevention and reduction of pollution, which shall include the costs of any environmental risks and the costs of removing the damage caused to the environment.’

Such responsibility is based on objective responsibility principle, meaning that the polluter is liable for any potential damage irrespective of intention or fault. Under the Law on Environmental Protection, the legislator regulates liability for damage stipulating that the polluter is responsible for environmental damage and bears the costs of damage assessment and its removal, particularly:

- The costs of emergency interventions undertaken at the time of the damage, and necessary to limit and prevent the effects of damage on the environment, space, and health of the population;
- The direct and indirect costs of remediation, the establishment of a new state or restoration of the previous state of the environment and space, as well as monitoring of the effects of remediation and the effects of damage to the environment;
- The costs of preventing the occurrence of similar damage to the environment and space;
- The costs of compensation to persons directly endangered by damage to the environment and space.²²

Additionally, the Law stipulates that:

‘the polluter is obliged to provide financial or other types of guarantees to ensure the payment of compensation for the mentioned costs during and after the performance of activities. The type of guarantees, the amount of funds, and the duration of the guarantee provided by the polluters shall be prescribed by the Government of the Republic of Serbia.’

22 Drašković and Perović, 2021, p. 165.

In circumstances involving a high degree of risk or danger due to the possibility of a hazardous event posing a significant threat to human health and the environment, the Law introduces the obligation to insure against liability for damage caused to third parties by accident. In events when certain damage has occurred due to the polluter's activity, the Law stipulates that "everyone who suffers damage has the right to compensation, whereby a claim for compensation can be submitted directly to the polluter or insurer, or to the financial guarantor of the polluter if such an insurer or financial guarantor exists".

Furthermore, the Law stipulates that in the event of the existence of "several pollutants who are responsible for the damage caused to the environment, and the share of individual pollutants cannot be determined, the costs shall be borne jointly and severally"²³. In this part, it should be emphasised that:

'civil sanctions are determined against the debtor as a mechanism of coercion over the damaged, to bring property or personal non-property goods in a state in which they would be if there was no threat or violation of these values'

Additionally, another pillar of environmental legislation in the Republic of Serbia is criminal law. Environmental protection is implemented through incriminations contained both in the Criminal Code²⁴ and in secondary legislation.

Such crimes against the environment can be classified into three categories: real environmental crimes, found in the provisions of the Criminal Code of the Republic of Serbia (art. 260-277), protecting the environment as a whole; illegal environmental crimes, found in other sections of the Criminal Code; and secondary environmental criminal acts, regulated outside the Criminal Code and found in the provisions of the so-called secondary legislation.²⁵

An analysis of legislative development reveals a shift in focus from the initial protection of humans as the main protected category, to the protection of the environment itself. Early environmental protection was based on the so-called 'anthropocentric approach', grounded in the attitude that every individual possesses the right to live in a healthy environment.²⁶ Such a concept was introduced in the era of early development of human rights, but was soon put under criticism, because the technological and economic development showed that the humans themselves pose the greatest harm to the environment rather than acting as its protectors.

23 Ibid.

24 Criminal Code of the Republic of Serbia, 2005.

25 Jovašević, 2011, p. 234.

26 Ćirić, 2020, p. 7.

Therefore, the modern environmental law is based on an ecocentric approach, with environment protection as the primary objective of protection.²⁷ In this context, it is significant to recall a shift in an original approach from the 1970s, known as the time of the emergence of different environmental protection movements.²⁸ Recognising the limitations of indirect environmental protection through the rights of legal entities, that is treatment as a protective object itself, American legal literature proposed the recognition of the environment as a potential subject of law.²⁹

4.

Protection Mechanism and Practical Issues

Historically, the Republic of Serbia first encountered the concept of environmental protection as a constitutional category through the constitutional amendments to the 1963 Constitution of the SFRY. These amendments established the protection of the environment in relation to threats to the life and health of people across the entire territory, exercised through state bodies and organisations. Although adopted a year before the Stockholm Declaration, which, despite its anthropocentric approach to defining the right to a healthy lifestyle, still used the term 'human environment' in its title. The Constitution of SFRY continued to employ this term until the adoption of the Constitution of Serbia (2006).

The adoption of the Stockholm Resolution strengthened the position of the right to a healthy environment in states which incorporated it into their constitution. At the same time, it opened the possibility of employing other legal instruments, most notably the constitutional appeal.

Generally, constitutional appeals enable courts to decide disputes arising from the violation of human rights. It is a legal instrument enabling direct constitutional judicial protection. In the Republic of Serbia, such an appeal may be filed against individual acts or actions of state bodies or organisations entrusted with public powers, where those acts violate or deny human or minority rights guaranteed by the Constitution, provided that all other legal means have been exhausted or are not provided for.

In this context, it should be emphasised that the Constitutional Court of Serbia has held that the constitutional appeal protects all human rights guaranteed by the Constitution, regardless of their placement within the hierarchy of legal acts, and even where the rights are not directly covered by the Constitution.³⁰

27 Nikolić, 2023, p. 63.

28 Cvetić, 2013, p. 121.

29 Stone, 1972, p. 457.

30 Nikolić, 2023, p. 80.

When it comes to the judicial practice, it has a modest scope in general, with relatively few decisions. *Exempli causa*, in the period between 2007 and 2017, only ten procedures before the Constitutional Court concerned the constitutionality or lawfulness of legislation relating to environmental protection.³¹

The most significant decision of the Constitutional Court on this subject is the ruling concerning the constitutionality of the Law on the Prohibition of the Construction of Nuclear Power Plants in the Federal Republic of Yugoslavia. In this case, an initiative was submitted for the evaluation of the constitutionality of the Law on the grounds that the disputed Law was inconsistent with the provisions of art. 83 of the Constitution of the Republic of Serbia, for the reason that it restricted free entrepreneurship, specifically by prohibiting “one of the three predominant sources of energy is outlawed”. In addition, it argued that the Law restricted free competition in the energy sector and contributed to monopolistic behavior, violating the provisions of art. 84.

As a preliminary matter, the Constitutional Court established that the Law was enacted by the Federal Republic of Yugoslavia, passed by the Federal Assembly. According to the provisions of art. 64 of the Constitutional Charter of the State Union of Serbia and Montenegro³², the laws of the Federal Republic of Yugoslavia continued to apply as laws of the member states, until the adoption of new regulations, except for laws for which the assembly of the member state decides not to apply.

Art. 20 (5) of the Law on the Implementation of the Constitutional Charter of the State Union of Serbia and Montenegro confirmed this continuity unless competent authorities repealed them.

The Law on the Prohibition of the Construction of Nuclear Power Plants in the Federal Republic of Yugoslavia stipulates that:

- The construction of nuclear power plants, production of nuclear fuel, and facilities for the processing of nuclear fuel for nuclear power plants is prohibited, and that this prohibition extends to investment decisions, investment plans, programmes and technical documentation for such facilities, including facilities for the processing of spent nuclear fuel³³;
- The provisions of art. 1 do not apply to scientific research and research-development work, mining-geological research work, geological-seismic research and personnel training³⁴;
- Whoever prepares, approves, or approaches the construction of nuclear power plants, facilities for the production of nuclear fuel or facilities for the processing of spent nuclear fuel, will be punished for a criminal offense with

31 Ćirić, 2020, p. 48.

32 Constitutional Charter of the State Union of Serbia and Montenegro, 2003, art. 64.

33 Law on the Prohibition of the Construction of Nuclear Power Plants in the FRY, 1995, Art. 1.

34 Ibid., Art. 2.

a prison sentence of six months to five years, ceased to be valid on the basis of art. 431 of the Criminal Code.³⁵

- Other constitutional provisions of the Republic of Serbia that are important for the evaluation of the challenged Law's constitutionality include:
- Everyone has the right to a healthy environment and to timely and complete information on its condition, as well as that everyone, especially the Republic of Serbia and the autonomous province, is responsible for environmental protection and is obliged to preserve and improve the environment (art. 74);
- Entrepreneurship is free, but can be limited by law, for the sake of protecting people's health, the environment, natural resources, and for the security of the Republic of Serbia (art. 83);
- Republic of Serbia arranges and provides a system of environmental protection and improvement, production, trade and transportation of weapons, poisonous, flammable, explosive, radioactive, and other dangerous substances (art. 97, para. 9);
- All laws and general acts adopted in the Republic of Serbia must be in accordance with the Constitution (art. 194, para. 3).
- On the basis of these provisions, particularly art. 74, the Constitutional Court assessed that the disputed Law had been adopted to protect the environment from nuclear risks and the harmful effects of ionising radiation that might occur during the operation of nuclear power plants, or during the production, use, or disposal of radioactive nuclear material. At the same time, the legislator did not prohibit scientific research in the field of nuclear sciences, nor the monitoring of development technologies or the training of highly skilled personnel.

According to the Constitutional Court, the petitioner's argument that the Law violated the constitutional principle of freedom of entrepreneurship from art. 83 of the Constitution, are unfounded, given that the Constitution authorises the legislator to limit the freedom of entrepreneurship where deemed necessary to protect people's health, environment, and the safety of the Republic of Serbia.

According to the Court, the Law also does not violate free competition or create a monopoly or dominant position on the market, as the petitioner argued. Rather, it limits the use of nuclear energy solely for the purpose of protecting the environment from possible nuclear incidents, which is a constitutional obligation of the Republic of Serbia.

35 Ibid., Art. 3.

From another perspective, 'constitutional appeal' represents an important mechanism intended to provide the legal aid for protection of the rights on the healthy environment.

A noteworthy decision of the Serbian Constitutional Court on the matter of environmental protection is Uz-7702/2013, adopted on 7 December 2017. In this case, the complainants alleged violations of art. 32, 58, 68 and 74 of the Constitution. The contested legal act was a judgment of the Appellate Court in Novi Sad (Ms. 3677/12 of June 20, 2013). The complainants argued that their right under art. 74 had been violated by the way in which the court evaluated expert findings from the Institute of Nuclear Sciences.

The appellate court rejected their request, considering the expert's opinion and recommendations non-binding, although they expressed an opinion on the existence and harmfulness of electromagnetic radiation emitted by a transmission pole near the installation. The complainant argued that, by rejecting their claim, the court exposed them to decades of health risk and an increased possibility of developing malignant diseases. They requested the Constitutional Court to determine the violation of their constitutional rights, cancel the contested verdict, and order the Court of Appeal in Novi Sad to re-decide the appeals.

Analysing the factual situation, we can notice a prolonged procedural exchange between the Municipal Court in Bačka Palanka and the District Court in Novi Sad. On 21 March 2003, the prosecutors filed a lawsuit against the Public Enterprise 'Elektromreža Srbije', whose legal predecessor, against their will, had installed the pole in question. The municipal court issued an interim verdict, establishing a legal basis for compensation of non-material damage due to the fear suffered and for the removal of the pole.

The District and Appellate Court in Novi Sad overturned this part of the verdict on three occasions. The final judgment of the Appellate Court in Novi Sad (Mrs. 3677/12) was passed on 20 June 2013. Therefore, the proceedings before the first-instance and second-instance courts lasted a little more than ten years.

The Constitutional Court upheld the constitutional appeal and found that para. 2 of the Appellate Court's judgment violated the right of the complainants to a fair trial, guaranteed by art. 32 (1), in connection with their right to a healthy environment under art. 74. The Constitutional Court annulled the contested para. of the verdict and ordered the Appellate Court to make a new decision on the appeals of the plaintiff and the defendant filed against the verdict of the Basic Court in Novi Sad - Judicial Unit in Bačka Palanka (P. 54464/10, 3 April 2012).

This decision is of particular significance; it is the first time that the Constitutional Court upheld an appeal, specifically on the basis of a violation of the right to a healthy environment from art. 74 of the Constitution.

5.

Upcoming Perspectives – Conclusion

Alongside the ‘traditional’ environmental protection legislation, an increasingly important part of the contemporary legal framework comprises innovative, sustainability-oriented regulations. One of the most important current developments are related to the ESG (Environmental, Social, Governance) regulations, which has gained significant traction globally as a framework for evaluating sustainability and the societal impact of investments.

Broadly, ESG represents a set of environmental, social and management issues that companies take into account when managing their business, and that investors assess when evaluating risks, impacts, and opportunities. ESG therefore functions as a multidimensional lens through which company’s operations and their impacts on the environment, society, and governance practices are critically examined. The perspective on ESG regulation is dynamic, encompassing both its benefits and challenges.

In Serbia, the influence of the ‘European Green Deal’s’ has spurred emphasis on renewable energy sources, waste reduction, and carbon neutrality, pushing Serbia towards stricter environmental regulations. However, Serbia’s journey towards a comprehensive ESG regulation faces hurdles due to the lack of robust regulatory frameworks. While efforts are in place, implementing and enforcing these regulations uniformly across industries remains a challenge.

In this respect, it may be expected that the ESG regulations, particularly those dealing with environmental protection, will be highly influenced by Serbia’s aspirations for EU membership. This process may act as a catalyst for aligning with EU directives and regulations, including those related to ESG. Harmonising policies with EU standards presents an opportunity for accelerated ESG adoption.

Therefore, the trajectory of ESG regulation in Serbia appears promising, albeit with challenges to overcome. Continued alignment with EU directives, concerted efforts to enhance regulatory frameworks, and a stronger focus on data transparency and reporting will be pivotal. Additionally, fostering a culture of corporate responsibility and sustainability through education and awareness campaigns can further support ESG integration.

ESG regulation in Serbia is at an evolving stage, with growing understanding of its importance for sustainable development and responsible business conduct. Overcoming challenges through collaborative efforts, regulatory enhancements, and strong commitment from business and government will be essential to realising Serbia’s ESG goals and contributing to a more sustainable future.

Looking at Serbia's environmental protection legislation in a broader sense, the main conclusion is that despite the existence of comprehensive laws, challenges persist in the effective implementation and enforcement of these regulations. Inadequate resources, technical capacities, and enforcement mechanisms hinder full realisation of environmental protection goals. The legislative framework also requires further enhancements to address challenges posed by climate change. Strategies for adaptation and mitigation, including resilient infrastructure and sustainable land-use practices, require more specific regulations and clearer implementation plans.

Finally, Serbia's environmental legislation demonstrates a commitment to protecting natural resources and fostering sustainable development. While significant progress has been achieved, challenges persist in implementation, enforcement, and responding to emerging environmental issues. Strengthening enforcement mechanisms, improving waste-management practices, conserving biodiversity, and addressing climate change concerns will be pivotal for Serbia to achieve its environmental protection objectives in the coming years. Collaboration among stakeholders and continued legislative advancements will be essential in overcoming these challenges and ensuring a more sustainable future for Serbia's environment.

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