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THE IMPORTANCE OF THE RIGHT TO A HEALTHY ENVIRONMENT DURING THE PANDEMIC

The protection and preservation of the environment and stable climatic conditions, as well as the right of public participation in environmental decision-making in public spaces, are emerging as topics of special significance, especially during the COVID-19 pandemic. The need for integrated protection of natural goods of general interest, harmonization with the EU acquis, the need to simultaneously overcome the COVID-19 crisis and implement the Green Agenda for the Western Balkans raises numerous questions, some of them being: is environmental protection a priority during the pandemic and, if so, which aspects of environmental protection represent the primary concern; have the measures limiting public gatherings had an impact on public participation in decision-making; and, do the proposed legislative amendments and additions

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complete the environmental protection system, with clear criteria for an environmental impact assessment of the related activities and the decisions to support their pursuit?

Key words: *COVID-19. – Environmental Approximation Strategy. – Restriction measures. – Pandemic. – Public participation.*

1. INTRODUCTION

Analyzing the five-year period prior to March 2020, we come across a series of studies aiming to establish a link between respiratory system diseases and levels of air pollution encountered in urban areas (Croft *et al.* 2019, 321–330). When the data regarding exposure to poor air quality, used to monitor the effect of the virus spread through the population, were entered into the research models, it was found that there was a high probability for the development of a virus from the coronavirus family after the epidemic caused by the SARS-CoV-2 virus, which would have the highest impact precisely on that population (Kan *et al.* 2005, 1–4). The coronavirus disease (COVID-19) pandemic has killed a large number of people, further exacerbating poverty and inequality: inequality in the readiness to take emergency measures, inequality in access to means to curb the spread of the virus, inequality in access to information of public importance, inequality in the quality of basic requirements for life – among which the quality of the environment is becoming increasingly common. Even the earliest of studies on the repercussions of the pandemic lead us to the conclusion that long-term exposure to polluted air increases the risk of graver illnesses and deaths in those suffering from the COVID-19 disease (Wu *et al.* 2020, 1–6). The exposure to increased concentrations of PM 2.5 particles is directly proportional to the number of deaths caused by the disease (Shao *et al.* 2022, 1–10; Sicard *et al.* 2021, 1–12; Fos, Honore, Honore 2021, em0074).

The need for long-term recovery and overcoming the socio-economic consequences of the pandemic have led to the development of policies in Europe in which economic recovery is identified with the green transition (compare Norouzi, Elham 2021 46–60; Gerrard 2020, 81–88). After months of negotiations between Member States, the European Union's plan for joint action in "facing the challenges of the green transition" on the path to climate neutrality by the year of 2050, was shaped into the text of the European Green Deal. The adoption of the Economic and Investment Plan for the Western Balkans (2020) was an expression of the need to connect the

EU's goals in achieving climate neutrality with mitigating and overcoming disruptions in the economies that occurred in the Western Balkan countries as a result of the pandemic.¹ This was followed by the adoption of the Sofia Declaration on the Green Agenda for the Western Balkans, which set out the guidelines for the green transition, aimed at enabling decarbonization, reduction of environmental pollution, establishment of a circular economy system, sustainability of production and consumption, and protection of biological diversity and afforestation in the Western Balkans (Drenovak-Ivanović 2021a, 217–234; 2020, 133–144).

This paper presents conclusions aimed at answering the question whether the implementation of measures against the COVID-19 disease affected the process of harmonization with the EU law in the field of environmental protection and the application of the principle of public participation in the preparation of laws, planning and strategic documents, and whether amendments and additions to laws in the field of environmental protection include, *inter alia*, provisions important for overcoming challenges in this field, resulting from the COVID-19 pandemic.

2. THE IMPACT OF THE COVID-19 PANDEMIC ON THE COURSE OF APPROXIMATION WITH THE EU LAW IN THE FIELD OF ENVIRONMENTAL PROTECTION

The environmental protection legal framework contains many laws and bylaws, which constitute one third of all sources of the EU law that are to be transposed in the process of approximation of Serbia's law with the EU *acquis*. The extent of the expected changes and the multi-year dynamics of approximation of domestic regulations with the regulations that make up the environmental *acquis* were presented in 2011 in the National Environmental Approximation Strategy for the Republic of Serbia.² The Strategy applies the principle that the EU *acquis* should be transposed in such manner that they reflect the requirements and standards “neither to a lesser nor to a greater extent” than in EU regulations. The basis of the Strategy can be found in

¹ European Commission. 2020. Economic and Investment Plan for the Western Balkans. {SWD(2020) 223 final}, COM(2020) 641 final.

² Nacionalna strategija za aproksimaciju u oblasti životne sredine za Republiku Srbiju [National Environmental Approximation Strategy for the Republic of Serbia], *Official Gazette of the RS*, No. 80/2011.

the National Program for Integration from 2008 to 2012 and the subsequent National Program for the Adoption of the EU Acquis (NPAA). The NPAA was revised three times, the last time being in March 2018.

Apart from the Law on Environmental Protection, Serbia's environmental law consists of: the Law on Strategic Environmental Impact Assessment, the Law on Environmental Impact Assessment, the Law on Integrated Prevention and Pollution Control, and the Law on Environmental Damage. These are laws that contain provisions about the basic principles of legal protection, based on the principles of prevention and precaution, and which refer to the protection of all environmental media. The adoption of amendments and additions to the aforementioned laws, new laws and accompanying bylaws, in accordance with the adopted dynamics, was supposed to have been completed by the end of 2019. Nevertheless, the laws governing the procedure of strategic environmental impact assessment and environmental impact assessment have not been amended nor supplemented, while the amendment of the law governing the procedure of integrated pollution control, enacted in November 2021, contains only the provision stating that the competent authority would issue an integrated permit, not by the previously planned deadline of 31 December 2020, which had expired almost a year prior to the amendment, but by 31 December 2024. Further amendments, regulating the new institutes as a part of the harmonization process with the Industrial Emissions Directive, were not considered. The adoption of the Law on Environmental Damage, whose draft was prepared in 2015, together with the draft of two bylaws, has been postponed several times, the last time until the end of 2021.³

The reports on the implementation of the National Program for the Adoption of the EU *Acquis* reveal a noticeable slowing of harmonization with the environmental *acquis* since 2016.⁴ The first activities to be prolonged as a consequence of civil servants working under pandemic conditions, in a remote mode, in an online environment, were the activities aimed at the harmonization of laws.

The question that arises is whether the restriction measures introduced in order to curb the pandemic have also brought about the restriction of the right to public participation in the adoption of regulations in the field of

³ Government Work Plan for 2021. February 2021, 187.

⁴ Reports on the implementation of the National Program for the Adoption of EU *Acquis* from January 2013 to September 2019 are available on the website of the Ministry of European Integration: <https://www.mei.gov.rs/srl/dokumenta/nacionalna-dokumenta/npaa> (last visited 24 September, 2022). Later reports, however, are not available.

environmental protection, decisions regarding plans and programs that have an impact on the environment, and in the adoption of individual decisions regarding activities with an impact on the environment. In the last week of 2021, the public was informed via Ministry of Environmental Protection's website about the invitation to participate in the public discussion on the Draft Law on Strategic Environmental Impact Assessment, planned to be held from 24 December (the day the invitation was issued) until 14 January 2022. In the same period, the public was encouraged to submit proposals, suggestions, initiatives and comments, although the public discussion that would include the presentation of the draft and consultations with the community of experts, via video conference, was planned to be held near the deadline, on 11 January 2022.⁵

Although the preparation of drafts of the aforementioned laws had been postponed several times, the public was informed in December 2021 that a public discussion would shortly be organized on the drafts of all the aforementioned regulations, which form the basis of the environmental law. Public participation in public discussions has two main goals: to improve the quality of regulations in whose drafting the public also takes part and to provide a transparent procedure, including access to information of public importance, in determining whether the proposed solutions are based on public interest. The question that arises is whether the public participation procedure has "reasonable time limits" that leave "enough time to inform the public" about the public interest involved in the proposed drafts of the three basic laws on environmental protection, within periods of two weeks each, around the New Year's and Christmas holidays. These are minimum standards for informed public participation (Squintani, Perlaviciute 2020, 133–147).

The restrictions introduced to curb the pandemic, along with the increased number of procedures for adopting the plans and programs that require (interested) public participation, have led to limiting and denying the right to attend public discussions. This right was even more constrained due to the fact that the Draft IV of the Report on the Implementation of the Aarhus Convention had not been adopted even though it was prepared in 2020.

⁵ Ministry of Environmental Protection of the Republic of Serbia. 2021. Public invitation to participate in the public discussion on the Draft Law on Strategic Environmental Impact Assessment. <https://ekologija.gov.rs/saopstenja/najave/javni-poziv-za-ucescu-u-javnoj-raspravi-o-nacrtu-zakona-o-strateskoj-proceni-uticaja-na-zivotnu-sredinu> (last visited 24 September, 2022).

3. THE IMPACT OF MEASURES PROHIBITING GATHERINGS IN PUBLIC PLACES IN CLOSED AND OPEN SPACES ON PUBLIC PARTICIPATION

3.1. Public Participation in Public Discussions on Environmental Impact Assessments and Strategic Environmental Impact Assessments of Projects and Plans

In environmental decision-making, a good starting point for including the interested public in the process are public consultations, which provide an opportunity for individuals to express their views, opinions and proposals regarding the proposed activities (when adopting separate acts) or draft laws and proposed planning documents. Considering that since March 2020 on several occasions measures were introduced, limiting or prohibiting gatherings in public places in closed and open spaces, in order to curb the spread of contagion, further analysis will address whether such measures affected the implementation of the minimum standards for (interested) public participation in environmental decision-making.

Environmental protection provides a good example when it comes to regulating matters of special public importance. Therefore, according to the Rules of Procedure of the Government and the Law on State Administration, the proposer of the law is required to hold a public discussion not only when the draft law “significantly changes” the regulation of an issue, but also when it regulates segments of environmental protection as issues of “special public interest”.⁶ In the latter case, the preparation of a draft law starts with the publication of an initial document that points out the problems in a certain area and their causes, as well as the expected effects of the law in overcoming the perceived shortcomings. For the purpose of informing the public and participants in public discussions, the initial document is uploaded to the website of the Ministry of Environmental Protection, which establishes a working group, as well as to the e-government portal.⁷ The first rationale for involving the public in the preparation of regulations in

⁶ Poslovnik Vlade [Rules of Procedure of the Government], *Official Gazette of the RS*, 61/2006 – revised text, 69/2008, 88/2009, 33/2010, 69/2010, 20/2011, 37/2011, 30/2013, 76/2014 and 8/2019 – other regulation, Art. 41. Zakon o državnoj upravi [Law on State Administration], *Official Gazette of the RS*, Nos. 79/2005, 101/2007, 95/2010, 99/2014, 47/2018 and 30/2018 – other law, Art. 77.

⁷ Pravilnik o smernicama dobre prakse za ostvarivanje učešća javnosti u pripremi nacрта zakona i drugih propisa i akata [Rulebook on good practice guidelines for achieving public participation in the preparation of draft laws and other regulations and acts], *Official Gazette of the RS*, No. 51/19, Art. 4.

the field of environmental protection, notifying and informing the public about the starting points, can be carried out without hindrance regardless of the pandemic measures to limit and prohibit public gatherings. The need for actively and passively informing the public and implementing the rules on informing the public about the preparation of draft laws, strategic and planning documents and the implementation of the stages of the environmental impact assessment procedure, in conditions of limited gatherings, was an opportunity to advance the work on the development of electronic communications regarding decision-making on matters of importance for environmental protection. Although there is an obligation to post an announcement on the website and web application eConsultations when drafting of legislation takes place, as well as basic information about the composition of the working group and planned solutions, a portal designed to ensure the inclusion of citizens, representatives of civil society and business entities in the process of adopting laws, bylaws and policies was launched in late 2021. The second rationale, obtaining and analyzing information, opinions, views and objections by organizing public consultations, including the participation of other state bodies, associations and organizations dealing with environmental protection and the community of experts, may be limited by the aforementioned measures.

The reports on Serbia's progress in European integration have been pointing out shortcomings in conducting public discussions since 2015. Namely, the Progress Report for 2021 indicates that as of March 2020, the application of the emergency procedure had been reduced from 19% to 9%, and that in 2021, 12 laws were adopted under the emergency procedure.⁸ In the field of environmental protection, we encounter not only the adoption of laws and their amendments and additions under an emergency procedure,⁹ but also the absence of public involvement via focus groups or round tables, even in cases where more than two years had passed between the establishment of the working group for drafting a law and the beginning of the public discussion (Popović 2021, 6). The progress report for 2020 indicates that the public was not adequately involved in the adoption

⁸ European Commission. 2021. Serbia Report 2021. SWD (2021) 288. Brussels, 19 October, 11.

⁹ For example, Zakon o izmenama i dopunama Zakona o vodama [Law on Amendments and Additions to the Law on Water] adopted on 14 July 2021, which was withdrawn from procedure after 9 days due to inadequate public discussion and the involvement of experts.

of regulations in the field of environmental protection and climate change, the provided explanation being inadequate time frames for consultations, which did not provide a basis for conducting qualitative public discussions.¹⁰

An assessment in the Report for 2021 points out that the quality of public consultations had deteriorated. The reasons for this were partly found in the application of measures to curb the COVID-19 pandemic. It should also be noted that the inadequate arrangement of public consultations led to the violation of “transparency of investments and their impact on the environment” and respect for freedom of expression and gathering.¹¹ Failing to implement minimum standards regarding the inclusion of the (interested) public becomes notable in the procedures of strategic environmental impact assessment and environmental impact assessment, especially after the adoption of measures limiting gatherings.¹²

3.2. Public Participation in the Preparation of Spatial and Urban Planning Plans

The basis for environmental protection and mitigating the consequences of climate change can be found in strategic and planning documents and public policies that not only refer to the protection of ecological goods, but to a large number of social relations that directly or indirectly affect the environment. One of the examples are spatial plans or general regulation plans. These are acts of spatial and urban planning that define and protect areas of importance for the protection or preservation of the quality of the environmental media or for adaptation to climate change with appropriate planning measures. They provide the basis for spatial development that takes into account the needs for environmental protection and mitigating

¹⁰ European Commission. 2020. Serbia Report 2020. SWD (2020) 352. Brussels, 6 October, 117–118.

¹¹ European Commission. 2021. Serbia Report 2021. SWD (2021) 288. Brussels, 19 October, 128.

¹² For example, due to epidemiological conditions, attendance at the public discussion was limited to 30 participants, and representatives of the public could not attend the public presentation of the Environmental Impact Assessment Study of the Linglong International Europe Ltd. factory construction project, which was held in September 2020. The same reasons led to the limitation of the right of the public to inspect the Draft Spatial Plan of the special purpose area for the construction of the Kolubara B thermal power station in September 2020, and at the end of 2020 the right to public inspection of the Draft Plan for the detailed regulation of part of Makiš Field with a Report on the strategic assessment of the Plan’s environmental impact. More about the topic: Coalition 27 (2020, 21–22).

the consequences of climate change. These are acts that, as a rule, are preceded by a strategic environmental impact assessment, as a procedure that provides the possibility of public participation.¹³ The principle of public participation is also applied in the process of public inspection of the Draft General Regulation Plan and its amendments and additions.

The question arises whether the introduction of measures to limit gatherings affected the implementation of the principle of public participation in preparation and adoption of such acts. One of the acts whose amendments and additions were proposed in 2021 is the Draft Amendment and Addition to the General Regulation Plan of Belgrade. This act was to be made available for public inspection starting on 20 December 2021. The public review lasts 30 days. During the public inspection, the Prohibition of Gatherings Order was in force, which prohibited public gatherings in closed and open public spaces, with more than 500 people in attendance, with some exceptions that, *inter alia*, applied if the gathering permit was obtained from the Crisis Response Team for the suppression of the COVID-19 infectious disease.¹⁴ The aforementioned measures did not limit the number of participants to an extent that could significantly affect the implementation of the principle of public participation.¹⁵ However, a potentially negative effect of applying that principle was that the public review was planned during the New Year and Christmas holidays.

¹³ See Plan of detailed regulation of part of Makiš Field, *Official Gazette of the City of Belgrade*, No. 153/2020, Basic principles – Protection and potential of space and basic building restrictions.

¹⁴ Naredba o zabrani okupljanja u Republici Srbiji na javnim mestima u zatvorenom i otvorenom prostoru [Order on the prohibition of gatherings in the Republic of Serbia in public places in closed and open spaces], *Official Gazette of the RS*, No. 60/2021, Art. 1; Uredba o merama za sprečavanje i suzbijanje zarazne bolesti COVID-19 [Regulation on measures to prevent and suppress the infectious disease COVID-19], *Official Gazette of the RS*, Nos. 151/2020, 152/2020, 153/2020, 156/2020, 158/2020, 1/2021, 17/2021, 19/2021, 22/2021, 29/2021, 34/2021, 48/2021, 54/2021, 59/2021, 60/2021, 64/2021, 69/2021, 86/2021, 95/2021, 99/2021, 101/2021, 105/2021, 108/2021, 117/2021, 125/2021, and 7/2022, Art. 13.

¹⁵ A year earlier, in December 2020, restriction measures prevented all interested parties from attending a public meeting where a decision was made on the Draft Plan for the Detailed Regulation of the Makiš Field and the Report on the strategic assessment of the Plan's impact on the environment was presented. See: Public inspection of the Draft Plan for the Detailed Regulation of the Makiš Field, Invitation of the Secretariat for Urban Planning and Building Permits, 25 October 2020.

3.3. Conclusion of the Aarhus Convention Compliance Committee on the Implementation of Restriction Measures and Public Participation in Decision-Making

Having identified a series of examples with a clear tendency of limiting the rights guaranteed by the Aarhus Convention on access to environmental information and public participation in environmental decision-making, the Aarhus Convention Compliance Committee issued a Communication containing conclusions on the application of the Aarhus Convention during the COVID-19 pandemic crisis. The Committee concluded that the Parties to the Convention are required to implement the minimum standards of green democracy guaranteed by the Aarhus Convention, both during the period of pandemic restriction measures and during the period of economic recovery. The minimum standards can neither be limited nor rendered meaningless by the implementation of gathering restriction measures. If the right to access environmental information and the right of the public to participate in decision making cannot be implemented in the new conditions, the Parties are required to find alternative ways, which must not deviate from the minimum standards. Parties are encouraged to consult with the Committee in finding alternative ways.¹⁶

4. NEW LAWS IN THE FIELD OF ENVIRONMENTAL PROTECTION ADOPTED DURING THE PANDEMIC

4.1. Law on Climate Change

In March 2021, the National Assembly of the Republic of Serbia adopted the Law on Climate Change, introducing the obligation to determine the inventory of emissions with the greenhouse effect and issue permits for gas emissions that contribute to climate change (GHG permits). Although the Law entered into force on 31 March 2021, the rules on a GHG permit issuing procedure and the functioning of the GHG inventory could only be applied after the adoption of a number of bylaws (Kuzman 2021, 31–34). Among them was the act on the level of GHG emissions, in the purview of the Government, prescribing the sources of emissions for which the levels of GHG emissions

¹⁶ Economic Commission for Europe, Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters Compliance Committee. ECE/MP. PP/C.1/2020/5/Add.1, September 2020.

are determined, the percentage of reduction of GHG emissions compared to the previous year, as well as the means and methodology of determining the level of GHG emissions.¹⁷ The legal framework consists of an act determining the list of authorities and organizations responsible for implementing the measures determined by the Climate Change Adaptation Program,¹⁸ an act on the criteria and method of approving programs and projects implemented within the Clean Development Mechanism,¹⁹ an act on the type of activities and gases for which a GHG emission permit is issued to a plant operator,²⁰ an act on the bodies and organizations that manage the information system and databases for the GHG Inventory and the data that will be collected for that purpose,²¹ which are prescribed by the Government, as well as the acts that regulate more closely issues of importance for the label on fuel consumption and CO₂ emissions,²² on monitoring and reporting on GHG emissions from plants and aviation activities,²³ on the GHG Inventory,²⁴ which are prescribed by the minister responsible for environmental affairs.

The Draft Law was presented in March 2018, which was followed by several public discussions with participation of representatives of the scientific and expert community. The adoption of final text of the law came at a time when the responsibility for decelerating climate change was associated with the activities of states related to the adoption of planning documents. After a series of examples establishing the responsibility of states for the implementation of measures and the adoption of acts relevant for decelerating climate change, or indicating the criteria that can be taken into consideration in determining responsibility, we come across the proceedings initiated before the European Court of Human Rights against Norway, one of the European countries with the largest oil and gas exploitation, in connection with possible violations of basic human rights caused by the issuance of new exploitation permits which, in the era of pronounced climate crisis, allow the expansion of oil exploitation (MacGillivray 2022; Greenpeace Norge 2021; Reuters 2022; Duffy, Maxwell 2020). If it accepts

¹⁷ Zakon o klimatskim promenama [Law on Climate Change], *Official Gazette of the RS*, No. 26/2021, Art. 11.

¹⁸ Law on Climate Change, Art. 15.

¹⁹ Law on Climate Change, Art. 18.

²⁰ Law on Climate Change, Art. 25 and Art. 33.

²¹ Law on Climate Change, Arts. 58–59.

²² Law on Climate Change, Arts. 21–24.

²³ Law on Climate Change, Arts. 35–37, Art. 39, Arts. 41–43, Art. 45, Art. 46, Art. 48, Art. 50, Art. 52. Compare Art. 64.

²⁴ Law on Climate Change, Art. 58.

the application, the European Court of Human Rights will be in a position to decide whether the issuance of ten new exploitation licenses represents a “real and immediate risk” that could threaten the right to life and the right to respect for private and family life, including the negative impact of climate change on future generations, according to established projections. The case was launched a few months after a decision by the High Court in The Hague, requiring the Royal Dutch Shell company to reduce global GHG emissions by 45%, compared to the emissions it released in 2019, by 2030 (Macchi, Zeben 2021, 409–415).²⁵ The court held that the sustainability policy of the British-Dutch oil company did not contain clear bases or criteria to determine the fulfillment of the goals which were set, thus violating the obligation of due diligence in accordance with the UN Guiding Principles on Business and Human Rights (2011).

One of the consequences of climate change is the impact on habitats and nature, which opens the possibility for new global pandemics similar to COVID-19 pandemic (Rowell 2020, 10881). In the era of overcoming the crisis caused by the current pandemic, comparative law and practice pay special attention to issues of importance for overcoming the climate crisis. Although the Law on Climate Change was recently adopted, its implementation depends not only on the dynamics of the adoption of the aforementioned bylaws, but also on the dynamics of the adoption of the Low Carbon Development Strategy, the National Energy and Climate Plan, and the Nationally Determined Contributions in accordance with the Paris Agreement.

4.2. Law on Amendments and Additions to the Law on Nature Protection

The preparation of amendments and additions to the Law on Nature Protection had begun with the establishment of working group in 2018. The public discussion, which represents an opportunity for the public to participate, was held in the form of gatherings in March and April 2021. The second gathering was organized online, with the explanation that it was due to the epidemiological situation and compliance with the restriction measures. On that occasion, the participants pointed out that the invitations to attend the public discussion were not transparent and they requested the

²⁵ District Court of The Hague, *Milieudefensie et al. v Royal Dutch Shell PLC* (26 May 2021) C/09/571932/HA ZA 19-379. On that occasion, a lawsuit was filed by 17,000 citizens and the *Friends of Earth* NGO.

extension of the public discussion, bearing in mind the importance of the proposed changes and the need to analyze the new institutes, including the procedures for assessing acceptability and introduction, and the role of the Council of Protected Area Users.

The amendments and additions to the law introduced the principle of precaution, which provides the possibility of implementing measures to prevent the endangerment of protected natural assets even in cases where scientific data is insufficient. It also introduced an act on nature protection conditions that must be obtained during planning, arrangement and use of space, natural resources, protected areas, as well as during the construction of any type of hydroelectric power plant.²⁶ One of the elements arising from the rules of EU environmental law refers to the acceptability assessment of planned activities, as an integral part of the environmental impact assessment. The NPAA envisages passing a Regulation on acceptability assessment of plans, projects and activities that may have a negative impact, governing issues of importance for defining the position of the acceptability assessment in the strategic environmental impact assessment and environmental impact assessment, the content of such study, the deadlines and the method of conducting the acceptability assessment procedure, and the procedure for determining whether there is an overriding public interest. Although the acceptability assessment procedure was introduced by the amendments and additions to the Law on Nature Protection, the basis of the course of the procedure has not been established.²⁷

Among the reasons for adopting amendments and additions to the law, the need to regulate the construction of small hydropower plants in the protected area stood out. The new solution provides the possibility of constructing a hydroelectric power plant in a protected area, if the project is considered to be of public and general interest (which is determined in accordance with the law governing the use of renewable sources) or if it is a project of special or national importance for the Republic of Serbia.²⁸ The criteria for assessing whether a project is of special or national importance have not been determined.

The right to legal protection in environmental matters recognizes new forms of participation of the parties to the proceedings (Drenovak-Ivanović 2021b, 29–39) Among them are advocates of collective and broader

²⁶ Zakon o zaštiti prirode [Law on Nature Protection], *Official Gazette of the RS*, Nos. 36/09, 88/10, 91/10 – correction, 14/16, 95/18 – other law, 71/21, Art. 9.

²⁷ Zakon o zaštiti prirode [Law on Nature Protection], Art. 10.

²⁸ Zakon o zaštiti prirode [Law on Nature Protection], Art. 5 para. 15.

interests of the public. The new provisions of the Law on Nature Protection regulate the position of the Council of Protected Area Users.²⁹ This is a body consisting of representatives of local self-governments and organizations and associations whose activity takes place in the territory of the protected area. The Council can be established to ensure the interests of the local population and users of the protected area through cooperation on the protection and sustainable use of natural goods and resources. The new provisions do not refer to the legal position of the Council, so the question remains whether it is a body that can be a party to the decision-making procedure regarding environmental administrative matters.

5. CONCLUDING REMARKS

The COVID-19 pandemic period has featured measures introduced in order to limit public gatherings in varying extent: from restriction measures limiting departure from the place of residence to measures that determine the number of people allowed in a closed space at the same time. In 2020, the impact of the quarantine policy and the recommendation to stay home led to a reduction in the volume of production and transportation, but to an increase in medical waste, as a new challenge in the waste management system. In the first year of the pandemic, the need to reduce anthropogenic contributions to climate change led to the development of the European Green Deal and linking post-covid economic recovery to investments, with the goal of making the EU climate neutral by 2050.

In the second year of the COVID-19 pandemic, we were confronted with new legal challenges. The implementation of pandemic suppression measures in 2021 limited the participation of the public and interested public in decision making regarding environmental protection and deceleration of climate change. Compared to 2019, when seven meetings took place in the form of public discussion or public consultations (on the Draft Law and amendments and additions to the Law on Waste Management, on the Draft Decree on the Proclamation and Study of the Protection of the Cape Kalemegdan Natural Monument, on the Draft Law on Liability for Damage to the Environment), we observed a significant slowing of the activities of the competent ministry in the preparation of acts that transpose the EU *acquis*, which significantly deviated from the revised National Program for the Adoption of the EU *Acquis*. The importance of the environment as the basis

²⁹ Zakon o zaštiti prirode [Law on Nature Protection], Art. 68a.

of the green transition and negotiations on EU membership, in accordance with the cluster approach, created a need for further harmonization with the environmental *acquis* in 2021. In a series of public hearings, public consultations and granted inspections of draft regulations, strategic and planning documents and laws concerning low-carbon development, mitigation of climate change consequences, environmental noise protection, nature protection, protection and preservation of water resources, control of major accident hazards, environmental impact assessment procedures, as well as procedures for strategic environmental impact assessments, it has been noted that the measures to limit gatherings had a negative impact on the public's right to participate in decision making related to environmental protection and the preservation of stable climate conditions. In accordance with the Communication of the Aarhus Convention Compliance Committee on finding alternative ways for implementing the minimum standards of public participation in decision making, a model of wider public involvement through video conferences and the possibility to deliver opinions, comments and objections to the draft acts to the competent authority in electronic format as well should be found. However, the practical application of models brought about by limited public participation has caused numerous challenges. The analysis of the causes that produced such effects is of great importance for the development of models that will be applied after the pandemic, as a support for the development of green democracy.

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