

Review Article

**ORGANIZATION OF PUBLIC ADMINISTRATION  
IN THE DOMAIN OF ENVIRONMENTAL PROTECTION**

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**Abstract.** *Good organization of public administration is needed to efficiently implement numerous regulations that have been passed in recent years with the purpose of meeting international obligations in the environmental domain. A detailed analysis of the current organization of public administration tests the adequacy of current administration in the domain of environmental protection and stresses its basic legal inadequacies. If these are remedied, better conditions would be created for a more efficient and rational enactment of dozens of new regulations in the domain of environmental protection.*

**Key words:** *public administration, organization of public administration, environmental protection.*

1. INTRODUCTORY REMARKS

Environmental protection is one of the youngest domains within administrative law. Separate state agencies specialized in solving various issues related to environmental protection have appeared as a result of the need of modern states to respond to the ecological implications of modern lifestyle. Today it is almost impossible to find a state which does not have separate agencies responsible for the protection of the environment. In order to efficiently comply with its international obligations related to environmental protection, the Republic of Serbia has largely accommodated its administration to such requirements. In the last decade only, a series of state, provincial and local administrative agencies have been established, with competences covering various problems related to environmental protection.

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Since the right to a healthy environment, a right belonging to the third generation of human rights, found its place in the new 2006 Constitution of the Republic of Serbia (Article 74), substantial legislative and delegated legislative activity in this domain was only to be expected. In the last four years after adopting the Constitution only, a total of 17 new acts have been passed,<sup>1</sup> in addition to dozens of delegated legislative acts. Thirteen of the total of 54 international treaties related to environmental protection ratified so far, have been ratified in the last four years.<sup>2</sup> All these regulations contribute to the fact that

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<sup>1</sup> See: *Nature Conservation Act*, Official Bulletin of the Republic of Serbia No. 36, of 15 May 2009 and No. 88 of 23 November 2010; *Air Protection Act*, Official Bulletin of the Republic of Serbia No. 36 of 15 May 2009; *Act on the Protection from Noise in the Environment*, Official Bulletin of the Republic of Serbia No. 36 of 15 May 2009 and No. 88 of 23 November 2010; *Nonionizing Radiation Protection Act*, Official Bulletin of the Republic of Serbia No. 36 of 15 May 2009; *Ionizing Radiation Protection and Nuclear Safety Act*, Official Bulletin of the Republic of Serbia No. 36 of 15 May 2009; *Waste Management Act*, Official Bulletin of the Republic of Serbia No. 36 of 15 May 2009; *Chemicals Act*, Official Bulletin of the Republic of Serbia No. 36 of 15 May 2009 and No. 88 of 23 November 2010; *Act on the Assessment of Effects on the Environment*, Official Bulletin of the Republic of Serbia No. 135 of 29 December 2004 and No. 36 of 15 May 2009; *Act on Strategic Assessment of Effects on the Environment*, Official Bulletin of the Republic of Serbia No. 135 of 29 December 2004 and No. 88 of 23 November 2010; *Geological Explorations Act*, Official Bulletin of the Republic of Serbia No. 44 of 4 November 1995 and No. 101 of 21 November 2005; *Biocidal Products Act*, Official Bulletin of the Republic of Serbia No. 36 of 15 May 2009 and No. 88 of 23 November 2010; *Packaging and Packaging Waste Act*, Official Bulletin of the Republic of Serbia No. 36 of 15 May 2009; *Act on Integrated Prevention and Control of the Environment*, Official Bulletin of the Republic of Serbia No. 135 of 29 December 2004; *Water Act*, Official Bulletin of the Republic of Serbia No. 30 of 7 May 2010; *Act on the Protection and Sustainable Use of Fisheries*, Official Bulletin of the Republic of Serbia No. 36 of 15 May 2009, and *Act on the Forbiddance of Development, Production, Storage and Use of Chemical Weapons*, Official Bulletin of the Republic of Serbia No. 36 of 15 May 2009.

<sup>2</sup> See: *Act on the Ratification of the UN Convention to Combat Desertification in Those Countries Experiencing Serious Drought or Desertification, Particularly in Africa* (Official Bulletin of the Republic of Serbia – International Treaties, No. 102/07); *Act on the Ratification of the Convention on the Conservation of Migratory Species of Wild Animals*, Bonn, 1979 (Official Bulletin of the Republic of Serbia – International Treaties, No. 102/07); *Act on the Ratification of the Convention of European Wildlife and Natural Habitats*, Bern, 1979 (Official Bulletin of the Republic of Serbia – International Treaties, No. 102/07); *Act on the Ratification of the Kyoto Protocol to the United Nations Framework Convention on Climate Change*, 1997 (Official Bulletin of the Republic of Serbia – International Treaties, No. 88/07); *Act on the Ratification of the Convention on the Protection and Sustainable Development of the Carpathians* (Official Bulletin of the Republic of Serbia – International Treaties, No. 102/07), *Act on the Ratification of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters*, Aarhus, 1998 (Official Bulletin of the Republic of Serbia – International Treaties, No. 30/09); *Act on the Ratification of the Convention on the Transboundary Effects of Industrial Accidents* (Official Bulletin of the Republic of Serbia – International Treaties, No. 42/09), *Act on the Ratification of the Stockholm Convention on Persistent Organic Pollutants* (Official Bulletin of the Republic of Serbia – International Treaties, No. 42/09); *Act on the Ratification of the Financing Treaty* (Project “Regional Development of Bor”) *between the Republic of Serbia and the International Development Association* (Official Bulletin of the Republic of Serbia, No. 83/08); *Act on the Ratification of the Financing Treaty* (additional financing of energy efficiency projects for Serbia) *between the Republic of Serbia and the International Development Association* (Official Bulletin of the Republic of Serbia No. 83/08); *Act on the Ratification of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade*, 1998 (Official Bulletin of the Republic of Serbia – International Treaties, No. 38/09); *Act on the Ratification of the Convention on Environmental Impact Assessment in a Transboundary Context*, Espoo, 1991 (Official Bulletin of the Republic of Serbia – International Treaties, No. 102/07), and *Act on the Ratification of Amendments to Annex B of the Kyoto Protocol to the United Nations Framework Convention on Climate Change* (Official Bulletin of the Republic of Serbia – International Treaties, No. 38/09).

environmental protection is today one of the most comprehensive administrative domains in our national legal system. In order to assess whether the passing of such a large number of legal acts on environmental protection has been accompanied by the establishment of an appropriate institutional framework for the efficient enforcement of such legislation, we shall perform a detailed analysis of the organization of all administrative agencies whose competences include the application of these regulations.

## 2. COMPETENCES OF ADMINISTRATIVE AGENCIES IN THE DOMAIN OF ENVIRONMENTAL PROTECTION

After passing the new Constitution, in the domain of environmental protection competences have been shared by the Republic of Serbia, the Autonomous Province of Vojvodina, and local self-governments. The systems for the protection and promotion of the environment, animal and plant life and sustainable development are in the domain of the Republic of Serbia (Article 97, Paragraph 1, Clause 9 of the Constitution). The Autonomous Province of Vojvodina is authorized to regulate matters relevant to the Province in the domain of environmental protection, in accordance with the law (Article 183, Paragraph 2, Clause 2 of the Constitution), while units of the local self-government (municipalities and cities) shall attend to environmental protection through their own agencies, in accordance with the law (Article 190, Paragraph 1, Clause 6 of the Constitution).

On the basis of constitutional competences so defined, and also of acts passed afterwards – Act on Defining the Competences of the Autonomous Province of Vojvodina<sup>3</sup> and Local Self-Government Act,<sup>4</sup> the present organization of provincial and local administration in the domain of environmental protection has been established. In the Autonomous Province of Vojvodina, so far, only the Provincial Secretariat for Urban Planning, Civil Construction and Environmental Protection<sup>5</sup> and Provincial Nature Conservation Institute<sup>6</sup> have been established, while on the local level there are major differences among local self-government units. Local administration has been adapted in such a way as to include environmental protection mostly in major cities (Belgrade, Novi Sad, Nis, Kragujevac), where there are separate agencies or at least separate internal organizational units formed solely with the purpose of conducting matters related to environmental protection. However, most towns and municipalities still do not have separate organizational units within their administration in charge solely of matters pertaining to the protection of the environment. For this reason, our attention in the present article is limited only to the organization of administration on the state level.

On the level of the Republic of Serbia the principal agency conducting affairs related to environmental protection is the Ministry of Environment, Mining and Spatial Planning. Additionally, though their legal status and competences vary, the following agencies have

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<sup>3</sup> Official Bulletin of the Republic of Serbia, No. 99 of 1 December 2009.

<sup>4</sup> Official Bulletin of the Republic of Serbia, No. 129 of 29 December 2007.

<sup>5</sup> Resolution of the Assembly of the Province on Amendments to the Resolution of the Assembly of the Province on Provincial Administration, Official Bulletin of the AP of Vojvodina, No. 4 of 5 April 2011.

<sup>6</sup> Resolution of the Assembly of the Province on the Foundation of the Provincial Nature Conservation Institute, Official Bulletin of the AP of Vojvodina, No. 2 of 26 February 2010.

also been delegated matters related to environmental protection: the Environmental Protection Agency, the Chemicals Agency, the Ionizing Radiation Protection Agency, the Nature Conservation Institute and the Environmental Protection Fund. Given the fact that the domain of the environment is directly related to other domains of social life, other ministries can also be competent in certain matters related to environmental protection, such as: the Ministry of Agriculture, Trade, Forestry and Water Management; the Ministry of Health and the Ministry of Infrastructure and Energy.

### 2.1. Ministry of Environmental Protection, Mining and Spatial Planning

Today, this Ministry is the principal (for a long time it was the only) agency conducting administrative activities related to environmental protection. After passing the 1990 Constitution, where the separation of powers was established in our national system, it was always the case that a ministry was in charge of matters related to the environment. Most commonly, state administrative matters covering the domain of environmental protection were conferred upon a separate ministry (of environmental protection or ecology), and only in two instances environmental protection was delegated to a separate sector within another ministry (of health or science).<sup>7</sup> Forming the Ministry of the Protection of Environment and Spatial Planning within the latest makeup of the Serbian Government was only logical, as a consequence of the ever more present tendency to integrate policies in the domains of spatial planning and environmental protection. Such integration of domains is not only theoretically advocated by some authors<sup>8</sup> but is also available in the political life of modern states (Portugal, the Netherlands, Greece, Montenegro, Croatia, Macedonia, Slovenia ...). For this reason, to an extent, one can also understand the new addition of mining to this Ministry, which occurred during the most recent governmental reconstruction of 14 March 2011.<sup>9</sup>

In terms of environmental protection, the Ministry of Environment, Mining and Spatial Planning carries out administrative tasks related to: the system of the sustainable development of natural resources (air, water, soil, mineral raw materials, forests, fisheries, plant and animal wildlife), inspection and supervision in the domain of sustainable use of natural resources and environmental protection in other domains, as defined by the law; making a balance of underground water reserves and norms and standards for making geological maps; ensuring financial and other preconditions to implement such programs; a system of environmental protection; fundamentals of environmental protection; imple-

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<sup>7</sup> The first ministry dealing with the environment was established on 11 February 1991 and called the *Ministry of Health and Environmental Protection*. After this, in five subsequent governments, from 23 December 1991 to 25 January 2001, there was a separate *Ministry of Environmental Protection*. Starting 25 January 2001 there was the *Ministry of Health and Environmental Protection* again, while, after the reconstruction of the government the *Ministry of the Protection of Natural Resources and Environment* was introduced. From 3 March 2004 there was the *Ministry of Science and Environmental Protection*, while on 15 May 2007 once again a separate ministry was formed, labeled *Ministry of Ecology*. When the current government was formed on 7 July 2008 the *Ministry of Environment and Spatial Planning* was established. After the most recent reconstruction of the government of 14 March 2011 it was reorganized as the *Ministry of Environment, Mining and Spatial Planning*.

<sup>8</sup> Integrating City Planning and Environmental Improvement: Practicable Strategies for Sustainable Urban Development, (eds.) by Donald Miller and Gert de Roo, Ashgate, Alderhot, England, pp. 29-35.

<sup>9</sup> Act on Ministries, Official Bulletin of the Republic of Serbia, No. 16 of 14 March 2011.

mentation of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters; nature conservation; air protection; ozone layer preservation; changes in climate; transboundary air and water pollution; protection of waters from pollution to prevent reductions in the quality of surface and underground water; defining and protecting natural environments important for the Republic of Serbia; defining the environmental conditions during spatial planning and civil construction; protection from major chemical accidents and reactions in case of chemical accidents; protection from noise and vibrations; protection from ionizing and nonionizing radiation; management of chemicals and biocidal products; implementation of the Convention on Chemical Weapons in accordance with the law; management of waste (except radioactive); approval of transboundary transportation of waste and protected plant and animal species, and other matters as defined in the law.<sup>10</sup>

In terms of internal organization, four sectors related to the protection of the environment are particularly important in the Ministry: the Planning and Management Sector; the Natural Resources Protection Sector; the Control and Supervision Sector; and the Sector for European Integrations, International Cooperation and Project Management.

The *Planning and Management Sector* carries out tasks related to: definition, coordination and development of goals in environmental protection policy related to the introduction of standards and cleaner production, with the purpose of sustainable development; coordination of preparing and drafting the Strategy to Introduce Cleaner Production and ensure preconditions for its implementation; cooperation with representatives of state administration and local self-government, industry, chamber of commerce and other associations of businesspersons, entrepreneurs, business owners and other parties interested in participating in the process of preparing strategies, programs and plans to introduce cleaner production standards; ensuring preconditions for issuing EMAS certificates in the Republic of Serbia and keeping registries of legal entities and individuals included in the EMAS system; following up on European standards and methodologies in order to establish a system to manage and control environmental protection in economic entities – ISO 14001 and EMS – environmental protection management in companies; coordination of activities for organizing and monitoring the completion and implementation of projects, strategies, plans and programs within the competences of the Ministry; determining environmental conditions for constructing facilities and carrying out works to ensure integrative approach in approving the work of installations and conduction of activities that can harm the environment; determining environmental conditions for the construction of buildings and for carrying out works through the assessment of possible environmental effects; determining conditions for environmental protection during rehabilitation, remediation and recultivation; exchange of information on transboundary effects of potential projects, plans and programs on the environment; cooperation with neighboring states in the procedure of assessing transboundary effects; supplying opinion on decisions to make a strategic assessment of effects; pronouncing decisions on reports on strategic assessment of effects and providing opinion on spatial plans of state importance; monitoring the development of available techniques for integrated prevention and control of environmental

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<sup>10</sup> Act on Ministries, Article 16, Paragraph 2.

protection; issuing integrated licenses in accordance with the Act on Integrated Prevention and Control of Environmental Pollution and control of the influence on the environment of those installations for which an integrated license has been issued; waste management; protection from noise and vibrations; participation in preparing regulations from within the Sector's competences.

Within this Sector, which operates as an internal organizational unit relevant to the domain of environmental protection, there are three *departments* (for integrated licenses, for waste management and for assessing environmental effects) and six *groups*, of which two are allocated to the waste management department (group for industrial waste and group for communal waste and specific waste) and department for assessing environmental effects (risk management group, standards and cleaner production group, noise and vibration protection group, and strategic effect assessment group).

The *Natural Resources Protection Sector* carries out tasks related to: participation in drafting strategic documents, plans and programs; participation in preparing professional foundations for drafting regulations from the Sector's domain; implementation of international conventions, treaties, acts and other regulations pertaining to the protection of natural resources, air, water, soil; conservation of nature, mineral explorations, fisheries, environmental protection in other sectors; conservation of nature and biodiversity and monitoring of the utilization of systems for protecting ecosystems; protection, preservation, promotion and management of protected natural areas (nature reserves, national parks, natural monuments and other protected areas); protection, promotion and sustainable utilization of fish life (ichthyofauna); air protection; water protection; making plans for fundamental mineral explorations related to sustainable utilization of resources, and conducting detailed exploratory works for underground waters; project proposals; carrying out other tasks within the Sector's domain.

Within this Sector there are the following internal organizational units: *department* for nature conservation, within which there are three *sections* (section for the protection of biological resources, section for the protection of biodiversity and section for protected areas). There are also three *independent sections* (section for mineral explorations and soil, section for water protection and section for air protection).

In the *Control and Supervision Sector* tasks are carried out pertaining to: protecting the environment from pollution; protection and use of natural wealth and resources; procedure in case of a chemical accident; protection of water from pollution and fisheries; protection from ionizing and nonionizing radiation; waste management; adjustment of the activities of environmental protection inspections on all levels in the Republic of Serbia to the requirements of the European Union, whose purpose is to implement the Recommendation of the Council of Europe and European Parliament on Minimal Criteria for the Inspection of Environmental Protection; participation in preparing professional materials in drafting regulations; civil construction supervision tasks; urban planning supervision tasks; and other tasks from the Sector's domain.

In this Sector, internal organizational units relevant to environmental protection include six *sections* (for protecting the environment from pollution; for protection and utilization of natural wealth and resources; for protecting waters from pollution and fisheries; for management of dangerous and other waste; for chemicals and biocides; for the cooperation of inspections with international networks).

The *Sector for European Integrations, International Cooperation and Project Management* conducts activities related to: coordination of affairs and preparation of documents in the negotiation process for accession to, i.e. membership in the World Trade Organization, in the domain of the circulation of goods and conduction of services relevant to environmental protection; coordination of tasks relevant to EU accession within this Ministry; coordination of drafting the national version of EU law within the competences of this Ministry – disseminating information on the possibilities to use EU pre-accession assistance and monitoring the projects in which EU is providing technical and financial assistance; monitoring and analysis of instruments in international law, EU policies, coordination of preparatory activities to ratify international treaties in the domain of spatial and urban planning; drafting, harmonization and conclusion of cooperation treaties, contracts, programs and protocols; defining priorities, forms, contents, and modalities of international cooperation and subsequent monitoring of its implementation; initiating and coordinating activities to identify the needs for international aid for the environmental protection sector; presenting the needs and ensuring international aid; monitoring international policies in environmental protection and spatial and urban planning and proposing measures and activities to harmonize national priorities; acceding to international cooperation; coordination of activities to prepare platforms for the participation of Ministry representatives in international meetings, meetings with contracting parties in multilateral treaties from the domain of environmental protection and spatial and urban planning; coordination of activities on the organization and monitoring of the drafting and implementation of projects within the domain of this Ministry, related to environmental protection and spatial and urban planning; cooperation with organizational units within the Ministry and also with representatives of public administration and local self-government agencies, citizen associations, industry, chamber of commerce and other associations of businesspersons or entrepreneurs during the project/strategy/plan/program preparation and implementation phases; programming, technical implementation and monitoring of projects financed from EU funds (IPA: national and multi-beneficiary) and international aid (Support Programs of Norway, Japan, South Korea, the Netherlands (G2G), the Czech Republic, Sweden (SIDA), UNDP, World Bank, REC); coordination of implementing the UN Framework Convention on Climate Change and its corresponding protocols; monitoring and reporting on commitments deriving from the membership in the UN Framework Convention on Climate Change and its corresponding protocols; cooperation with the Secretariat of the UN Framework Convention on Climate Change and its corresponding protocols in order to adhere to our commitments; cooperation with other state agencies and institutions on fulfilling obligations deriving from membership in the UN Framework Convention on Climate Change and its corresponding protocols; promotion of the UN Framework Convention on Climate Change and its corresponding protocols; selection and monitoring of projects implemented within the mechanisms of the corresponding protocols; cooperation with relevant international and regional organizations; preparing positions for participation in relevant meetings and conferences of the UN Framework Convention on Climate Change and its corresponding protocols; coordinating the preparation of negotiating positions in the domain of climate change; and coordination of the drafting of strategic documents in the domain of climate change.

Within this Sector there are four *sections* (for European integrations and international cooperation; for project management; for climate change and for the harmonization of

regulations) and two *groups* (for project drafting and for project implementation and monitoring), working under the auspices of the project management section.

## 2.2. Environmental Protection Agency

In addition to the Ministry, the Environmental Protection Agency is the only separate body of public administration working in the domain of environmental protection. The Act on Ministries defines the Environmental Protection Agency as an administrative agency working as a legal entity within the Ministry of Environment, Mining and Spatial Planning (Article 16, Paragraph 4).

This legal definition makes the legal status of this Agency rather unclear. In fact, based on the type of activities (professional) and the fact that it has been given the status of a legal entity, one could conclude that this Agency is a classic (separate) administrative organization, as defined in Article 33 of the Public Administration Act (“a separate organization is established in order to carry out those professional and related executive tasks whose nature is such that it requires more independence than that given to a body which is a constituent part of a larger agency”). However, the Act on Ministries still defines this Agency as an administrative body within the Ministry, in spite of the fact that fundamental Public Administration Act (Article 29) already explicitly prescribes that administrative agencies within ministries can be only directorates and inspectorates. An even more serious problem is posed by the fact that, at the same time, the Act on Ministries gives this Agency the status of a separate legal entity. By means of this, this Agency has become the only state agency authorized to act on its own behalf and to its own gain, and not solely on behalf and to the gain of the state, as is the case with all other state agencies, which naturally also include all agencies within public administration. In addition to theoretical issues, the legal status of this Agency could pose practical problems. They could become particularly prominent, for example, if a request for compensation of damages caused by illegal or inappropriate activities of the Agency was posed. In such a possible scenario, one would not know who the defendant would be (the state or the Agency), from whose funds the damage caused could be compensated (the state budget or the funds of the Agency), etc. Likewise, many other questionable solutions could be contested, such as the way this Agency is funded, its relations with other environmental protection agencies run by the state (and those not run by the state), as such relations, naturally, always depend on the legal status of an agency.<sup>11</sup>

The Environmental Protection Agency carries out public administration tasks related to: the development, harmonization and running of the national information system on en-

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<sup>11</sup> Interestingly, the 2004 Act on Ministries originally prescribed the establishment of a Directorate for Environmental Protection, an administrative agency working under the auspices of the Ministry, at the time Ministry of Science and Environmental Protection (Article 14 Paragraph 2). However, in amendments to this Act adopted later (Official Bulletin of the Republic of Serbia No. 84 of 23 July 2004) the Environmental Protection Agency was incorporated into the legal system, where its proper legal status was not given appropriate attention. If the very establishment of this Agency was a part of our international commitments, and its getting the status of a legal entity was necessary primarily for its relations with the European Environment Agency (EEA) and European Environment Information and Observation Network (EIONET), it could have been established as a (separate) administrative organization. This would have helped avoid unnecessary legal chaos in the public administration system.



vironmental protection (monitoring of the conditions of environmental factors, registry of pollution sources, etc.); state-run monitoring of air and water quality, including the prescribed and harmonized programs for the quality of air, surface and underground waters and precipitation; running the National Laboratory; collecting the data on the environment and incorporating them into a single database, their processing, making reports on environmental conditions and environmental policies; developing procedures for processing and assessing data on the environment; keeping records on the best available techniques and practices and their application in the domain of environmental protection; cooperating with the European Environment Agency (EEA) and European Environment Information and Observation Network (EIONET), and other tasks defined by the law.

In terms of internal organization, the Agency has the *Sector for Monitoring and Analysis of Pollution* and three *departments*, of which two work under the auspices of the Sector (department for monitoring and analyzing conditions and department for information systems and industrial and communal pollution), and one is independent (department for the automatic monitoring of air quality).

### **2.3. The Chemicals Agency**

Contrary to the Environmental Protection Agency, which has been granted the status of a body of public administration, the Chemicals Agency, just like the Ionizing Radiation Protection Agency, is a (separate) administrative organization. Granting this Agency the status of administrative organization is quite correct from the point of view of the public administration system, since its principal activity pertains to professional tasks related to environmental protection, while this agency conducts certain administrative tasks only to the extent to which they are related to the former activities.

The Chemicals Agency carries out tasks in relation to: ensuring administrative conditions for quality, efficient, and safe management of chemicals and biocidal products. Within these tasks, the Agency is competent to: carry out professional, administrative and technical affairs as needed by the Common Agency for Integrated Management of Chemicals; provide information and directions to companies, local self-government units and inspectors for carrying out this and other acts whose implementation is conferred upon the Agency; gives professional opinion on the properties and usage of certain chemicals; cooperates with the European Chemicals Agency, the agencies of other countries, secretariats of international conventions regulating chemicals management and other international organizations dealing with various aspects of chemicals management; conducts activities to inform the public on the impact of chemicals on people's health and the environment, on measures to reduce risk and safe use of chemicals, and also carries out other tasks defined by the law.

Additionally, the Agency also conducts tasks from the domain of public administration conferred upon it, as follows: it passes delegated legislation related to the application of the Chemicals Act and Biocidal Products Act; it compiles a List of Classified Substances; it reaches decisions on the incorporation of a chemical into the Chemicals Register and keeps this Register; it also keeps an Integrated Chemicals Register; it publishes a List of Substances causing concern; it carries out the procedure of prior information dissemination and procedure of getting clearances based on prior information, related to the import and export of certain dangerous chemicals; it issues licenses to carry out activities

related to the circulation and use of particularly dangerous chemicals; it issues approvals to use surfactants in detergents; it drafts and implements projects monitoring whether chemicals are used in circulation in such a way as to harm people's health, the environment or property; it publishes lists of active substances in biocidal products; it reaches decisions on the incorporation of a biocidal product into the Temporary List for Providing Technical Dossiers; it issues approvals for putting a biocidal product into circulation; it assesses the technical dossier of a biocidal product; it prepares yearly declarations on the production, processing and use of chemicals from the lists prescribed by the law, regulating bans on development, production, storage and use of chemical weapons, and the destruction of such weapons; it provides yearly declarations on the production of discreet organic chemicals, and carries out other tasks as defined by the law. Likewise, the Agency sets fees for checking the data from the chemicals dossier, fees for assessing measures for risk reduction and ways to systematically monitor the use of a substance causing concern, and also other fees defined by the Chemicals Act. The Agency always sets these fees after gaining consent from the Government.<sup>12</sup>

#### **2.4. Ionizing Radiation Protection Agency**

Just like the Chemicals Agency, the Ionizing Radiation Protection Agency has the legal status of a (separate) administrative organization.

The Ionizing Radiation Protection Agency carries out tasks related to ensuring pre-conditions for quality and efficient measures for protection from ionizing radiation and measures for nuclear safety in situations in which radiation and nuclear activities are undertaken. Within these, the Agency is competent to: prepare drafts of the Program for Timely Announcement of Accidents and draft Action Plan in Case of Accident; make recommendations and procedures needed to conduct measures of radiation and nuclear security and safety; prescribe fees for issuing licenses, permits, decisions, endorsements, certificates on enlisting; publishes yearly reports on levels of the population's exposure to ionizing radiation in the Republic of Serbia; controls how far conditions based on which licenses have been issued are met; ensures that activities for the implementation of the Act on the Protection from Ionizing Radiation and Nuclear Safety and those for the adoption of delegated legislation in the domain are made public; cooperates with appropriate state agencies from within its domain; independently or in cooperation with other state agencies cooperates with the International Atomic Energy Agency and other international agencies and relevant bodies of other states related to accession to international conventions and other treaties in the domain of radiation and nuclear safety and security, and carries out other tasks defined by the law.

Additionally, in terms of administrative tasks conferred upon it, the Agency: passes delegated legislation relevant to the application of Act on the Protection from Ionizing Radiation and Nuclear Safety; adopts a Program for Systematic Monitoring of Radioactivity in the Environment; adopts a Program for Additional Training of Professionally Exposed Individuals and Individuals Responsible for Ionizing Radiation Protection; adopts a Program for Timely Announcement of Accidents; issues, renews and revokes licenses for

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<sup>12</sup> The Chemicals Act, Article 6.

conducting radiation-related and nuclear activities; issues and revokes licenses for the circulation of radioactive and nuclear materials; issues, renews and revokes decisions given to legal entities and entrepreneurs for conducting ionizing radiation or nuclear protection tasks; issues certificates to individuals responsible for protection from ionizing radiation; keeps a register of applications and issued licenses, decisions, registration endorsements and certificates; forms and maintains a database (central register) of sources of ionizing radiation, beneficiaries of those sources, professionally exposed individuals, and of other data relevant to the protection from ionizing radiation, nuclear safety and security; keeps central records on nuclear facilities, nuclear materials and radioactive waste and controls records kept by beneficiaries; monitors the extent and alterations in radioactivity levels, assesses their influence on the population and environment, orders corresponding measures to be taken and monitors their implementation; provides information relevant to the radiation and nuclear safety and security to the media, competent state agencies, and International Atomic Energy Agency.

The Agency sets fees for issuing licenses, decisions, registration endorsements and certificates only after gaining consent from the Government.<sup>13</sup>

## **2.5. Institute for Nature Conservation of Serbia**

The Serbian Nature Conservation Institute is a public institution carrying out tasks related to the protection and promotion of nature and natural wealth located on the territory of the Republic of Serbia, except for the protection of nature and natural wealth fully located in the territory of the Autonomous Province of Vojvodina. Although it has been named an “institute”, which is the most common organizational form of (separate) administrative organizations, the Institute for Nature Conservation of Serbia has the status of a public institution and has been established by the resolution of the Serbian Government.<sup>14</sup>

The Institute conducts professional activities pertaining to: research and studies related to nature conservation; defining the borders of areas proposed to be protected; valorization of protected natural areas and proposal of measures for the protection and categorization of a natural area; drafting project proposals on the conservation and valorization of natural wealth; monitoring the conditions of a protected natural area and suggesting measures for further protection and categorization to competent institutions; drafting professional proposals and analyses to define measures for the protection and conservation of natural areas to competent institutions during the process in which environmental influences are being evaluated.

## **2.6. Environmental Protection Fund**

The Environmental Protection Fund has been established by means of the Environmental Protection Act (Article 90) with the purpose of ensuring financial resources for supporting environmental protection and promotion in the Republic of Serbia. Its status is

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<sup>13</sup> Act on Protection from Ionizing Radiation and Nuclear Safety, Article 6.

<sup>14</sup> Resolution on the Establishment of the Institute for Nature Conservation of Serbia, Official Bulletin of the Republic of Serbia, No. 18 of 26 March 2010.

that of a legal entity with public competences. The Environmental Protection Fund conducts professional activities related to financing equipment, implementing and developing programs, projects and other activities in the domain of preservation, sustainable utilization, protection and promotion of the environment, and also in the domain of use of renewable energy sources. Within such affairs, the fund also: carries out professional and other tasks related to the procurement, management, and use of its funds; mediates in relation to the financing of the environment and energy efficiency from the funds of other states, international organizations, financial institutions and agencies, national and international legal entities and individuals; maintains a database on programs, projects and other activities in the domain of environmental protection and energy efficiency, also related to the needed and available financial resources to carry out such projects; supports, establishes and maintains cooperation with national and international financial institutions and other legal entities and individuals with the purpose of financing environmental protection and energy efficiency, in accordance with the National Program, other strategic plans and programs, and the international treaties that Serbia has adopted, for the purposes defined by the Environmental Protection Act.

Within its public competences, the Environmental Protection Fund: issues decisions on entities obliged to pay fees defined by the law regulating sustainable management of natural wealth and environmental protection; defines detailed criteria that beneficiaries of the Fund's resources must meet, conditions and ways in which funds are allocated, criteria and measures for assessing project applications or requests for funding; supervises project implementation, monitors whether funds are used as agreed in project conditions; carries out other tasks relevant to the allocation and use of Fund resources, in accordance with the Environmental Protection Act and other specific acts; proposes measures against fund beneficiaries in cases of inappropriate use of funds and failure to comply with the rights and obligations previously agreed upon.

## 2.7. Other Ministries

In tasks conferred upon public administration related to the protection of the environment at times other ministries, with principal activities related to other domains of social life, occasionally receive competences in this field, as follows: the Ministry of Agriculture, Trade, Forestry and Water Management; the Ministry of Health and the Ministry of Infrastructure and Energy.

*The Ministry of Agriculture, Trade, Forestry and Water Management* carries out public administration tasks related to environmental protection with regard to genetically modified organisms, and also affairs pertaining to: water management policy; multipurpose use of waters; water supplies, except water distribution; protection from water; conducting water protection measures and planned rationalization of water consumption; introduction of water regimes; monitoring and maintenance of regimes of waters making up and cutting through the borders of the Republic of Serbia (the responsibility of the *Serbian Waters Directorate*, an administrative agency working under the auspices of this Ministry). In addition, this Ministry attends to matters related to forestry policies, such as the preservation of forests, promotion and use of forests and forest wildlife, undertaking measures to protect forests and forest wildlife, control seeds and sowing resources in for-

estry (the responsibility of the *Forest Directorate*, an administrative agency working under the auspices of this Ministry).<sup>15</sup>

In the environmental domain, *The Ministry of Health* carries out public administration tasks related to: public supplies of hygienically clean drinking water to the population, and the good laboratory practice.<sup>16</sup>

In the environmental protection domain, *The Ministry of Infrastructure and Energy* performs public administration tasks which, among other things, pertain to the emission of pollutants into the air from vehicles and emission of noise from vehicles, airplanes and machines, vessel traffic; and also tasks related to the quality of oil-based fuels; safe pipeline transport of gaseous and liquid hydrocarbon; nuclear energy facilities whose purpose is to produce electricity and heat; and also the production, use and storage of radioactive materials in such facilities.<sup>17</sup>

### 3. CONCLUDING REMARKS

The relatively frequent changes in the organization of public administration, which occurred mostly as a result of changes in the makeup of governments, have almost always resulted in the change of the organization of agencies working in the environmental protection domain. In addition, with the passing of new regulations in recent years, as a rule, new agencies have been formed. All of this has resulted in the fact that today the Republic of Serbia has a very developed organization of public administration in the domain of environmental protection.

After a detailed analysis of the organization of administrative authorities present today on the level of the state, one can conclude that, in the domain of environmental protection, there is a very heterogeneous, rather than uniform, system of administrative agencies. The current organization of these bodies is characterized by a series of insufficiently thought-out solutions, of which some could influence the proper application of regulations related to the preservation and improvement of environmental conditions. Among numerous drawbacks of the organization of public administration presented in this paper, certainly the most important disadvantage is the establishment of a number of different agencies with relatively similar competences (the Ministry, agencies, the Directorate, the Fund). In practice, this fact could lead to confusing the competences, and this could in turn result in unnecessary multiplication of administrative tasks, irrational use of funds, excessive number of employees, lower work efficiency, difficulties in management, etc. Current solutions related to the instruction for cooperation among public administration agencies defined in the Public Administration Act, and also solutions on the ways conflicts of competences are to be resolved, as prescribed in the General Administrative Procedure Act, are not sufficient for overcoming most legal problems that can emerge during the application of environmental regulations on the state level.

These deficiencies in the organization of the administration, and also others given in the paper, may result not only in the impossibility of an integrated management system, a

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<sup>15</sup> Act on Ministries, Article 8.

<sup>16</sup> Act on Ministries, Article 14.

<sup>17</sup> Act on Ministries, Article 10.

fundamental principle given in the Environmental Protection Act (Article 9), but also in the impossibility to conduct unified policy of the state in this domain. Therefore we hold that a small reform of organizational legislation could remedy most legal obstacles presented in this paper. In turn, this would create preconditions for a more efficient and rational implementation of provisions from abundant legislation and delegated legislation in the domain of environmental protection.

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## ORGANIZACIJA UPRAVE U OBLASTI ZAŠTITE ŽIVOTNE SREDINE

**Zoran Lončar**

*Zaštita životne sredine predstavlja jednu od najmlađih upravnih oblasti. Pojava posebnih državnih organa specijalizovanih za rešavanje različitih pitanja u vezi zaštite životne sredine javila se kao rezultat potrebe savremenih država da odgovore na ekološke posledice modernog načina života. Danas je gotovo nemoguće pronaći neku državu bez posebnih organa nadležnih u oblasti zaštite životne sredine. U cilju efikasnog ispunjavanja svojih međunarodnih obaveza u pogledu ekološke zaštite i Republika Srbija je poslednjih godina organizaciju upravne vlasti u značajnoj meri prilagodila ovim zahtevima. Tokom protekle decenije obrazovano je niz organa državne i nedržavne (pokrajinske i lokalne) uprave u čijem delokrugu su se nalazila različita pitanja zaštite životne sredine. Prilikom relativno čestih promena organizacije državne uprave menjala se, međutim, često i organizacija organa nadležnih u oblasti zaštite životne sredine. Zbog toga se prilikom ocene pravnog uređenja zaštite životne sredine kao jedno od osnovnih pitanja danas može postaviti upravo pitanje adekvatnosti organizacije sistema upravne vlasti u ovoj oblasti.*

*Nakon detaljne analize važeće organizacije državne, pokrajinske i lokalne uprave može se konstatovati postojanje niza nedovoljno dobrih rešenja koja mogu biti od uticaja na valjanu primenu propisa koji se odnose na očuvanje i poboljšanje kvaliteta životne sredine. Svakako da među njima najvažniji nedostatak predstavlja postojanje na republičkom nivou više različitih organa sa sličnom nadležnošću (ministarstvo, agencije, zavod, fond). Ova pojava može da dovede do preplitanja*

*nadležnosti koje za posledicu može imati dupliranje poslova, neracionalno trošenje sredstava, prekomeran broj zaposlenih, otežano rukovođenje, nedovoljnu efikasnost u radu i sl. Ništa manje nije značajno ni nedovoljno jasno razgraničenje nadležnosti između organa uprave različitih teritorijalnih nivoa vlasti, a pre svega u pogledu izvornih i poverenih poslova koji su po prirodi stvari podvrgnuti potpuno različitim pravnim režimima. Ova pojava posebno dolazi do izražaja u odnosima između organa republičke i pokrajinske uprave u AP Vojvodini. Pravilna primena pravnog režima na određeni posao u oblasti zaštite životne sredine koji obavlja organ pokrajinske uprave je bitna ne samo zbog mogućnosti vršenja kontrole centralnog organa, već i zbog načina finansiranja tih poslova. Ovi i svi ostali u radu navedeni nedostaci u organizaciji uprave za rezultat mogu da imaju i nemogućnost adekvatnog sprovođenja jedinstvene državne politike u oblasti zaštite životne sredine. Stoga smatramo da bi manjom reformom organizacionog zakonodavstva mogle biti otklonjene sve ukazane pravne prepreke i time stvoreni uslovi za efikasno i racionalno sprovođenje brojnih zakonskih i podzakonskih akata u oblasti zaštiti životne sredine.*

**Ključne reči:** *očuvanje i poboljšanje kvaliteta životne sredine, organizacija državne, pokrajinske i lokalne uprave, reforma organizacionog zakonodavstva.*