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**CONDITIONS AND EFFECTS OF ENVIRONMENTAL
LEGISLATION CHANGES:
Twenty years from the beginning of the Europeanization
process in the Republic of Serbia****

Abstract: *The Europeanization process, conceived as harmonisation of national regulations with EU legislation, is a complex process which is marked by various socio-economic and political conditions. For more than nine years, the Republic of Serbia (RS) has been a European Union (EU) candidate country. In response to the defined objectives, the process of preparing and adopting regulations has been partly changed in the RS. However, the procedure still does not provide full perception and consideration of the specific conditions and possibilities of the RS economy and the society. In addition, the harmonization and implementation process has been facing a number of other challenges. Taking the example of environmental legislation of the RS and evaluating the conditions under which environmental laws were prepared and implemented, the paper explains the effects and limitations of the Europeanization process. The data show that there are some results in the harmonization and implementation of regulations that are in line with EU regulations. Almost all key environmental laws have been adopted, as well as a large number of bylaws. However, the huge implementation costs represent one of the long-term obstacles to achieving the goals of Europeanization.*

Keywords: *EU integration, Europeanization, environmental legislation, Republic of Serbia, harmonisation, implementation, transposition.*

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1. Introduction

The conditions for introducing the EU legislation into the internal legal order of EU candidate countries are determined by different circumstances and characteristics of the candidate countries. For this reason, the effects of the harmonization process should be interpreted in the context of specific circumstances that may have a formal and material character. The formal character determinant is the manner in which the procedure for harmonizing internal legislation with the EU legislation is regulated. The basic determinants of material character derive from a low level of economic development and estimated high costs of implementing legislation, as well as other characteristics in every candidate country individually. Although the positive effects of the Europeanization process in the EU candidate countries cannot be denied (on the example of the RS), the question remains whether this process could have better results if the process of harmonizing legislation has been of a better quality and with a more realistic assessment of all the relevant circumstances and the possibilities of implementing each individual regulation.

The paper evaluates the conditions under which harmonisation of environmental regulations of the RS with EU law is carried out. It is significant whether the procedural rules for harmonisation of regulations ensure the assessment of the real possibilities of the economy and the society or not. In evaluating the conditions and effects of the RS environmental legislation development, the author has chosen two environmental legislative acts (adopted in 1991 and 2004) as the initial subject matter for discussion, not the entire environmental legislation. This indicates the time period treated by the analysis.

2. Theoretical framework

In relevant literature, the notion of 'Europeanization' is interpreted in various ways and within the context of various theoretical approaches. Sedelmeier (2011) provides an overview of the literature dealing with these issues in the context of two theoretical movements: rationalist institutionalism, and constructivist institutionalism. There is almost no field of law that has not been analysed. As an element of the process of Europeanization and harmonisation of national regulations with EU law, the matter of conditions has been repeatedly reconsidered. Many authors point to the significance of general conditions accompanying the transition of new EU member states or EU potential states. One aspect of conditions entails normative conditions in the form of specific features of legal systems of some states. In case of environmental governance in Spain, Portugal and Greece, Fernandez points to the importance of the 'domestic institutional context' (Fernandez, et al., 2010: 557, 561, et seq) but some authors also point to

the EU absorption capacities (Börzel, et al., 2017). Dimitrakopoulos points to the significance of three factors: institutional, political and substantive (Dimitrakopoulos, 2001: 442, 445, et seq). As for the environment, Kramer mentions six challenges, including 'the *administrative* challenge of building both institutional and staffing capacity', but he does not mention the procedure of harmonization of regulations as a special problem (Kramer, 2004: 290). Making a distinction between 'Europeanization' and 'European integration', Schmidt mentions five 'mediating factors' that can help in explaining the state behaviour as a response to the pressures coming from the 'Europeanization' process (Schmidt, 2002: 894, 898, et seq). The author is of the opinion that the most important factor is the 'economic vulnerability' of the state, especially when an economic crisis is underway. It is accompanied by political-institutional capacities, policy legacies, policy preferences of the subjects participating in the process and, finally, the ability to change preferences. Economides and Ker-Lindsay rightly point to the fact that the main part of Europeanization literature looks into changes in member states and many authors also explore the impact on the states which are formally in the process of accessing EU (Economides, Ker-Lindsay, 2015:1029). Internal political stability is the issue which in some cases can be of special significance. Rotka points to this in the case of Poland (Rotka, 2004).

The discussion on the conditions that resulted from transition following the collapse of communism in Central and East European states and the effects of the communist organisation of states was strongly initiated by the EU enlargement in 2004 (Carmin and Vandever, 2004). Tzifakis justifiably criticises the EU approach to the specific conditions in one country (Bosnia and Herzegovina/B&H), which formally accepted EU integration as its objective. The author mentions the failure of the EU to respond to the following three challenges: to adjust the process to the needs of the state divided by the ethnical war, to ensure the credibility of conditionality within the process of the state's accession to the EU, and to send an appropriate message as to how the state should harmonise its internal regulations with EU legislation (Tzifakis, 2012). On the other hand, Sedelmeier points out the significance of pre-accession conditionality for harmonisation of regulations in those states with EU law; he explains the good results achieved in the first four years after the accession to the EU, among other things, by the conditions that involved investments in institutional capacities in the field of law (Sedelmeier, 2008: 806). Bieber also points to some weaknesses of the conditionality policy; he explains the ambitions and double EU strategy (state-building and EU integration) by taking B&H, the State Union of Serbia and Montenegro, and Kosovo as examples. 'The challenge of building functional states is at the heart of the difficulty of EU integration of the Western Balkans.' (Bieber, 2011: 1785).

For most states, and especially for those which became EU members during the last three enlargement cycles, this involved considerable expectations and a chance to improve conditions in various fields (Reiniger, 2004: 61, 65). Limited possibilities in implementing and respecting the regulations are related, among other things, to the need of building infrastructure facilities and providing stronger financing for a longer period of time after their accession to the EU (Inglis, 2004: 135, et seq). At the same time, it is estimated that systemic challenges appear due to weak governance and judicial power capacities. Kružikova points to the significance of efficient governance, implementation and respect for regulations, which includes the existing legal culture, expectations and practice in the implementation of EU legislations (Kružikova, 2004). The very process of harmonising internal regulations with the EU laws (the way it is regulated and achieved in practice) seems to be underrated in the existing literature. Jenny & Muller (2010: 36, 42, et. seq) also speak of the 'Europeanization' process, but they do not treat in detail the procedure as an obligation of the authorised bodies to perceive the overall conditions and to consequently predict possible implications. A significant part of the literature is devoted to the issue of transposition of EU directives into the internal legal systems of the member states, including consideration of the circumstances and causes of non-compliance with the rules on timely, complete and correct transposition of directives (Zhelyazkova, Yordanova, 2015; Duic, Petrusevic, 2019; Kaeding, 2006; Konig, Brooke, 2009).

The EC Guide to Approximation of the EU Environmental Legislation states that the costs and benefits of various possibilities should be considered and that necessary funds should be estimated; but the way, details and accurateness of estimations are left to member states (Commission of the European Communities, 1997: 12).¹ The document does not treat various aspects of the process. However, for candidate countries, the procedure is more important than the consequences that would include the failure to transpose some directives in their national legislations in time. For these states, harmonisation of internal regulations with EU laws mostly implies systemic changes in the functioning of the legal system. The complexity of the procedure is related to problems in the functioning of the legal system, legal inheritance, and the various interests of relevant entities. 'Adoption involves three distinct elements in terms of the *acquis*: transposition (implementation into national legislation), implementation and enforcement' (Kramer, 2004: 290). These three key elements are particularly emphasized in the Guide to the Approximation of the European Union Environmental Legislation (EC, 2019b). This document explains in more detail

1 A new methodology for accession negotiations was adopted in 2020. However, this document does not indicate the transposition of EU regulations into the legal system of the candidate countries (EC, 2020b).

the technical aspects of the approximation process, including the transposition of directives process, as a complex issue. The issue of stakeholders' participation in the context of costs of implementing EU regulations is considered particularly important for EU candidate countries (EC, Hulla & Co Human Dynamics, 2015: 23). This involves the harmonized activities of various entities of the legal system. In addition, the procedure and method of the harmonization may have an impact on the transitional periods negotiated between the candidate countries and EU countries (Inglis, 2004: 139, et seq).

2. Europeanization in the RS and conditions

2.1. Historical background

Formally speaking, the beginning of Europeanization in the RS coincided with the establishment of the Commission for Harmonisation of the Legal System of the Federal Republic of Yugoslavia (FRY) with Legislations of the European Union and the Council of Europe (1996) as a working body of the Federal Government.² In accordance with the jurisdiction of the Federal Government, the Commission was assigned to carry out the activities relating to coordination of the work of the federal ministries in harmonization of the legal system with legislations of the EU and the Council of Europe. Its assignment was also to consider the proposals which were submitted to the Federal Government by the federal ministries in the field of harmonization of the legal system and to provide its opinion of these proposals to the Federal Government. It is an interesting fact that the Rules of Procedure of the Federal Government, which served as a basis for making the Decision, referred to 'occasional working bodies' unlike 'permanent working bodies'.³ However, the Rules of Procedure of the Federal Government did not include explicit implications that the rules preparation procedure is in any specific way related to the process of harmonization of internal regulations with EU laws.

Bearing this in mind, it is clear that the first Environmental Protection Act (EPA, 1991) in the RS, which had been adopted five years before the establishment of the Commission, could not be the subject of harmonisation of internal regulations with EU laws. Notably, "the first legal acts with some provisions concerning the environment (although the term environment was, of course, not used at that time) were enacted in Serbia in the 19th century' (Vukasović, Todić, 2021: para

2 See: the Decision on establishing the Commission for Harmonisation of the Legal System of FRY with Legislations of the European Union and the Council of Europe, *Official Gazette FRY*, 45/1996.

3 Article 37, Rules of Procedure of the Federal Government, *Official Gazette FRY*, 67/94.

59). However, one should take into consideration the international and internal conditions which were present when the first EPA (1991) was prepared and adopted. At that time, the preparations were underway at the international level for holding of the Rio Conference on Environment and Development (1992). The status of representatives of the FRY, which implied continuity of membership in international organisations in relation to former Socialist Federal Republic of Yugoslavia (SFRY), was disputed by representatives of the European Economic Community (UNGA, 1992).

For the RS, this period was marked by international sanctions which were imposed against the FRY by adopting the Resolution 757 of the United Nations Security Council (30 May 1992) (UN 1992). The war on the territory of the former Yugoslavia caused huge problems and destruction of economic and natural resources. The consequence of the NATO bombardment of Yugoslavia included, among other things, vast destruction of infrastructure facilities, industrial installations and protected natural areas (UNEP, 2002). The consequences of the international isolation of the country were, among other things, considerable limitations of the international co-operation, RS lagging behind in ratification of international agreements, and delay in the implementation of the already ratified international environmental agreements (Todić, Dimitrijević, 2014: 169). At the internal level, the general social context in the period of preparation and adoption of the first EPA can be specified as the process of crisis and dissolution of the SFRY, a seventy-year-old state union in which RS was one of six federal units. (The role of the European Economic Community, i.e. the European Union in resolving of the Yugoslav conflict is not the subject of research in this article). After the regime change, which took place on 5 October 2000, preconditions were made for the normalisation of the status of the FRY, including the status of the RS in international organisations and international agreements. However, the complexity of the RS status in the international community keeps on being one of the questions that cannot be ignored. Stahl points to the co-operation with the International Tribunal for War Crimes Committed in the Territory of former SFRY and the relationship to Kosovo (Stahl, 2013). In the period after 2000, the GDP/pc grew in the range from 914.7 US\$ (in 2000, when it was at its lowest level) to 3,720 US\$ (2005), 7,101 US\$ (2008) and 5,735 US\$ (2010). In 2015, it fell to 5.588 US\$.⁴In 1995, the GDP/pc amounted to 2,207 US\$. In 1997, it grew to 3,380 US\$ and after that it kept on being on the decline until 2000. The number of people at risk of poverty or social exclusion (% of population) is declining, but it is still high compared to the EU average.⁵

4 See: World Bank: <http://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=RS>

5 See: EC Eurostat: https://ec.europa.eu/eurostat/databrowser/view/sdg_01_10/default/table?lang=en

The first comprehensive attempt to put domestic legal framework in compliance with the EU system was completed in 2004 (initial reform) by the adoption four environmental laws. More intensive activities in the field of Europeanization of the RS legal system started in 2005. In a way, the independence of the RS (acquired in 2006) partially coincided with the intensification of the EU accession activities. The negotiations on the Stabilisation and Association Agreement (SAA) had already commenced at that time, and the SAA was concluded in 2008.⁶ Thus, Serbia committed itself that it... 'shall endeavour to ensure that its existing laws and future legislation will be gradually made compatible with the Community *acquis*'; the approximation shall start 'on the date of signing of this Agreement, and shall gradually extend to all the elements of the Community *acquis*.' Serbia has also assumed the obligation that it 'shall ensure that existing and future legislation will be properly implemented and enforced' (Article 72 SAA, 2008). Unlike the period when the first EPA (1991) was adopted, the position of RS was to some extent more clearly defined at the internal level at the time when the second EPA was adopted (in 2004). The FRY (until 2003), and subsequently the State Union of Serbia and Montenegro (until 2006), had few effective authorities in the field of environment, which mostly included co-ordination of activities of the two republics (State Union members) at the international level. In the period when the new EPA (2004) was prepared and implemented, the jurisdiction of the autonomous provinces was also regulated in a new way. The decentralisation also brought new authorities for local self-governments.

2.2. Procedure of harmonising internal regulations with EU laws

Harmonisation of national regulations with the EU laws has become one of the priorities of the legislative activity of the administration bodies. This part points to some elements of importance for the way the EU harmonization procedures are regulated in the internal legal order. However, it should be borne in mind that the Europeanization and association with the EU are burdened with a number of difficulties, some of which are completely outside the scope of environmental law and policy. Therefore, the procedure of harmonization of internal regulations with EU regulations needs to be viewed in the broader context of the regulatory process (Musa, 2015). A low level of development and high costs for the implementation of regulations that are harmonized with EU regulations (which will be discussed later) are a general occurrence. In addition to the costs of implementing regulations, there are many other issues, among which there are the problems concerning the functioning of the state and the legal system as a whole, the capacities of the public administration, etc. Some

⁶ Stabilisation and Association Agreement (SAA), *Official Gazette RS*, 83/2008. The European Council has granted Serbia membership candidate status (2012).

problems are specific or can be specifically related to environmental issues (education and raising awareness among different subjects on the importance of solving environmental problems, the education of judges, prosecutors, lawyers, etc). Access to information concerning the environment and public participation in decision-making on environmental issues deserves a special analysis. For this reason, the legislative procedure had to be changed and adjusted to the needs which resulted from the commitment of the country to harmonise its national regulations with EU laws. For the most part, the procedure of harmonisation of internal regulations with EU laws has been regulated by regulations in the field of state administration or (more precisely) by the law regulating the legislative procedure.

The most important general part of the rules on the legislative procedure in the legal system of RS is prescribed by the Rules of Procedure of the Government,⁷ which is based on the State Administration Act.⁸ Article 65 of the State Administration Act provides that ‘the procedure of preparation of a law and other general acts shall be strictly and thoroughly...regulated by the Rules of Procedure of the Government’. Some elements of the system are also defined by the Act on the National Assembly of the RS⁹, the Rules of Procedure of the National Assembly of the RS¹⁰, the Uniform Methodological Rules for Drafting Regulations¹¹, etc.

One of the most important elements of the procedure is the obligation of the law-proposer to submit the statement that regulations are harmonised with EU laws and a table of concordance together with draft laws as well as a regulatory impact assessment which contains appropriate explanations, some of which are or can be significant for harmonisation of national regulations with EU laws. Actually, the law-proposer is expected to give an answer to the following questions: who and in what way will be affected by the law; what costs will the implementation of the law incur, which the citizens and the economy should pay (especially concerning small and medium enterprises); will the law support the creation of new business factors on the market and market competition; will all interested parties have an opportunity to express their opinions on the law; and what measures will be taken during the implementation of the law in order to

7 The Rules of Procedure of the Government, *Official Gazette RS*, 61/2006, 69/2008, 88/2009, 33/2010, 69/2010, 20/2011, 37/2011, 30/2013, 76/2014, 8/2019

8 Rhe State Administration Act, *Official Gazette RS*, 79/2005, 101/2007, 95/2010, 99/2014, 30/2018, 47/2018

9 The Act on the National Assembly of the Republic of Serbia, *Official Gazette RS*, 9/2010

10 The Rules of Procedure of the National Assembly of RS, *Official Gazette RS*, 20/2012

11 The Uniform Methodological Rules for Drafting Regulations, *Official Gazette RS*, 21/2010

achieve what has been intended by adopting of the law?¹² In fact, this document (a regulatory impact assessment - RIA) is an attempt to point to potential effects the law can produce and help the decision-makers. However, the analysis of the practice in preparing regulations shows that the regulatory impact assessment is mostly reduced to providing general and standard answers without making a genuine and accurate regulatory assessment of the proposed law.¹³ As for the RIA, there is a lack of a detailed analysis of possible effects of the laws, which particularly refers to the implementation of this instrument with regard to by-laws and strategic documents. The law-proposer has been given the possibility not to submit a RIA of the law (not even in the currently used form), which can be regarded as disputable. One of the objectives of the Act on the Planning System of the Republic of Serbia (2018)¹⁴ is, among other things, to improve the efficiency of the process of adopting planning documents and regulations (including the application of RIA). The implementation of this Act began on October 29, 2018. In case of ratification of international agreements, there is no obligation of making regulatory impact assessments of the regulations. In such situations, although the law-proposer is obliged to 'particularly explain' the impact, one may wonder about the purpose of explanations with regard to the quality of the law proposal, i.e. the purpose of the possibility to control the reasons governing the law-proposer position that a RIA should not be submitted.

In addition to the draft law, the law-proposer is also obliged to submit an attachment, listing the regulations and other general acts upon which the draft law should be implemented and the deadlines within which the regulations and other general acts should be adopted. The answers to any of these questions can contain some indications on how the law-proposer understands the mode and pace of harmonizing national regulations with EU laws. This indicates the starting positions of the law-proposer with regard to these questions. We can also mention some weaknesses in the legislative procedure with regard to the possibility of participation of the public which takes interest in the subject matter of the law proposal.

3. Effects of legislative Europeanization process

1) The results which have been achieved so far within the Europeanization process of the legal system of the RS cannot be easily perceived even in the part

12 Government RS (2010b): Conclusion of the Government of RS, *Official Gazette RS*, 34/2010.

13 For more information on the practice of the Republic Secretariat for Public Policies concerning regulatory impact assessment of the laws, see: <https://rsjp.gov.rs/cir/misljenjana-propise-i-djp/?godina=2020...>

14 Act on the Planning System of the Republic of Serbia, *Official Gazette RS*, 30/2018

concerning the pace of preparing and adopting new regulations.¹⁵ Generally, from the beginning of the process of harmonization of internal regulations with EU environmental regulations (2004) until the end of 2020, a total of 560 different legal acts were adopted. Key legislative acts have been adopted in all relevant areas (18 new laws that have been amended 37 times). In addition, 88 regulations, 226 rulebooks, and 9 strategic/planning documents were adopted. The Environmental Protection Act (2004) has been amended seven times (Table 1). The Chemicals Act (2009), the Nature Protection Act (2009), and the Waters Act (2010) have been amended 4 times each (Table 2, and Table 3).

Table 1. Laws (and number of amendments) and bylaws adopted in the field of horizontal legislation and protection from environmental noise (2004-2020)

	No. of Amendments	Bylaws				Strategy/ Planning document	Total
		Regulations	Rule-books	Decisions	Order		
EPA (2004)	7	4	19	1	1	4	36
EIAA (2004)	1	1	5				7
SEAA (2004)	1			160*			161
IPPC Act (2004)	1	4	3				8
PEN Act (2009)	1	1	5				7
<i>Abbreviations:</i> EPA - Environmental Protection Act; EIAA- Environmental Impact Assessment Act; SEAA - Strategic Environmental Assessment Act; IPCEP Act-Integrated Prevention and Pollution Control Act; PEN Act- Act on Protection from Environmental Noise. *Number of decisions on the development of strategic environmental assessment.							

Source: <http://www.pravno-informacioni-sistem.rs/reg-overview#> (9.12.2020).

The elements of providing a contemporary the normative framework in the environmental field can be clearly noticed. In the area of horizontal legislation, key laws and bylaws have been adopted (Table 1). The conceptual differences can be also noticed in the fact that the 2004 EPA was accompanied by three systemic laws: the Strategic Environmental Impact Assessment Act, the Environmental Impact Assessment Act, and the Integrated Prevention and Pollution Control Act.¹⁶ In order to understand the overall activities in the field of systemic regulation of some environmental issues, one should keep in mind other environmental laws which were adopted later. Five years after enacting the 2004

¹⁵ For some indications, see: Todić, 2017.

¹⁶ These three legislative acts were published in the *Official Gazette RS*, 135/2004.

EPA, several new laws were adopted (in 2009): the Waste Management Act, the Packaging and Packaging Waste Act, the Air Protection Act, the Chemicals Act, the Biocidal Products Act, the Environmental Noise Protection Act, the Nature Protection Act, The Act on Protection and Sustainable Use of Fish Resources, and the Act on Protection from Non-Ionising Radiation¹⁷ (Tabele 2, and Table 3). The National Plan for Harmonisation of Regulations envisages that the harmonisation of regulations will be finished by the end of 2021 (MEI, 2018).

2) Unlike the first EPA (1991), the 2004 EPA defines more clearly the objectives (Article 1).¹⁸ As for the principles of environmental protection, the 2004 EPA contain explicit provisions on this matter. However, the interpretation of the contents and meaning of some principles and their relevance for norms contained in the law and other regulations deserve to be analysed much more minutely. A significant novelty in the part of the 2004 EPA relating to the projected economic instruments is, *inter alia*, the legal provision that the EPA provides a legal basis for the implementation of the 'polluter-pays' and 'user-pays' principles (Article 9, EPA). The Environmental Protection Fund was established in May 2005, and its work was regulated by special laws. However, the Fund was abolished in 2012. The amendments to the EPA adopted in 2015 enabled the foundation of the Green Fund of the Republic of Serbia (Article 90-90g, EPA), which was re-established as a budget fund¹⁹. However, there are many open questions that can be raised about the functioning of this fund and its real contribution to solving the environmental problems (e.g. there is no minimum quota for distribution in the 'green area'). The EPA amendments enacted in 2018 envisaged, *inter alia*, that the funds from the Green Fund can in certain cases be awarded even without the public call (in extraordinary circumstances, for the preparation and co-financing of projects funded from the EU pre-accession assistance).

Compared with the first EPA (1991), the measures for environmental protection in the new 2004 EPA are regulated more minutely, but the kinds and nature of the measures should be judged by taking into consideration the content of other provisions of this Act, too. Access to information is regulated much more minutely and clearly in the 2004 EPA. The EPA amendments adopted in 2016 regulate this matter even more precisely. The 2004 EPA introduces and regulates in detail the participation of the public in decision-making on environmental issues. However, new problems have arisen in the implementation of provisions on this matter. This renders the effects of new regulations (harmonized with the EU regulations) debatable, which deserves special attention. One should keep

17 These legislative acts were published in the *Official Gazette RS*, 36/2009.

18 Environment Protection Act, *Official Gazette of RS*, 135/2004, 36/2009, 36/2009 (other law), 72/2009 (other law), 43/2011 (CC Decision), 14/2016, 76/2018, and 95/2018 (other law).

19 Act on Amendments to the Environmental Protection Act, *Official Gazette RS*, 14/2016.

in mind that these issues are also regulated by some other laws. Some changes have also been made in the part relating to monitoring, supervision and the role of inspection services, as well as punishments for not respecting regulations.

According to the EC report, 'a high level of alignment with the EU *acquis*' has been achieved in the area of horizontal legislation (EC, 2020a: 105). However, several problems have been identified: public consultations in drafting legislation; the non-compliance of environment impact assessment legislation with other laws, especially with the law on planning and construction; implementation of strategic environmental assessments for plans and programmes from all relevant policy areas; implementation of the polluter-pays principle, etc. Regarding industrial pollution and risk management, 'alignment with most of the EU *acquis* is at an early stage, including the Industrial Emissions Directive' (EC, 2020a: 107).

3) As for waste and chemical management, some changes are relatively clear. Some progress has been made towards the introduction of elements of the waste management system, by adopting the Waste Management Act, the Packaging and Packaging Waste Act, the Chemicals Act, the Biocidal Products Act (in 2009), and relevant bylaws (Table 2). The Waste Management Strategy (2010-2019) was adapted (Government RS, 2010a), but the implementation of waste management legislation 'remains at an early stage' (EC, 2020a: 106). As regards alignment with the EU *acquis* on chemicals, Serbia achieved 'a high level' of alignment (EC, 2020a: 107).

Table 2. Laws (and number of amendments) and bylaws adopted in the field of *Waste and Chemicals Management (2009-2020)*

	No. of Amendments	Bylaws				Strategy/ Planning document	Total
		Regulations	Rule-books	Decisions	Order		
WMA (2009)	3	6	30	2		2	41
PPWA (2009)	1	1	9				11
CA (2009)	4		15	1	1		21
BPA (2009)	3	1	6				10
<i>Abbreviations:</i> WMA - Waste Management Act; PPWA- Packaging and Packaging Waste Act; CA - Chemicals Act; BPA - Biocidal Products Act.							

Source: <http://www.pravno-informacioni-sistem.rs/reg-overview#> (9.12.2020).

4) In respect of water management, some progress has been made by adopting the 2010 Waters Act, subsequent amendments and relevant bylaws (Table 3). The level of alignment with the EU *acquis* on water quality has been assessed as 'moderate' (EC, 2020a: 106). Yet, systemic issues in this area are still unre-

solved (monitoring, enforcement and inter-institutional coordination; water fees and tariffs; lack of human and financial resources and data availability; flood hazard and flood risk maps, etc). The main water pollution sources are 'untreated sewage and wastewaters'. A nexus between different ways of using water is a particularly sensitive issue.²⁰ This is highly important having in mind the availability of water resources, the fact that the RS depends on international water resources and transboundary water cooperation (**Todić**, 2018), as well as international rules regarding the use of shared water resources (Vučić, 2017). An increase in surface water abstraction has also been recorded.²¹

5) Legislative infrastructure in the field of air protection has been established. The adoption of the Climate Change Act (2021) is considered especially important. Most of the adopted regulations are in line with EU regulations; progress in this area has been assessed as 'good level of alignment with the EU *acquis*' (EC, 2020a: 106), but practical application remains a problem (**Todić**, 2020). The monitoring of air quality 'still needs to be considerably strengthened' (EC, 2020a: 106). The state of air quality is a big problem (especially in some urban areas); although the emission of certain pollutants has decreased, the emission of some pollutants has increased. For example, a decrease in the emission of some air pollutants was registered in the past period. CO₂ emissions ranged from 7.287 mt/pc (metric tons per capita) in 2006 to 6.299 mt/pc (2010), 6.262 mt/pc (2013), and 5.283 mt/pc (2014) (World Bank, 2016b).²² SO_x emissions amounted to 474.0 mt/pc (2000), 422.2 mt/pc (2010), and 429.5 mt/pc (2013).²³ NO_x emissions increased from 143.7 mt/pc (in 2000) to 168.9 mt/pc (2005), 171.9 mt/pc (2010), and 187.9 mt/pc (2012), but decreased to 137.4 mt/pc in 2013 (UNECE, 2016).²⁴

6) New regulations have also been adopted in the field of nature protection (Table 3). Alignment with the EU *acquis*, 'in particular with the Habitats and Birds Directive, remains moderate' (EC, 2020a: 106). Progress has been made in terms of ensuring respect for the protected areas. In relation to the overall

20 For more information on this issue, see: e.g. Giupponi and Gain, 2017.

21 See: <https://ec.europa.eu/eurostat/databrowser/view/ten00002/default/table?lang=en>

22 See: <https://data.worldbank.org/indicator/EN.ATM.CO2E.PC?locations=RS>, For data on emission pollutants in the period since 1990, see: Statistical Office RS, 2018: 21.

23 See: http://www.unece.org/fileadmin/DAM/env/documents/2016/AIR/Trend_tables/Trend_Tables_IC_151123_SOX.pdf

24 See: http://www.unece.org/fileadmin/DAM/env/documents/2016/AIR/Trend_tables/Trend_Tables_IC_151123_NOX.pdf

territory (% of total land area), the percentage of the terrestrial protected areas rose from 6.15 (in 2016) to 6.613 (in 2018) (World Bank, 2021c).²⁵

Table 3. Laws (and number of amendments) and bylaws adopted in the field of Air, water, soil and nature protection (2009-2020)

	No. of Amendments	Bylaws				Strategy/ Planning document	Total
		Regulations	Rule-books	Decisions	Order		
APA (2009)	1	15	6	1		1	24
WA (2010)	4	7	22	4	1	1	39
SPA (2015)		2	4				6
NPA (2009)	4	2	22	1		1	30
NParksA(2015)	1	42*	2 (+ 30**)				75
WHA (2010)	1	1	15				17
APSUFF (2014)	1		17	1 + 1	1		21
APSUFF (2009)			4				4
FA (2010)	3	1	12		1		17

Abbreviations:
 APA- Air Protection Act; WA - Waters Act; SPA - Law on Soil Protection Act;
 NPA - Nature Protection Act; NParksA - National Parks Act; WHA- Wildlife and Hunting Act;
 APSUFF – Act on Protection and Sustainable Use of Fish Fund; FA - Law on Forests.
 * Regulations relating to protected areas based on the Nature Protection Act (2009)
 ** Rulebooks related to protected areas based on the Nature Protection Act (2009)

Source: <http://www.pravno-informacioni-sistem.rs/reg-overview#> (9.12.2020).

7) As already indicated, one of the main problems is the funding of changes in the field of environment. This implies strengthening the capacity of competent institutions and, especially, the funding of infrastructure projects. According to the EC Report, in the forthcoming year, Serbia should in particular: ‘enhance administrative and financial capacity of the public central and local administration authorities [...], intensify implementation and enforcement work [...], implement the Paris Agreement, including by adopting a comprehensive climate strategy and law, consistent with the EU 2030 framework for climate and energy policies and well integrated into all relevant sectors and develop a National Energy and Climate Plan, in line with Energy Community obligations’ (EC, 2019a: 85). It should be kept in mind that it has been estimated that the total costs for the implementation of all environmental *acquis* (by 2039) will amount to about 10.6 billion EUR (Government RS, 2011). In the meantime, new estimates have been

²⁵ See: <https://data.worldbank.org/indicator/ER.LND.PTLD.ZS?end=2018&locations=RS&start=2016> (19.6.2021).

made and they are not significantly different (МАЕП, 2015). The largest part of the funds should include investments in the water and waste management sector.

The total international financial assistance to the Republic of Serbia in 2011 amounted to 1.02 billion EUR. Thereafter, there was a tendency of reduction (Government RS, 2012). Nevertheless, it should be noted that the European Union is the largest donor in the Republic of Serbia. Since 2001, the EU has provided more than 3 billion EUR of grant support through several different instruments and funds (MEI, 2021a).²⁶ For the period 2014-2020, a total of 11.7 billion EUR have been allocated (via IPA-Instrument for Pre-Accession Assistance II), out of which approximately 1.5 billion EUR have been allocated for the Republic of Serbia (MEI, 2021b).²⁷ It is not simple to consistently follow different changes in socio-economic conditions, especially changes in the environmental field. The reason is the presence of some methodological limitations and, above all, the lack of some data or the lack of comparable and reliable data. Reports of the European Commission²⁸ can be taken as a useful indicator for tracking changes. However, given their focus on the current state of affairs in a particular year, they are not suitable for a systemic observation of changes for a long period of time.

4. Conclusion

The literature explains the conditions and effects of introducing EU legislation into the legal system of the EU candidate countries from the point of view of different theoretical movements and by examining different factors. The 'communist heritage' is often mentioned as a factor that determines the possibilities of transition of the states which became EU members in the last three cycles of enlargement. In particular, the author points to the group of problems related to transposition of regulations, partial implementation and respect for laws. Internal procedure of harmonisation of domestic regulations with EU *acquis* is underrated as a factor which (can) determine the measure of success of the process. However, it seems that the specific features of some EU candidate countries keep on being perceived in an inappropriate way.

In the case of the RS, the conditions for harmonizing internal legislation with the EU legislation were created at the beginning of the 21st century, after political changes in 2000, while the Stabilization and Association Agreement (SAA) was concluded in 2008. However, there are several factors that significantly limit

26 For more information, see: <http://www.mei.gov.rs/eng/funds/eu-funds/>; also, see: Pejović, 2020.

27 For more, see: <https://www.mei.gov.rs/eng/funds/eu-funds/ipa-instrument-for-pre-accession-assistance/instrument-for-pre-accession-assistance-2014-2020/>

28 See: https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information/serbia_en

the possibilities and effects of Europeanization in the RS. The specifics of the break-up of the former SFRY, the bombing of the FR Yugoslavia, and unresolved political issues represent the general context of the Europeanization process. In relevant literature, this context is analyzed sporadically, and the process of Europeanization is sometimes seen as a technical issue. Therefore, it could be said that none of the offered theoretical explanations leaves room for full consideration of the specific circumstances in which RS had found itself for many years before the beginning of the European integration process.

The process of harmonizing regulations is one element, but we should bear in mind the other factors that have a limiting effect on the process of introducing the EU regulations into the internal legal order and their implementation. New instruments for harmonizing internal legislation with the EU legislation have been introduced in the legislative procedure. They have regulated the harmonisation of national regulations with EU *acquis*. Regulatory impact assessment has also been introduced, but there are some deficiencies. This instrument is not applied to all regulations that are being adopted, and there are no guarantees that they would be consistently implemented. However, taking the state of affairs in the environmental field as an example, one can notice that some improvements have been made in the implementation of the Europeanization process activities. It is demonstrated by some indicators of the state of (some) environmental elements. Progress has also been made in the environmental protection management system.

During the past twenty years since the beginning of the Europeanization process in the RS, the normative framework in the field of environment has been radically changed. Serbia adopted a new Environment Protection Act (2004) and a considerable number of other new laws and by-laws. New regulations have been adopted in all environmental areas, but they are not fully in line with EU regulations. Serbia is expected to finish the process of transposition of EU legislation by the end of 2021. Yet, it should be recognised that the existing mechanism for harmonisation of regulations does not guarantee that the real effects of new regulations will be visible. This could be considered as some sort of a paradox of the procedure itself, given that the total high costs of implementing EU environmental regulations are set out in different strategic and planning documents. This element can cause serious problems that may arise in ensuring implementation and respect for regulations. For this reason, several other issues have been opened in a new way, including public participation, access to information, and the quality of the adopted regulations. Essentially, the most important among them is the issue of perceiving the real possibilities of the economy and the society to implement new norms which are harmonised with the norms included in EU legislation. The costs of full implementation of regulations remain an infrastructure problem. Of course, the discrepancy between

the normative framework and real life is widely based on the inherited historical conditions and the functioning of the legal system as a whole. Therefore, the procedure of detailed analysis of the conditions of legal harmonisation should be more seriously applied.

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**USLOVI I REZULTATI PROMENA PROPISA U OBLASTI ŽIVOTNE SREDINE
(Dvadeset godina od početka procesa evropeizacije u Republici Srbiji)**

Rezime

Proces evropeizacije, pod čime se ovde razume usklađivanje nacionalnih propisa sa propisima Evropske unije (EU), je složen proces uslovljen različitim društveno-ekonomskim i političkim uslovima. Više od devet godina Republika Srbija (RS) je država kandidat za članstvo u EU. Postupak pripreme i usvajanja propisa delimično je promenjen, kao odgovor na definisane ciljeve. Međutim, postupak još uvijek ne obezbeđuje potpuno uvažavanje specifičnih uslova i mogućnosti privrede i društva RS. Osim toga, proces usklađivanja i sprovođenja propisa suočen je s nizom drugih izazova. Uzimajući kao primer zakonodavstvo RS u oblasti životne sredine i procenjujući uslove pod kojima su propisi u oblasti životne sredine pripremaju i sprovode, rad daje prikaz glavnih rezultata i ograničenja procesa evropeizacije. Podaci pokazuju da su ostvareni rezultati u usklađivanju propisa i sprovođenju onih koji su već usklađeni sa propisima EU. Usvojeni su gotovo svi ključni zakoni u oblasti životne sredine, kao i ogroman broj podzakonskih akata. Međutim, veliki troškovi sprovođenja predstavljaju jednu od dugoročnih prepreka za potpuno ostvarivanje ciljeva evropeizacije.

Ključne reči: *EU integracije, evropeizacija, propisi u oblasti životne sredine, usklađivanje propisa, sprovođenje, transpozicija.*