

## MONITORING OF ENVIRONMENTAL CONDITIONS IN THE REPUBLIC OF SERBIA AND APPLICATION OF THE POLLUTER PAYS PRINCIPLE

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DOI: <https://doi.org/10.31410/eraz.2018.708>

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**Abstract:** *Monitoring of environmental conditions and quality is one of the basic tasks in the field of environmental protection. A significant issue in this field is the issue of responsibility for environmental pollution. A special economic instrument in this is environmental pollution charge, based on the Polluter Pays Principle. The goal of monitoring as an important factor in environmental protection policy planning and principles relating to the prevention and accountability of polluters for the emergence (and remedying) of environmental damage, is the improvement of the quality of the environment.*

**Key words:** *environmental protection, monitoring of the environmental conditions and quality, polluter pays principle*

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### 1. INTRODUCTION

Sustainable management of natural values and environmental protection in the Republic of Serbia are realized primarily in accordance with the Environmental Protection Act [1]. According to Article 3 of this Act, environment is a set of natural and created values whose complex interrelations make up the environment, that is, the living space and conditions, while the quality of the environment is the condition of the environment, which is expressed by physical, chemical, biological, aesthetic and other indicators.

Modern society has faced great ecological problems in the last two decades. Namely, "as the effect of global warming is happening around the globe, so is the world's population facing probably one of the most important social and scientific phenomena" [2]. Bearing in mind the provisions of the Environmental Protection Act that environmental pollution involves the introduction of polluting substances or energy into the environment caused by human activity or natural processes that have or may have harmful effects on the quality of the environment and human health, and that endangered environment is a certain part of the space where pollution or pollution risk exceed the capacity of the environment, it is possible to accept the position of modern scientific thought that "environmental protection means a set of different procedures and measures that prevent the endangering of the environment in order to preserve the biological balance" 3].

According to Rajs, "the realization of the environmental monitoring program is one of the basic tasks in the field of environmental protection, as the results of monitoring are the basis for the

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assessment of the overall conditions of the environment" [2]. The basic goal of all activities undertaken in the field of environmental monitoring and assessment of the overall conditions of the environment is the improvement of the quality of the environment. Continuous monitoring of the state of the environment, and all relevant issues in this field, are defined in the Environmental Protection Act, Art 69-77 [1].

In addition to the systematic monitoring of the conditions of the environment, and the measures and activities undertaken with the aim of reducing the negative impacts and raising the level of environmental quality (which are the key monitoring elements stipulated by the law), the question of responsibility for environmental pollution is raised. Thus, a special economic instrument in the field of environmental protection, stipulated by the Environmental Protection Act, is the environmental pollution fee, based on a special principle of environmental protection called "Polluter Pays". It is a special type of liability of polluters based on objective responsibility for contamination of certain or all of the elements and values that are encompassed by the term environment, legally based on international regulations, primarily the Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment, adopted in Lugano in 1993 [4], as well as the Environmental Liability Directive in 2004 [5].

The specific character of the Polluter Pays Principle is precisely what concerns the future damage that arises or may arise from undertaking activities by the pollutant. The environmental pollution fee, as a special economic instrument in the field of environmental protection, is defined by the Environmental Protection Act, Art 85-88 [1].

## **2. MONITORING OF ENVIRONMENTAL CONDITIONS – RELEVANT LEGAL PROVISIONS AND VIEWS OF MODERN SCIENTIFIC THOUGHT**

Monitoring of the environmental conditions and quality encompasses a series of actions aimed at obtaining reliable data on environmental conditions and pollution. In other words, monitoring of the conditions and quality of the environment includes the measurement of the presence of pollutants, processing of results and reporting. According to Stevanović Čarapina et al., "Various sets of instruments and indicators for evaluation have been developed" [6] in the framework of the monitoring process of environmental conditions and quality.

According to the current normative definition, continuous monitoring and monitoring of the conditions of the environment (monitoring) is done by systematic monitoring of the indicator values, i.e. by monitoring of the negative impact on the environment, environmental condition, measures and activities undertaken with the aim of reducing the negative impact and raising the level of the quality of life (Article 70 of the Environmental Protection Act). The law stipulates that monitoring is provided by the Republic of Serbia, the autonomous province and the local self-government units within its jurisdiction as defined by law, and is an integral part of the unique environmental information system managed by the Environmental Protection Agency, which is established and managed to effectively identify, classify, process, monitor and record the natural values and environmental management in the Republic of Serbia (Art 69 and 74 of the Environmental Protection Act).

Monitoring consists of time and/or spatially distributed measurements that, in addition to information on the numerical value of a certain size at a given location and moment, contain also information on its spatial and temporal variations and values [7]. The processes related to the monitoring and evaluation of the quality of the environment, according to Kanjevac

Milovanović et al., are "planning of environmental protection measures, environmental monitoring, support to institutions and organizations for environmental protection, training of environmental society, regulation of environmental protection, strict control of activities that are harmful to the environment, establishment of infrastructure and prevention of negative impacts on environmental protection" [8].

The Act also stipulates the obligation of the polluter, if the prescribed conditions are fulfilled, to monitor, through the competent body, authorized organizations or independently, the following: 1) monitor the indicators of emissions, i.e. indicators of impact of their activities on the environment, indicators of efficiency of the applied measures for prevention of the emergence or reduction of pollution levels; 2) provide meteorological measurements for large industrial complexes or objects of special interest for the Republic of Serbia, autonomous province or local self-government unit (Article 72 of the Environmental Protection Act). All collected data obtained by monitoring the conditions of the environment are submitted to the Environmental Protection Agency (Article 73 of the Environmental Protection Act).

In order to monitor qualitative and quantitative changes in the environment and take environmental protection measures, national and local pollutant source registers are kept in accordance with the Environmental Protection Act. The National Environmental Register of Environmental Pollutants is managed by the Environmental Protection Agency (Article 75 of the Environmental Protection Act).

### **3. THE POLLUTER PAYS PRINCIPLE**

Article 85 of the Environmental Protection Act stipulates that the polluter shall pay compensation for environmental pollution and that liable shall be any person who causes pollution of the environment by emissions, i.e. waste or products, uses or puts into circulation raw materials, semi-finished products or products containing substances harmful to the environment [1]. Bearing in mind that the principle refers to future damage, it is therefore a principle that is formulated and normatively regulated in order to prevent excessive pollution of the environment. According to Zindović, "the Polluter Pays Principle is funded through two attributes, namely: *ratione personae*, because it is known in advance who shall pay and *ratione temporis*, because payment refers only to future damage" [9].

By analyzing the importance of prevention in the field of environmental protection and the specificity of the protective facility, Cvetić states that "the essence of the principle of prevention and precaution is actually that every person, all their associations and the society as a whole, should adjust their activities to the requirement in order to cause minimal changes in the environment and reduce damage risk to the minimum" [10]. In this context, Nikolić states that by applying this principle, "in accordance with the general rules of the compensation law, protected goods are brought into an appropriate conditions at the expense of the responsible person" [11].

The Environmental Protection Act, in addition to determining that the polluter shall pay the environmental pollution fee, and determining who shall be considered a payer of this obligation, in Article 85 also regulates the criteria for determining the compensation itself, which consists of: 1) type, quantity or features of emissions from a particular source; 2) type, quantity or features of emissions of produced or disposed waste; 3) content of substances harmful to the environment in raw material, semi-finished product and product. The same article stipulates for

the Government to determine in more detail the type of pollution, criteria for fee calculation and payers, amount and method of charging and payment of fees [1].

Article 86 of the Environmental Protection Act stipulates that the payer has the right to a refund of the already paid environmental pollution fee, i.e. the exemption or reduction of the payment of fees, if they use the funds for the implementation of measures for adjustment to the prescribed limit values or implement other measures that contribute to the reduction of environmental pollution below the prescribed level. The Government shall determine in more detail the criteria and conditions for the return, exemption or reduction of payable fees [1]. In the following article the Act regulates the possibility of determining fees for environmental protection and improvement, in the sense that the local self-government unit can, within the scope of its rights and duties, prescribe fees for environmental protection and improvement.

Economic instruments prescribed by the Environmental Protection Act, in addition to environmental pollution fees, include fees for the use of natural values, budget funds and international financial assistance, economic incentives, as well as the Green Fund of the Republic of Serbia.

As Popov states, the Polluter Pays Principle falls within the group of fundamental principles on which European environmental policy is based, and having in mind that the polluter is responsible for the elimination of the resulting environmental damage, we are here talking about the reactive principle of prescribing costs for the elimination of environmental damage [12]. Considering certain aspects of environmental damage and the implications that occur or may occur in practice, Drenovak-Ivanović states that "environmental damage cannot be reduced to the damage suffered by a particular person. In accordance with the existing rules that apply to the compensation for environmental

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damage in the wider and broader sense in our law, it is necessary to: first, identify one, and often all the carriers of the activities that led to the pollution; then, determine the resulting damage in qualitative and quantitative terms; and finally determine the causal link between the damage and the polluter" [13].

Analyzing the features of the Polluter Pays Principle, relevant legal provisions and responsibility for environmental pollution, in principle, Stojanović and Zindović conclude that in this domain "the important circumstance is that in the predetermined obligation, the legislator does not prohibit the polluter to further perform their activities, nor to stop pollution in the future, nor the obligation to bring the natural resource to its original state. It turns out that the legislator consciously allows the implementation of a certain level of environmental pollution, i.e. that a certain level of pollution is tolerable" [14]. In this regard, and in the context that the Polluter Pays Principle includes both elements of subsequent action and elements of preventive approach, Pajtić states that this principle starts from the principle of fairness, that is, "a founded assumption that the person who caused risks to the environment should bears the costs of precautionary measures, as well as expenditure arising from prevention, as well as elimination of the consequences of damage caused by the activity of the polluter" [15].

#### 4. CONCLUSION

The field of environmental protection is very complex, primarily because the quality of the environment is determined by the conditions of the environment, which is determined by different indicators (physical, chemical, biological, aesthetic, etc). Analyzing the segment of the monitoring of the conditions and quality of the environment, the paper emphasizes that the results of monitoring are primarily used for defining recommendations and measures that should be implemented in order to improve the conditions of the environment. In this way, the environmental monitoring segment has been identified as an important factor in the environmental policy planning. It is also an important factor when designing development and strategic documents, indicating, i.a., the need for implementation and application at the national level of those principles on which environmental protection is based in European and world contexts.

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In addition to complexity, environmental protection is a very important field, as it represents an important segment of the European integration process, and consequently, one of the priority tasks of Serbia in that process.

In the context of the views of certain authors that "the concept of environmental protection transforms over time into the concept of sustainable development" [12], it is certainly necessary to confirm the conclusion that the goal of all instruments in the field of environmental protection and, accordingly, the basic principles (in the first place of the Polluter Pays Principle) is actually to enable "the realization of sustainable economic development and build effective legal principles in terms of prevention and responsibility for the emergence (and remedying) of environmental damage" [14].

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