

**PROTECTION AGAINST NOISE POLLUTION - A NORMATIVE FRAMEWORK  
OF THE REPUBLIC OF SERBIA AND HARMONIZATION WITH THE EU  
REGULATIONS**

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**Abstract**

Noise and noise pollution protection are one of the current topics of environmental law. The accelerated pace of development of countries causes multiple pollution of the environment, which is reflected, among other things, in the increasing negative impact of noise on humans. The positive law of the Republic of Serbia in the area of noise protection is the Law on Environmental Noise Protection with a large number of accompanying acts that enable its application. The article consists of several thematic units, of which the first part of the paper deals with the concept of noise and its impact, the second part of the paper is dedicated to the legal regulation of the concept of noise, while third and fourth parts show the legal system of the European Union in the part that regulates noise, so that the last part of the work is dedicated to the harmonization of the Serbian legal system with the legal system of the European Union. The paper also contains the European Union recommendations, which Serbia must follow in order to harmonize the legal systems.

**Introduction**

Noise has been identified as one of the leading environmental problems of the modern world. Its negative impact can be considered a consequence of the accelerated pace of technical and technological development that has happened over the last fifty years. Noise and noise protection are one of current legal issues that is highlighted in the European Union legislation as a leading environmental problem both caused by industrialization and resulting from industrialization.

It has been estimated that more than 20% of the EU population have been exposed to the negative effects of noise that are harmful to human health [1]. According to the European Environment Agency, approximately 210 million people in the EU, which is more than 44% of population, are exposed to the levels of traffic noise higher than 55 dBA, and more than 50 million people are exposed to the levels of noise higher than 65 dBA during 24 hours, these being labeled as 'black' acoustic points [2].

Communal noise has a wide range of negative effects on the health of the exposed population [3]. It deteriorates the quality of life because it disturbs everyday activities, concentration, communication, sleep and rest [4]. Long-term exposure to noise can lead to a higher rate of cardiovascular disease due to permanent stimulation of the sympathetic nervous system [5]. Indirectly, noise affects various aspects of behaviour and, since it reduces productivity, it affects work results as well [6].

**The concept of community noise and criteria for the demarcation of sounds**

According to internationally accepted definitions, noise is every unwanted and unpleasant sound [7]. In theory, noise is defined as an appearance of unpleasant and undesirable acoustic sensations [7]. These definitions introduce the category of wanted and unwanted sound in order

to gauge harmfulness, which further means that only certain sounds are considered to be noise [9].

The previous Law on Environmental Protection from 1991 defined noise as ‘an acoustic event above the prescribed level in the environment in which an individual resides’, while previous Slovenian legislation (the Law from 1976) defined noise as each sound that affects psychological and physical condition of working people and citizens, in such a way that it disturbs them at work, reduces their working capacity, causes restlessness, disturbs the surroundings, disturbs people’s regular rest and harms their health [10].

Today’s Constitution of the Republic of Serbia [11] proclaims that every individual has a right to healthy environment and timely and complete informing on its state; that everybody, especially the Republic of Serbia and an autonomous province, is responsible for the environmental protection, and that every person is obliged to preserve and improve the environment. The Law on Environmental Protection [12] was brought in 2004 and it is a systemic, ‘umbrella law’ in the area of environmental protection whose aim, together with other laws, is to enable exercising a human right to life and development in a healthy environment and a balanced relationship between the economic growth and the environment in the Republic of Serbia. The first Law on Environmental Noise Protection [13] was adopted in 2009 at the proposal of the Ministry of Environment and Spatial Planning. It belongs to the so-called ‘green package’ – a set of 16 laws which regulate different areas of environmental protection.

#### **Protection against noise pollution in domestic legislation**

The National Assembly of the Republic of Serbia adopted the new Law on Environmental Noise Protection [14], which defines noise and expands the list of noise sources, in order to solve the existing problem in a more efficient manner. This Law is accompanied by a great number of by-laws, such as rulebooks, which make its enforcement easier and more precise.

In the Republic of Serbia, civil law regulations do not explicitly regulate the property protection in the area of environmental protection. The protection of these rights is implemented through general instruments in the area of damage compensation or through the institute of neighbourhood rights, i.e. services that regulate property relations, in which cases we talk about typical property and obligation instruments of protection [15]. The protection of the environment through criminal law is a last-resort, but at the same time very efficient and more than necessary measure. In the Serbian 2005 Criminal Law [16], there were classified, for the first time, all crimes against the environment. The Criminal Law for the environmental protection does not protect typical human rights (these being life and health) like it used to before, but it protects an individual asset – the environment, or, to be more precise, a human’s right to the preserved environment. Special laws can provide administrative law, criminal law or civil law protection. The Law on Environmental Noise Protection includes violations done by a company or other legal entity, by a responsible person in the state administration body, by an authorized legal entity, and it also provides protective measures accompanied by a violation fine [13], while the Law on Environmental Protection includes economic wrongdoings and offences which are subject to sanction. The norms of environmental legislation are of special character and have advantage over general norms of the other branches of law, i.e. the rule *lex specialis, derogat legi generali* is applied [1].

#### **Environmental noise pollution assessment and management in the EU legislation**

The Article 3 of the EU Directive 2002/49/EC6 defines noise pollution as an unwanted and environmentally harmful sound in the external environment, resulting from human activity [20]. Directive 2008/99/EZ [21] on the environmental protection through criminal law prescribes the measures which member states should take in the area of criminal law, in compliance with the

attitude of the Council of Europe that criminal liability should begin to exist in cases of ‘serious pollution or endangering of the environment’ in order to protect the environment more efficiently.

The most important law in the area of protection against noise pollution is Directive 2002/49/EC which deals with environmental noise pollution assessment and management. This directive is of a general character as opposed to other regulations in this area. It defines environmental noise pollution as an unwanted or harmful sound in the external space, caused by human activities, including noise pollution emitted by means of transport (passenger, railway and air traffic) and noise pollution coming from industrial areas. Unlike our legislation which accepted the most general definition of noise pollution, the EU directive accepts a more specific definition which puts in the foreground a harmful impact on human health and the most significant sources of community noise.

The main goal of this directive is defining a common approach primarily aimed at avoidance, prevention or reduction of harmful effects of the exposure to environmental noise, including health disorders caused by noise pollution. The directive is applied to the noise pollution people are exposed to, particularly in urban areas, public parks or other quiet areas in agglomeration, quiet areas in nature, next to schools, hospitals and other noise-sensitive objects and areas. Based on this directive, member states are obliged to appoint competent authorities and bodies responsible for the implementation of the directive at appropriate levels, particularly in order to carry out actions for determining the degree of exposure to noise by making ‘strategic maps of noise pollution’ using mutual member states methods of assessment, to collect these maps and action plans, and to provide information on the environmental noise to the public [9]. The main problem is a legislative delay of the adoption and implementation of common prescribed methods in member states, in addition to very low rates of action plans adoption [19].

#### **The compliance of domestic normative framework with community law**

The process of joining the EU is followed by changes in the legislation of a candidate state, which are conditioned by the fact that the EU has its own legal assets (*acquis communautaire*) which are different from member states legislation and international law.

The Republic of Serbia obtained its EU membership candidate status back in 2012, which came with the obligation to harmonize the domestic normative framework with the EU legislation. This obligation was established after a thorough review of Chapter 27 which deals with the environmental protection by the European Commission and which, in the form of a report, is a starting point for the analysis of the harmonization of Serbian laws with the EU laws related to the noise pollution protection.

By adopting the Law on Environmental Noise Protection, the Republic of Serbia started the process of harmonization and implementation of the EU laws in the area of protection against noise pollution which was completely unharmonized until that moment. The harmonization with international regulations and Directive 2002/49/EZ is particularly mentioned in the explanation of the draft as one of the reasons for the adoption of the new law. In addition to the law and accompanying by-laws, the area of environmental noise protection is also regulated through special laws that regulate specific forms of noise, such as the Air Traffic Law and technical regulations for motor vehicles and machines. Numerous by-laws for the implementation of Directives 89/629/EEZ, 2002/30/EZ and 2006/93/EZ have been adopted, too. According to the 2016 assessment done by the European Commission, the Republic of Serbia achieved a good level of legal regulation harmonization, but the implementation of regulations is still in the early stages [21]. The Republic of Serbia should build administrative capacities in order to make drafts of strategic maps of noise pollution and action plans [22].

In the new Law on Environmental Noise Protection, the changes to Annex II of the Directive 2002/49/ES have been taken into account [23]. In this way, an attempt was made to fully transfer European norms that refer to the mechanisms of reporting and introducing, i.e. applying the 'polluter pays' principle, which would pass the responsibility for the creation of strategic noise pollution maps to the local government and the responsibility for the creation of strategic maps of traffic noise to public companies.

The main implementation activities under institutional jurisdiction are therefore the making of strategic noise pollution maps and action plans. Strategic noise pollution maps and action plans must be complete before the EU accession date. The long-term plan of activities includes the establishing of mechanisms of reporting to the authorised EU institutions. One of the main obstacles to the implementation of the accepted EU standards are the costs of the implementation [21]. A preliminary cost assessment, based on unit price and the experience of member-states and European Commission experts, can be conducted in the following way: prices of the creation of strategic noise pollution maps for settlements go between 0.25 and 1 EUR per capita. The total number of inhabitants in five big cities (Belgrade, Novi Sad, Niš, Kragujevac and Subotica) is 2.443.862. The estimated cost for the 944km of the main travel network is 600 000 EUR, whereas the estimation for the making of noise maps for airports is between 10 000 and 15 000 EUR [21].

### **Conclusion**

A legal framework for the environmental noise protection in the Republic of Serbia is provided by the Law on Environmental Noise Protection, which was adopted for the first time within the so-called green package of laws and which is accompanied by a set of by-laws. A legislator started off from international recommendations and standards, particularly taking into consideration the relevant directives of the EU. This umbrella law thoroughly regulates the environmental protection against noise pollution, measures and conditions of environmental noise protection, environmental noise measurement; access to the information on noise pollution, monitoring and other issues of significance for the environment and human health. An important preventative role in the protection against noise pollution is played by the norms of the Criminal Law which prescribes crimes against the environment, thus protecting human right to the preserved environment, while the Law on Environmental Protection also deals with offences and wrongdoings committed by companies. The EU adopted 13 regulations of various legal force in the area of noise pollution protection, the Directive 2002/49/ES being particularly important for its general character and representing the foundation of the EU regulations in this area today. It can be concluded that a huge step was taken when the Law on Environmental Noise Protection was adopted, especially when we take into consideration the fact that this whole area of environmental protection was one of the most critical points in the process of harmonization until 2009. It will take more time to reach full state of harmonization. Amendments to the Law are planned, for the purpose of fully accepting the norms from the revised Annex II of the Directive 2002/49/EZ. As for the second phase, one of the important requirements prescribed by the EU laws that Serbia still has not met is the creation of noise pollution maps. They provide a review of an average level of noise pollution in different parts of a city, and they are important, among other things, for spatial planning, i.e. as a foundation for the creation of protection action plans. One of the greatest problems that slows down their making is a lack of financing, accompanied by the lack of experts. However, it must be pointed out that this requirement has not yet been met by some member states either, which fact was highlighted by the European Commission.

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