



REVIEW OF THE LAW ON CLIMATE CHANGE

The long-awaited Law on Climate Change (“Official Gazette of the Republic of Serbia” no. 26/2021) (hereinafter: Law) saw the light of day, after a number of years of being in a draft phase. This is not the first time that provisions on climate change have become part of domestic legislation, considering that the Law on Air Protection (“Official Gazette of the Republic of Serbia” nos. 36/2009, 10/2013 and 26/2021 - other law), which was adopted in 2009, prescribed a number of provisions related to climate change alongside other regulations that also contained these provisions, including the Law on Ratification of the Kyoto Protocol to the United Nations Framework Convention on Climate Change (Official Gazette of the Republic of Serbia, nos. 88/2007 and 38/2009 - other law), Law on Ratification of the Paris Agreement (“Official Gazette of the Republic of Serbia” no. 4/2017) and other ratified international conventions dealing with climate change issues. However, prior to the adoption of the Law, regulations on climate change were not systematically regulated in Serbian legislation, and therefore its adoption is systemically important in the further strategic development of regulations for combating climate change.

The legislator points out three main reasons for enacting the Law: 1) establishment of a system aimed at reducing greenhouse gas emissions (hereinafter: GHG) and adjusting to climate change; 2) fulfilment of obligations towards the international community, namely the UN Framework Convention on Climate Change and its associated instrument, the Paris Agreement; and 3) harmonization of domestic legislation with European Union’s (hereinafter: EU) acquis

communautaire. Based on the content of the Law and the purpose of its adoption, mentioned reasons serve the key aim of the Law - regulating the system for limiting GHG emissions, as elaborated in the third article of the Law. The second article, in addition to clearly determining which gases are considered to be GHGs (carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulfur hexafluoride (SF₆) and nitrogen trifluoride (NF₃)), emphasizes that the Law applies to GHG emissions that are attributable to human activity as well as sectors and systems exposed to the effects of climate change. The above-mentioned provisions are important since they clearly limit the scope of the Law and as such they must be kept in mind when read and used by experts in the field of climate change.

One of the important provisions of the Law is Article 18, which stipulates that measures aimed at limiting GHG emissions can be implemented through programs and projects under the framework of the Clean Development Mechanism. Such a provision already existed in the Law on Air Protection and the Clean Development Mechanism was earlier implemented in the Republic of Serbia, but it is undoubtedly significant that such a provision is now included in a sectoral Law. The scope of its practical application will be seen when the destiny of the Clean Development Mechanism is determined on a global level, perhaps already in Glasgow at the 2021 Global Conference on Health and Climate Change.

The Law provides a number of provisions that are thematically related to: 1) availability of data on fuel economy and CO₂ emissions related to sales of new passenger vehicles 2) monitoring, reporting and verification of GHG emissions from installations and aviation, 3) monitoring system and reporting on national GHG emissions, 4) projections of GHG emissions by sources and GHG removals by means of underground storage facilities as well as 5) system for reporting on GHG emission policies, measures and projections. Among the mentioned thematic units, the provisions governing the procedure of issuing GHG emissions permits to the installation's operator are of significant importance, as the first and key step towards the establishment of a system leading to the reduction of GHG emissions. In addition, all the above-mentioned provisions are important because with their adoption, the Republic of Serbia has harmonized its legislation with numerous EU regulations in the field of climate change, which is a significant step towards the transition to a low-carbon society.

Nevertheless, although the Law prescribes a number of important mechanisms in the fight against climate change, one prerequisite for its effective implementation is that public bodies and organizations adopt appropriate sectoral policies and measures within their competence, as stated in Article 4 of the Law. Furthermore, it is important that suitable bylaws are adopted as soon as possible, within a reasonable time, enabling the application of the Law for which the legislator has set a general deadline of one year. Additionally, the legislator has prescribed several longer deadlines, e.g. a two-year deadline from the entry into force of the Law is provided for the adoption of a low-carbon development strategy and climate change adaptation program. Consequently, the basis for the application of other provisions was postponed for the same time. Moreover, when issuing, the GHG emissions permit was not placed in relation to the integrated permit, but this interdependence was stated when amending the GHG emissions permit. There are also no penal provisions for the GHG emissions operator, in case this operator does not comply with the issued GHG emissions permit. Thus, all this suggests that international institutions or individuals who will demand the protection of their rights established by ratified international conventions referred to in the Law, will probably indicate the need for amendments of the Law in the future.

It is very important that other laws and bylaws of the Republic of Serbia be harmonized with the Law within a reasonable time so that there would be no difficulties and misunderstandings during its implementation.

Although the Law enters into force within eight days of its enactment, there are numerous provisions of the Law whose implementation has been postponed. Thus, for example, the provisions of the Law that refer to aviation operators will be applied from 1 January 2023, which is also the longest period until the beginning of the application of certain provisions of the Law. It should be pointed out that only after the full implementation of the Law it will be possible to see its full effects. Until then, it is necessary not to stop at the initial systemic step in the fight against climate change, and to effectively commence the adoption of bylaws enabling its implementation.