

## AGRI-ENVIRONMENTAL LEGISLATIVE FRAMEWORK IN SERBIA IN LIGHT OF THE HARMONISATION WITH EU LAW<sup>1</sup>

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### Summary

*Economic sanctions, production and economic drop, as well as impoverishment have significantly reduced capabilities of the state for investment in environmental protection, but as well environmental concerns of agricultural producers. However, compliance with mandatory standards and rules forming the corpus of agri-environmental measures and principles of good agricultural practice are an important step towards preservice of the environment and care about health of humans, plants and animals. On the other side, it is an important prerequisite for Serbian exports of agricultural products. In addition from mandatory rules, which are also relevant for fulfilment of the duty of cross-compliance for producers receiving direct payments, agri-environmental incentives as voluntary commitments of producers to provide a higher level of environmental protection are particularly welcome, but are hardly possible to give rise in the short term. The Paper gives a short overview of agri-environment policy in the EU and is mostly focused on mandatory rules setting duties and responsibilities of agricultural producers and issues related to approximation of Serbian legislative framework with the EU.*

**Key words:** *agri-environmental measures, good agricultural practice, environmental protection, EU law, harmonisation.*

**JEL:** *Q15, K32*

### Introduction

Agricultural land covers 57.6 % of overall territory of the Republic of Serbia. Budgetary investment in the environment is low; on average (statistical data for 2001-2008 period) it amounted to 0.3% of the GDP annually, while other countries in transition assign approximately 2% of the GDP for environmental protection.

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Agro-environmental measures seem to have a low priority in policy agenda. Uncontrolled exploitation of biological resources, conversion of native habitats to agricultural and agricultural to residential and commercial real estate, permanent air, water and soil pollution by nitrates, fertilizers and pesticides makes agricultural production an increasing factor of environmental pollution. The situation was similar in many countries of Central and Eastern Europe, where farms tend to become more industrialised and farmers focused to improve economic efficiency, but with adverse economic effects (OECD, 1997). Low level of awareness related to the environment, insufficient education and inadequate participation of general public in decision making is also evident. Low and almost nonexistent agro-environmental subsidies, non compliance with 'cross-compliance' requirement and generally low awareness of agricultural producers clearly indicates the following: although there is a basic legal framework on the control of agricultural production in the framework of environmental pollution control, the law is not fully harmonised with the EU acquis, there is no effective supervision and overlapping of duties and responsibilities within government institutions is still evident.

Agri-environmental policy in Serbia should become a building block of integrated rural development, which implies linkages between economic, environmental, spatial and social aspects of rural communities. One of the most important steps would be introduction of integrated pest management and further harmonisation with EU agri-environmental rules. The purpose of this Paper is to present and elaborate in brief the legal framework of agro-environmental measures in Serbia, and indicate what are the main issues which for the approximation of the legal framework in the field of agri-environmental measures.

### **An overview of the main tools of agri-environmental policy**

Agri-environmental policies are becoming an increasingly important requirement for agricultural activities. There is a range of agri-environmental policy mechanisms including incentive payments, environmental taxes, obligatory and voluntary standards and tradable permits. The narrow concept of agri-environmental incentives puts an emphasis on payment schemes and cross-compliance mechanisms. In addition to agri-environmental incentives, which are of course underpinned by the law, the framework of agri-environmental policy has a strong legal dimension, which is, notably, a spectrum of mandatory rules on the duties and responsibilities of agricultural producers.

It is not easy to design and deliver policy instruments in this field, particularly if participation in agri-environmental incentive schemes is optional. The framework usually defines strategic objectives as the highest level (often national priorities or targets – or supra-national in the case of the EU), then elaborates the more detailed policy, operational and performance objectives which apply to specific mechanisms such as regulations, taxes or incentive payments. The OECD has published guidelines on how to determine the most appropriate agri-environmental policy mechanism to use (OECD, 2010). Many EU countries have more than 25 years of experience in implementing agri-environmental policies. However, the specific situation of transition economies in Central and Eastern Europe urge for specific methods of policy formulation, assessment and implementation tools (IEEP, 2002).

Evaluation of agri-environmental measures is difficult, some policy frameworks would certainly be more precise than others (Pearce, 2005). Generally speaking, detailed performance objectives are more likely to be quantified at farm level for mandatory rules on land use and protection or for cross-compliance requirements because the majority of farmers are affected and the control of compliance is more transparent. The European Commission has identified a set of agri-environmental indicators to provide information on the state of the environment in agriculture which can make a valuable contribution to policy evaluation.<sup>3</sup>

Contrary to binding standards and taxes, which usually apply to all farmers, agri-environmental incentives rely on farmers choosing to participate in a very wide range of interventions. Agri-environmental schemes represent voluntary agreements between farmers and public authorities, means of rewarding farmers for complying with certain environmental rules or practise a specified form of environmentally friendly agriculture, being compensated for the costs and loss of income. It is important to remember that agri-environmental schemes go beyond simple compliance with mandatory rules on agricultural production and land use, and codes of practice, they represent higher, voluntary, commitments of agricultural producers (European Commission, 2005: 4). The legislative framework of mandatory agri-environmental rules, which also form a part of the cross-compliance regime, specifies production methods compatible with the protection of environment, landscape, natural resources, the soil and genetic diversity. Failure to comply with these rules makes the producer subject to administrative sanctions or penalties.

### **Brief introduction to the EU agri-environmental policy and its legal framework**

From the beginning of the 80s the importance of agricultural policy in shaping environment is growing, as many aspects of intensive farming became evident, especially in terms of water pollution, biodiversity and wildlife habitat loss, and environmental considerations began to influence Common Agricultural Policy (Jack, 2009: 109-123). The first European framework for agri-environmental policy was set out in Article 19 of the Council Regulation (EEC) 797/85 on improving the efficiency of agricultural structures, which allowed member states to offer farmers payments for agreeing to follow specific practices in Environmentally Sensitive Areas. The Regulation was amended in 1987 to allow for the partial financing of approved agri-environmental schemes in specified geographical areas from European Community Funds.

The ‘MacSharry’ reform of 1992 made the shift from production subsidies to direct payments and highlighted the importance on agri-environmental measures through Council Regulation (EEC) No 2078/92 on agricultural production methods compatible with the requirements of the protection of the environment and maintenance of the countryside.

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3 European Commission, *Communication from the Commission to the Council and the European Parliament – Development of agri-environmental indicators for monitoring the integration of environmental concerns into the common agricultural policy* (SEC(2006)1136), COM /2006/ final.

Making such requirements obligatory for the member states, this Regulation set the basic framework for most of the second generation of agri-environment schemes. The next CAP reform known as the Agenda 2000 put a greater emphasis on rural development and agri-environmental issues, within the so called 'second pillar'. Agri-environmental rules were included in a more embracing Rural Development Regulation, which Chapter VI set the basic objectives and principles of an agri-environmental measure which member states had to include in their rural development programmes.<sup>4</sup> More detailed rules on agri-environmental requirements are set in a Commission Regulation No 445/2002 implementing Council Regulation No 1257/1999. This Regulation has a broader cover than its predecessor Regulation 2078/92 and leaves more discretion to national authorities.

The legal obligations that form the reference level for the agri-environment measures are set out in article 39.3 of Regulation No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD). Therefore, agri-environment payments cover only those commitments of producers going beyond the relevant mandatory standards established in Articles 4 and 5 and Annexes III and IV to Regulation (EC) No 1782/2003 establishing common rules for direct support schemes (now repealed) as well as minimum requirements for fertiliser and plant protection product use and other relevant mandatory requirements established by national legislation. Up to this reference level the polluter pays principle applies: farmers have to ensure compliance with mandatory national and European environmental standards and respect the basic mandatory standards forming part of the cross-compliance regime at their own costs. Failure to comply with these mandatory requirements is subject to sanctions.

The existing Common Agricultural Policy is focused on three priority areas: biodiversity and the preservation and development of 'natural' farming and forestry systems and traditional landscapes; water management and use and climate change. Rural aid development measures target sustainable farming practices, like agri-environment schemes, while the EU institutions insist that member states enhance compliance with environmental laws and laws on agricultural methods, by sanctioning the non-compliance with these laws by farmers through a reduction in support payments from the CAP. Since 2005, all farmers entitled to direct payments are subject to compulsory cross-compliance, which legal basis is Council Regulation No 73/2009 establishing common rules for direct support schemes for farmers and Commission Regulation No 1122/2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system. Cross-compliance is the basic requirement for agri-environment measures, and farmers bear all the costs for compliance. The two regulations set eighteen legislative standards in the field of the environment, food safety, animal and plant health and animal welfare. In addition, the farmer has to keep land in good agricultural and environmental condition in line with a number of standards related to soil protection, habitats and water management.

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4 Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the EAFRD and amending and repealing certain Regulations.

Lines above presented the main regulatory framework on tools for agri-environment policy in the EU. Some of the most important EU legislative standards, of a mandatory nature, which are specifically targeting agricultural methods and land use, will be presented below in order to point to the level of harmonisation and need for approximation of Serbian legal framework with EU *acquis*.

### **The legal framework on agri-environmental responsibilities of agricultural producers in Serbia**

#### ***Agricultural land regulatory regime***

The Law on Agriculture and Rural Development is a sector specific law of a systemic nature, setting the basic definitions, rights and responsibilities of agricultural producers, including a duty to respect environmental and animal health and welfare legislation and to protect the soil.<sup>5</sup> The use and protection of agricultural land in Serbia is an issue gaining the importance (Popović et al., 2011). Law on Agricultural Land prescribes rules on planning, protection, management and use of agricultural land, surveillance of its application and other issues relevant to protection, maintenance and use of agricultural land, which is considered to be the resource of general interest.<sup>6</sup> This law also sets the criteria on the use of arable land for non agricultural purposes. A general duty of owners and users of agricultural land is set out in article 59 of this Law: a) the duty to regularly use the arable land and apply measures prescribed by this or other laws, 2) to act as a good host in accordance with the rules of the code of good agricultural practice. Arable land of first to fifth cadastre class may not be used for purposes out of agricultural production, except when there are exceptions established by law. The destruction and damage to crops, plants, trees and any damage to agricultural land is prohibited, including burning of residues after harvest on agricultural land (notably articles 22-26 and 28).

The Law on Agricultural Land explicitly prescribes that the code of good agricultural practice *is to be prescribed by the Minister in charge of agriculture*, which has not yet been done. The Minister is also entitled to prescribe the allowed quantity of allowed amounts of hazardous and harmful elements in agricultural land and irrigation water and the method of their testing, and also implementing legislation on technical and other conditions for the examination of the control of fertility and the use of mineral fertilizers and pesticides. This law sets the general duty to use the agricultural land for agricultural purpose and forbids discharge and disposal of hazardous and harmful substances on agricultural land and the drainage canals and irrigation, as well as use of non biodegradable films on arable farmland. The determination of existence of dangerous and harmful matters in agricultural land and water for irrigation has to be in line with the Programme issued by the Minister in charge of agriculture. If the existence of hazardous and harmful matters above the allowed limit is detected, the Ministry shall ban or limit the production at that land or the use of such water.

5 Official Gazette of RS, No. 41/2009, 10/2012 – other law.

6 Official Gazette of the Republic of Serbia, No. 62/2006, 65/2008, 41/2009.

Article 21 of the Law on Agricultural Land prescribes the basic requirement that the owner or user of the agricultural land, from first until fifth cadastre class, shall control the fertility of arable land and keep the record of the amount of ingested mineral fertilizers and pesticides. However, this requirement is hard to enforce in practice. Fertility assessment of arable land and the control of ingested mineral fertilizers and pesticides have to be done when needed, but at least every five years. The control of the examination of agricultural land, inputs used in production of primary agricultural products and water used for irrigation may be performed by state owned institutes and private bodies which have been authorized by the Minister for Agriculture, Forestry and Water Management.

### ***Plant health regulatory regime***

Law on Plant Protection stipulates rules on protection and improvement of plant health, measures to prevent the introduction, detection, prevention and control of contaminants of harmful organisms, and conditions for production, processing, import and storage of plant products and requirements to objects related to plant activities.<sup>7</sup> The law specifies in particular duties of plant holders to examine and monitor the health of plants, including storage and processing facilities, suppress harmful organisms, undertakes plant protection measures, maintains the evidence on undertaken measures, plant treatment and utilized products and undertake measures which are proposed by phytosanitary inspection or other bodies.

Law on Plant Protection Products specifies general rules and conditions for the application of plant protection substances.<sup>8</sup> Articles 44 and 45 of this Law specify that the use of such substances should be in accordance with the declaration and instruction for use, “in accordance with principles of good agricultural practice and integral plant protection”, and in the manner which does not cause threats to the environment. The user of such substances must be qualified to utilize plant protection substances and is responsible for all activities and safeguard measures with regard to utilization of plant protection substances, related to human and animal health and environment. Residues in food and animal feed must not exceed quantities prescribed in implementing regulations, and are prescribed by the minister in charge of agriculture, upon consent of the minister in charge of health.

However, the new law is in the pipeline, as the law of 2009 was based on the Directive 91/414/EEC which is not applicable as of June 2011, and is replaced by the Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the markets. The new law should also be in line with the Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules, Regulation (EC) No 396/2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin, Directive 2009/128/EC establishing a framework for Community action to achieve the sustainable use of pesticides,

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7 Official Gazette of RS, No. 41/2009.

8 Official Gazette of RS, No. 41/2009.

Directive 2009/127/EC on the machinery for pesticide application, Regulation (EC) No 1185/2009 concerning statistics on pesticides. The new law should lay down new rules for the authorization of plant protection products, establishment of maximum residue levels of active substances of plant protection products and their control. Most recently, the Minister of Agriculture, Forestry and Water Management had prescribed methods of sampling and testing residues of plant protection products in food and animal feed which attempts to harmonise Serbian agro-environmental legal framework with the Regulation (EC) 396/2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and implementing rules.<sup>9</sup>

One of the most important steps would be introduction of integrated pest management, as the process which entails careful consideration of all available plant protection methods (biological, biotechnological, chemical, agro technical or enrichment measures for plant cultivation), integration of appropriate measures that discourage the development of populations of harmful organisms and keep the use of plant protection products and other forms of intervention to levels that are economically and ecologically justified and reduce or minimise risks to human health and the environment, and the least possible disruption to agro-ecosystems.

### ***The regulation of water use and pollution, nitrates and soil based nutrients***

With regards to plant and soil nutrition, the Law on Plant Nutrition and Soil Nutrients regulates quality, control and application of plant and soil nutrients.<sup>10</sup> The Law contains detailed rules on approval of plant nutrition and soil nutrients, duties of the producer, distributor and importer which have to be registered in an official register kept by the Ministry of Agriculture, Forestry and Water Management. Plant, water and soil nutrients have to be registered and may be put on the market if they are approved, registered and properly marked. Plant producer is obliged to maintain the evidence on the use of plant and soil fertilizers, in line with the principles of good agricultural practice, which are yet to be prescribed by the Minister.<sup>11</sup> Ammonium-nitrate fertilizers with high level of azotes are subject to special rules for putting such fertilizers on the market. The Minister is authorized to prescribe characteristics of ammonium-nitrate fertilizers, and methods of testing.<sup>12</sup> In addition to the Rulebook on methods of examination of nutrients<sup>13</sup> the implementing legislation includes rulebooks on the registration of plant and soil nutrients, conditions of their storage, quality assessment and minimal and maximal values of nutrients, content of declaration, packaging etc.

Active substances, safeners and synergists, co-formulants and some other issues will, hopefully, be regulated in the new Law on Plant Protection Products. The draft of it foresees

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9 Official Gazette of RS, No. 25/2010, 28/2011, 20/2013.

10 Official Gazette of RS, No. 41/2009.

11 Law on Plant Nutrition and Soil Nutrients, Article 28.

12 Rulebook on characteristics of ammonium-nitrate fertilizers, Official Gazette of RS, No. 70/2010.

13 Official Gazette of RS, No. 56/2010.

specific measure to protect the aquatic environment and drinking water, and gives the Administration for Plant Protection the power to prescribe the measures, allow or forbid certain nutrients, prescribe buffer zones, mitigation measures which minimize the risk of off-site pollution caused by spray drift, drain-flow and run-off.

At this moment, Serbia has not fully implemented the Urban Waste Water Directive (Directive 91/271/EZ), especially pre-authorisation of discharges from the food-processing industry and industrial discharges into urban wastewater collection systems. Directive 2008/105/EC on water quality standards has been partly transposed, as well the Floods Directive (2007/60/EZ) through the Laws ratifying the Convention on protection and sustainable use of the Danube River. Law on Waters<sup>14</sup> regulates the conditions for the use of water for irrigation and the quality of such water, taking into account the type of arable land, means of irrigation as well as the plant.

Nitrates Directive of 1991 forms an integral part of the Water Framework Directive (Directive 2000/60/EC) which aims to protect water quality across Europe by preventing nitrates from agricultural sources polluting ground and surface waters and by promoting the use of good farming practices. Serbia still has not fulfilled the main requirements set out in the Nitrates Directive 91/676/EEC. This is, among other problems, a practical consequence of the inability to fulfil the goals set out in the EU Water Framework Directive. The implementation of Nitrates Directive and Communal Wastewater Directive 91/271/EEC requires high costs of approximation with the EU *acquis* and it is certainly one among most urging issues in the field of agro-environmental measures, and is indicated in the EC Annual Report 2012 for Serbia.

Official statistical data on communal infrastructure shows that among 2,5 million of households in Serbia, only 1,3 million is connected to public drainage. It has been announced that Serbian Law on Water shall be revised until 2014. Estimates of the cost of building infrastructure to decrease water pollution due to agricultural production amount to 0,9 billion EUR. One of the most important steps would be to determine nitrate sensitive zones. There is no precise data on the use of fertilizers in the Republic of Serbia and the use of plant protection substances (Roljević et al., 2012). Some reports show the decrease of nitrate and phosphorus fertilizers production, and increase in mixed fertilizers production and use.<sup>15</sup> A good sign is the fact that activities on the development of the Plan of protection of waters against pollution have been initialized (SEIO, 2013: 514).

With regards to liability for diffuse water pollution and autrophication, the Directive 98/15/EC amending Directive 91/271/EEC concerning urban waste water treatment clarifies the requirements in relation to discharges from urban waste water treatment plants to sensitive areas which are subject to eutrophication. Transposing the Water Framework Directive,

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14 Official Gazette of RS, No. 30/2010.

15 Ministry of Environment and Spatial Planning of the Republic of Serbia (2010): *Fourth National Report to the United Nations Convention on Biological Diversity*, p. 30.

Serbian Law on Waters prescribed measures against pollution by individual pollutants or groups of pollutants presenting a significant risk to or via the aquatic environment. However, as Nitrates Directive has not been transposed, full framework to reduce human induced eutrophication should help to reduce the nitrogen and phosphorous load through changes in the agricultural practices, notably by restrictions in the excessive use of fertilizers.

The Law on Agricultural Land introduced erosion measures which users of agricultural land are required to apply, such as temporary or permanent ban on ploughing meadows, pastures and other surfaces, crop rotation, growing perennial plants, growing or lifting of agri-protection belts etc. The control of such measures is the responsibility of local self-government bodies.

### ***The treatment and disposal of farm-based sludge***

Directive 86/278/EEC on the protection of the environment and in particular of the soil when sewage sludge is used in agriculture is not implemented in Serbia. This would be of ultimate importance for the environment and health of Serbian consumers, as there is no appropriate control of farm-based sludge which is sometimes used on soil in which fruit and vegetable crops are growing and areas where the EU Directive prohibits the use of sludge. Law on Waters, on the other side, in articles 98 and 99 establishes a duty to treat wastewater in line with the set limits, taking into account environmental standards and to monitor sewage including biochemical and mechanical parameters of the quality. It is the competence of municipalities to prescribe conditions for the discharge of sewage.

Although the Ministry of Energy, Development and Environmental Protection has a leading role in regulation and oversight of the waste disposal,<sup>16</sup> municipalities have significant competences in regulation and oversight of the treatment and disposal of farm-based sludge. The Environmental Protection Agency is monitoring waste management, while practical implementation of waste collection and management is the responsibility of local self-governance, which may confer certain powers to private entities.

Law on Animal Husbandry specifies the main regime of the treatment of animal waste (faeces and urine) and its use as fertilizers. Animal waste as well as the compost used as soil fertilizer is not considered waste. The minister of agriculture and the minister of environment are entitled to prescribe the treatment of animal waste management which is not to be used as fertilizer. Animal waste must be treated in a way which does not endanger human health and the health of animals, environment and the quality of food.

### ***The safeguard of biodiversity***

Genetic agricultural resources in Serbia are rich and include a large number of autochthonous sorts and races of cultivated plant and animal species. Serbia has been a Party to the United Nations Convention on Biological Diversity since 2001. Serbia has committed itself to three

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16 The administration of the Autonomous Province of Vojvodina is in charge of waste disposal local regulation and oversight at its territory.

main objectives of the Convention: the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of benefits. A precondition to the effective subsidies for safeguarding biodiversity is classification and monitoring. Unfortunately, the existing level of biodiversity monitoring in Serbia is incomplete and inhomogeneous. Indicators for measuring biodiversity are non-standard and therefore not sufficiently comparable with the data in the region and Europe. In the last 10 years Serbia ratified almost all the most important global and regional conventions. The first act attempting to regulate biodiversity was the Regulation on the Protection of Natural Rarities of 1993.<sup>17</sup> Ordinance to designate and protect strictly protected and protected wild plants, animals and fungi<sup>18</sup>, Regulation on the placing under the control of trade of wild fauna and flora<sup>19</sup> are examples of legal instruments to protect biodiversity. However, nature conservation, incorporation and effective policy towards biodiversity issues are not put high in agenda, although the Strategy for Biodiversity of the Republic of Serbia for the period from 2011 to 2018 *per se* represents an important strategic document.

The Law on Subsidies for Agriculture and Rural Development recognizes subsidies for preservice of plant and animal genetic resources. However, the existing system of subsidies does not appropriately take into account the importance of biodiversity.

### ***The general environmental framework and agriculture***

Within a short period after turbulent 90s, as of democratic changes and notably 2001, Serbia has ratified most of the significant global and regional environmental conventions, adopted a new set of laws in the field of the environmental and nature protection. The adoption of the so-called green legislation package, a set of 19 environmental laws was followed by more than 70 bylaws. Although majority of the so-called horizontal directives are transposed, are still many issues to be harmonised with the EU requirements (National Program, 2011). National Environmental Approximation Strategy anticipates achievement of full transposition of the majority of *acquis* by 2014, which is an ambitious task, as will require significant financial resources, notably in the field of water quality and industrial pollution.

Law on Environmental Protection regulates the integral system of environmental protection in order to ensure healthy environment.<sup>20</sup> It refers to the system of environmental protection which comprises measures, conditions and instruments for sustainable management, prevention, control and reduction of all kinds of environmental pollution. Among issues relevant for agricultural policy, the Law specifically relates to protected natural goods (such as landscapes), biological diversity as genetic, species and ecosystems diversity, and public natural goods, such as water-fronts, forests etc. The Law on Environmental Protection is setting the limitation to perform activities which threaten environmental capacity,

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17 Official Gazette of RS, No. 50/1993.

18 Official Gazette of RS, No. 5/2010.

19 Official Gazette of RS, No. 31/2005, 9/2010.

20 Official Gazette of RS, No. 135/2004, 43/2011.

biodiversity, hydro graphic, geological, geomorphologic, and cultural and scenery values. Agricultural production is also addressed to in provisions of this Law on planning and utilization of natural values, and is referred to in the National Strategy of Sustainable Use of Natural Resources of 2012. Article 22 of the Law explicitly prescribes protection of land and soil and its sustainable use, including measures of systematic monitoring of land quality and monitoring of indicators for the assessment of risk of land degradation, while Article 23 refers to water protection and its use in the manner and up to the level which shall not represent threat to natural processes or to renewal of quality and quantity of water.

Law on Nature Protection<sup>21</sup> attempts to include NATURA 2000 strategy and the protection of special areas for conservation of habitats and species and areas of special protection for conservation of habitats and certain species of birds, and has almost fully transposed Directive on Birds (2009/14/EEC) and Directive on Habitats (92/42/EEC). This law sets general rules for protected areas, as areas that have a distinguished geological, biological, ecosystem and/or landscape diversity and are therefore declared by protection document areas of general interest and protected natural goods.<sup>22</sup> The law also refers to landscape protection, protective zones in the area outside the borders of protected area, ecologically significant area and/or ecological corridor which may be defined in order to prevent or mitigate external impacts. Law on Nature Protection governs protection and conservation of nature and biological, geological and landscape diversity. Many of its provisions are relevant for agriculture. The law establishes main principles of protection of forest, wet and water ecosystems and habitats within agro ecosystems.

***Other laws with significant impact on agri-environmental concerns***

Besides laws within the competence of the ministry in charge of environment, a number of other laws and regulations issued by the ministry in charge of agriculture also regulate activities of producers and processors, such as Law on Food Safety of 2009, which sets basic conditions for the safety of food and animal feed, duties and responsibilities of business subjects in the food sector, hygiene and quality of food and feed.

Law on Organic Production sets criteria for production in line with methods of organic production, control and certification in organic production, processing, labelling, storage, transport, export and import, as well as other questions related to organic production.<sup>23</sup> This law is mostly in line with Council Regulation (EC) on organic production and labelling of organic products and Commission's implementing Regulation No 834/2007 on organic production and labelling of organic products. However full approximation, and harmonisation with EU import rules, organic regulatory regimes for aquaculture, wine etc.,

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21 Official Gazette of RS No. 36/2009, 88/2010, corr. 91/2010.

22 Pursuant to Article 27 of the law, protected natural goods are the following: 1) protected landscapes (strict natural reserve, special natural reserve, national park, natural monument, protected habitat, landscape of exceptional characteristics, natural park); 2) protected species (strictly protected and protected wild species); 3) mobile protected natural documents.

23 Official Gazette of RS 30/2010.

imply the need to enact the new law in the course of 2013 (SEIO, 2013: 244).

Law on Animal Husbandry<sup>24</sup> obliges agricultural producers to respect the needs of animals in cultivation, in accordance the Law on Animal Welfare and regulations on healthcare and animal welfare. Law on Animal Welfare<sup>25</sup> introduces a general rule on the behaviour of animal owner or breeder to act as a good host and ensure proper conditions for holding of animals and care. However, although the law is mostly aligned to EU legislation, in practice some of its rules, notably on animal slaughter, are not fully obeyed. Act on wildlife and hunting,<sup>26</sup> Law on Protection and Sustainable Use of Fishing Resources,<sup>27</sup> Law on Forests are also relevant.<sup>28</sup>

### **The environmental impact of subsidies: cross-compliance as the letter on a paper**

Serbian legal framework, attempting to approximate with the EU *acquis* and CAP, allows for three types of subsidies: direct payments, market support and structural measures. The dominant form of subsidies are direct payments, however the monitoring system of whether farmers live up to standards for environmental protection and animal health and welfare is underdeveloped.

When entitled to subsidies, article 18. par. 2. of the Law on Agriculture and Rural Development obliges the producer to respect regulations which set standards of environmental protection, protection of public interest, plant and animal health and safety, animal welfare and protection of agricultural land. If, on the basis of official inspection records or reports by authorized bodies it has been proved that the producer acted contrary to this requirement, by purpose or negligence, the Administration for Agricultural Payments is entitled to decrease the amount of subsidy or limit the producer's right to one or several types of subsidies in the future.<sup>29</sup> Unfortunately, this remains a letter on the paper, as the monitoring system is ineffective. Therefore, the Law on Subsidies for Agriculture and Rural Development does introduce the basis for cross-compliance mechanism and modulation of the EU's CAP, but is not fully harmonised with the Council Regulation No 73/2009 on direct support schemes for farmers (Jovanić, 2011).

It is very hard to ascertain to what extent subsidies have environmental impact. Rural development measures, as the type of structural subsidies aim at improvement of the environmental protection programmes, preservice of biodiversity and improvement of life in rural areas. The Law on Subsidies to Agriculture and Rural Development specifies the following types of subsidies for sustainable rural development: 1) subsidies for

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24 Official Gazette of RS, No. 41/2009, 93/2012.

25 Official Gazette of RS, No. 41/2009

26 Official Gazette of RS, No. 17/2009.

27 Official Gazette of RS, No. 36/2009.

28 Official Gazette of RS, No. 30/2010.

29 Article 18 of this Law is practically repeated in Article 10 of the Law on Subsidies for Agriculture and Rural Development, Official Gazette of RS, No. 10/2013.

implementation of agricultural measures; 2) subsidies for organic production;<sup>30</sup> 3) subsidies for preservice of plant and animal genetic resources; 4) payments for the profit lost due to implementation of good agricultural practices, animal welfare and other environmental protection policies. The fourth type represents agri-environment measure in the sense of EU definition of voluntary commitments of agricultural producers to deliver environmental goods, and has not yet been granted, which is the clear signal of the overall interest in agri-environmental incentives.

### **Conclusion**

Economic sanctions, production and economic drop, as well as impoverishment have significantly reduced capabilities of the state for investment in environmental protection, but as well environmental concerns of agricultural producers who are primarily led by profit. Agro-environmental measures seem to have a low priority or have remained just as a declarative issue, although they are very important for export based activities of Serbian producers and traders.

In the field of environmental pollution control diversification and overlapping of duties and responsibilities within government institutions is still evident, although to a lesser degree since the new environmental legal framework of 2009 has been in force. One characteristic of the institutional framework is diversification and overlapping of duties and responsibilities, and a piecemeal control of environmental protection issues which cause coordination problems both horizontally (cross-sectoral issues) and top down (Republic to local self-governance).

One of the key challenges for Serbia and its agricultural system is how to reconcile environmental considerations with economic development, insufficient public budget and interests of economic operators, notably food exporters, to achieve the real implementation of environmental rules related to agricultural protection. In addition to the ineffective monitoring and reporting system and insufficient institutional capacities, insufficient capacity in surveying the legislation implementation, insufficiently efficient inspection supervision, and inadequate sanctioning system are major obstacles which can only be solved by a systematic reform of the regulatory process and public administration coordination. What remains to be seen is whether the Agriculture and Rural Development Strategy which is under way, will address this issue.

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30 Recently adopted Rulebook on the use of subsidies in organic production is a good example how limited resources may be granted, Official Gazette of RS, No. 10/2013.

## Literature

1. European Commission (2005) : *Agri-environment Measures: Overview on General Principles, Types, Measures and Application*, accessed 10. 05. 2013. at, [www.ec.europa.eu/agriculture/publi/reports/agrienv/rep\\_en.pdf](http://www.ec.europa.eu/agriculture/publi/reports/agrienv/rep_en.pdf),
2. European Commission (2006): *Communication from the Commission to the Council and the European Parliament – Development of agri-environmental indicators for monitoring the integration of environmental concerns into the common agricultural policy*, (SEC(2006)1136), COM /2006/ final.
3. IEEP (2002) : *Developing agri-environmental programmes in Central and Eastern Europe - a manual*, accessed 10. 05. 2013. at, <http://ieep.eu>
4. Jack, B. (2009) : *Agriculture and EU Environmental Law*, Ashgate.
5. Jovanić, T. (2011) : *Uslovljenost državne pomoći poštovanjem pravila o zaštiti životne sredine i standarda dobre poljoprivredne prakse – primer EU*, in: Lilić, S. (ur.): *Kontrola državne pomoći u Srbiji i u Evropskoj uniji*, Pravni fakultet Univerziteta u Beogradu, Beograd.
6. Ministry of Environment and Spatial Planning of the Republic of Serbia (2010): *Fourth National Report to the United Nations Convention on Biological Diversity*.
7. OECD (2010): *Guidelines for Cost-effective Agri-environmental Policy Measures*, OECD Publishing. doi: 10.1787/9789264086845-environment, Paris.
8. OECD (1997): *Agricultural Policies in Transition Economies*, Paris.
9. Pearce, D. (2005): *What constitutes a good agri-environmental policy evaluation?* In OECD (2005): *Evaluating agri-environmental policies: design, practice and results*. OECD, Paris.
10. Popović, V., Nikolić, M., Katić, B. (2011): *Korišćenje i zaštita poljoprivrednog zemljišta u Srbiji*, Institut za ekonomiku poljoprivrede, Beograd.
11. Roljević, S., Nikolić, A., Tepavac, R. (2012) : *The Consumption of Mineral Fertilizers and Water Resources' Quality in the European Union and the Republic of Serbia*, *Economics of Agriculture*, 1/2012, pp. 139-146, Belgrade.
12. Salter, J. (ed), (2009) : *European Environmental Law*, 2012, Kluwer.
13. SEIO (2013): *National Plan for the Adoption of the Acquis (2013-2016)*, Belgrade.

## AGRO-EKOLOŠKI PRAVNI OKVIR U SRBIJI U SVETLU HARMONIZACIJE SA PRAVOM EU

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### Rezime

*Ekonomске sankcije, pad proizvodnje kao i povećanje siromaštva je značajno smanjilo kapacitet države za ulaganje u zaštitu potrošača, kao i svest poljoprivrednih proizvođača o potrebi zaštite životne sredine. Usklađivanje ponašanja sa obaveznim standardima i pravilima iz korpusa agro-ekoloških mera i principima dobre poljoprivredne prakse je važan korak u pravcu očuvanja životne sredine i zaštite zdravlja ljudi, biljaka i životinja. Sa druge strane, to je važan preduslov za izvoz poljoprivrednih proizvoda iz Srbije. Pored obavezujućih pravila, koja su bitna za ispunjenje obaveze unakrsne usklađenosti za proizvođače koji dobijaju novčane subvencije, agro-ekološki podsticaji kao dobrovoljno ustanovljena obaveza proizvođača su naročito dobrodošle, ali ih ne bi bilo realno očekivati u neposrednoj budućnosti. U radu se daje kratak osvrt na agro-ekološku politiku u EU, a najviše pažnje posvećeno je pravilima kojima se ustanovljavaju dužnosti i odgovornost poljoprivrednika u Srbiji i pitanjima usklađivanja domaćeg prava sa pravom EU.*

**Ključne reči:** *agro-ekološke mere, dobra poljoprivredna praksa, zaštita životne sredine, pravo EU, harmonizacija.*

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