



Legal and Environmental Aspects of Mining in the Western Balkans

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CHAPTER 2

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INTRODUCTION

The mining sector has long played a pivotal role in the economic development of the Western Balkans, a region endowed with substantial deposits of minerals such as lignite, copper, lead, zinc, and precious metals. From the industrial legacy of the former Yugoslavia to the contemporary resurgence of foreign direct investment, mining continues to shape national economies, energy security, and regional trade. However, alongside its economic potential, mining raises complex legal challenges that sit at the intersection of environmental protection, property rights, investment law, and governance reform.

In the post-socialist transition period, Bosnia and Herzegovina, Montenegro, North Macedonia, and Serbia have undertaken substantial legal and institutional reforms to modernize their mining frameworks. These reforms have been driven by multiple factors: the need to attract international investors, the harmonization of domestic legislation with European Union acquis, and increasing public scrutiny regarding environmental and social impacts. As a result, the legal landscape governing mining in the region is both dynamic and fragmented, reflecting varying stages of regulatory development and differing national priorities.

A central legal issue in the region concerns the ownership and concession of mineral resources. Most Western Balkan jurisdictions maintain state ownership over subsoil resources, granting exploration and exploitation rights through licensing or concession regimes. These regimes are typically governed by mining laws supplemented by regulations on environmental protection, land use, water management, and public procurement. Over the last decade, environmental and social considerations have emerged as key dimensions of mining law in the region. The legacy of past mining activities, often associated with inadequate environmental safeguards, has heightened awareness of ecological risks, including land degradation, water contamination, and air pollution. Contemporary legal frameworks increasingly incorporate environmental impact assessments, public participation requirements, and remediation obligations. Nevertheless, enforcement gaps and institutional weaknesses remain key challenges, raising questions about the effectiveness of legal protections in practice.

Another important aspect is the alignment of national mining legislation with EU standards. Although not all Western Balkan countries are EU member states, most are either candidates or potential candidates, and thus engaged in approximation processes. This alignment affects areas such as environmental law, competition law, state aid rules, and occupational health and safety standards. The integration process introduces both opportunities for legal modernization and tensions between domestic economic priorities and supranational regulatory expectations.

Furthermore, the governance of mining activities is closely linked to issues of transparency, anti-corruption, and community rights. Civil society organizations and local communities have increasingly challenged mining projects, particularly where concerns arise over land expropriation, environmental degradation, or insufficient consultation. Legal mechanisms for dispute

resolution – both domestic and international, including investor-state arbitration – play a crucial role in shaping the outcomes of such conflicts.

This chapter examines the legal aspects of mining in the Western Balkans through a comparative and interdisciplinary lens. It seeks to analyze the contemporary evolution of mining legislation, assess the effectiveness of regulatory frameworks, and identify key challenges and opportunities for reform. The primary focus is on Serbia and to some extent on Bosnia and Herzegovina. By situating national legal systems within broader regional and international contexts, the chapter aims to contribute to a deeper understanding of critical regulatory and legal dilemmas and of the questions of how law can potentially support sustainable and equitable resource development in the Western Balkans.

I LEGAL ASPECTS OF MINING IN SERBIA

The umbrella legal act regulating the field of mining in the Republic of Serbia is the Law on Mining and Geological Explorations (hereinafter: “Mining Law”), first adopted in 2015, and has since undergone amendment procedures on two occasions, in 2018 and 2021.¹ The Mining Law defines the framework for: mineral policy and development of geological explorations, classification of resources and reserves (mineral, water, geothermal), exploitation of reserves and other geological resources, construction, use and maintenance of mining facilities, the conduct of mining operations, mining waste management, site remediation and recultivation, and supervision of regulatory implementation.

Additionally, the Constitution of the Republic of Serbia² defines the ownership status of natural resources, and thus ores and mineral resources, in the following manner:

“Natural resources, goods designated by law to be of general interest, and property used by organs of the Republic of Serbia are in state ownership. The state may also own other things and rights, in accordance with the law. Natural and legal persons may acquire individual rights over specific goods in general use, under conditions and in the manner prescribed by law.”

In practical terms, this means that specific rights over such goods may be granted to natural and legal persons in accordance with the law, but such rights must necessarily be narrower than ownership rights,³ which are in any case reserved exclusively for the Republic of Serbia.⁴

¹ Law on Mining and Geological Explorations [in Serbian] (“Official Gazette of RS”, nos. 101/2015, 95/2018 and 40/2021).

² Constitution of the Republic of Serbia [in Serbian] (“Official Gazette of RS”, nos. 98/2006 and 115/2021); Article 87.

³ The authors of this analysis believe the Constitution’s use of “state ownership” is imprecise from a legal and linguistic perspective. The article refers to ownership rights, which are property rights, but not the only such rights. Ownership rights are thus narrower in scope than property rights generally. However, the article’s intended meaning is the state’s exclusive ownership right (not some other property right) over goods of general interest.

⁴ Law on Public Property [in Serbian] (“Official Gazette of RS”, nos. 72/2011, 88/2013, 105/2014, 104/2016, 108/2016, 113/2017, 95/2018, 153/2020 and 94/2024).

Article 4, paragraph 2(5) of the Mining Law explicitly prescribes that boron and lithium ores fall (together with oil, natural gas, coal, copper, gold, lead and zinc) into the category of mineral raw materials of strategic importance for the Republic of Serbia. The Mining Law does not provide a definition of the term “strategic importance,” though a few provisions of the law prescribe a specific status for such raw materials compared to others. For example, in the case of mineral raw materials of strategic importance, the period during which exploration rights may be retained can be extended by up to one year.⁵ The Law also prescribes that, to protect the strategic interest of the Republic of Serbia, a special act of the Government will designate a ministry representative as the representative of state interest in companies with state capital that conduct applied geological research and exploitation of mineral raw materials of strategic importance.⁶ Academic literature indicates that *there is no universal consensus on how to define the “criticality” of these raw materials, as it changes over time depending on societal needs and supply availability. Also, it emphasizes that the term “critical minerals” is not formally defined in our country. Critical or deficient mineral raw materials are understood to be those mineral raw materials with which a particular country or region is not fully or is only partially supplied.*⁷

The draft Strategy for Managing Mineral and Other Geological Resources of the Republic of Serbia (discussed further below) states that Serbia has great potential for producing critical and strategic minerals. These are important for the country’s role as a strategic ally and partner of the European Union. The Government should be a stable long-term supplier of minerals for the green transition.⁸ However, it also states that in the coming period the Republic of Serbia has yet to “establish a methodology for defining its critical mineral raw materials”.⁹

Unfortunately, this leads to the conclusion that the Republic of Serbia still lacks awareness or vision regarding its own (“strategic”) needs. At the same time, it recognizes the possibility of becoming a “stable long-term supplier” of these raw materials to countries with stronger economies and industries, based on reserves that are recognized as strategic primarily in the EU.

According to Article 5 of the Mining Law, geological explorations, exploitation of mineral raw material reserves and resources, and the use and maintenance of mining facilities must be conducted based on an optimal geological and technical and economic approach, with protection of human health, property and the environment, in accordance with contemporary standards. This is a notably flexible formulation, susceptible to equally flexible interpretations

⁵ Law on Mining and Geological Explorations [in Serbian], Art. 40, para. 4.

⁶ Ibid. Art. 4, para. 7.

⁷ Carević I, Batočanin N, Petrović AS, Srejić T, Sibinović M, Manojlović S., “Critical Mineral Raw Materials and Contemporary Technological Development - A Challenge for Green Energy Transition” [in Serbian], Planned and Normative Protection of Space and Environment; University of Belgrade - Faculty of Geography, Belgrade, 2024, p. 48.

⁸ Draft Strategy for Managing Mineral and Other Geological Resources of the Republic of Serbia for the period from 2025 to 2040, with projections to 2050 [in Serbian], <https://www.mre.gov.rs/extfile/sr/10833/Nacrt%20Strategije%20upravljanja%20mineralnim%20i%20drugim%20geoloskim%20resursima.pdf>, accessed August 28, 2025, p. 60.

⁹ Ibid., p. 19.

and abuses by investors. It thus appears that compliance with this provision and definition of 'optimal' is left to the discretion of investors and weak state oversight, which is best reflected in the conduct of inspection authorities.¹⁰

Moreover, it states that the entire legal framework should be interpreted through several principles when applied to these activities: ensuring continuous supply of mineral raw materials for market economy stability; balancing geological explorations and exploitation with economic, social and ecological considerations; obliging rights holders to act according to "the best business, social and ecological professional standards"; applying the best technical methods for protection and damage reduction; and guaranteeing the security, predictability and continuity of exploration and mining rights.¹¹

The Law prescribes which entities and under what conditions are permitted to conduct exploitation. Thus, exploitation works may be carried out by business entities (companies, other legal entities, and entrepreneurs) registered in the appropriate registry (the Register of Companies at the [Business Registers Agency](#)).¹² The holder of exploitation rights must ensure professional supervision, which includes: control according to the project and work schedule, quality verification and application of regulations, safety supervision, fire protection, environmental protection, cultural heritage protection and water facility protection.¹³

For the purposes of exploitation, it is necessary for the investor to obtain three types of permits: i) for the exploitation field or exploitation, ii) for the construction of mining facilities and/or conducting mining operations, and iii) for the use of mining facilities.¹⁴ All permits are issued by the Ministry (or the body of the autonomous province),¹⁵ depending on the location where the project is being implemented.

For the exploitation of mineral raw material resources and reserves that are of importance to the Republic of Serbia, it is mandatory to develop a long-term exploitation program for a period of at least ten years, which serves as the expert basis for the development of a special purpose area spatial plan.¹⁶

The Law specifically prescribes that expropriation of real estate may be carried out for the needs of a business entity, in private or public ownership, that holds exploration rights and/or

¹⁰ See: Nikola Gagić, Guidelines for Improving the Legal Framework and Recommendations of Good Practice for Implementing Inspection Supervision in the Field of Environment in the Republic of Serbia [in Serbian]; RERI, July 2022;

¹¹ Law on Mining and Geological Explorations [in Serbian] ("Official Gazette of RS", nos. 101/2015, 95/2018 - other law and 40/2021), Art. 2.

¹² Ibid., Art. 67.

¹³ Ibid.

¹⁴ The Law and bylaws define the procedure for obtaining the relevant permits and the documentation that must be attached to the application, but due to the limited scope of this analysis it is not possible to describe the entire procedure in more detail.

¹⁵ Ibid., Art. 68.

¹⁶ Ibid., Art. 88.

holds the right of exploitation of mineral raw materials classified as materials of importance to the Republic of Serbia.¹⁷ In that case, such a business entity holds the rights and obligations of an expropriation beneficiary,¹⁸ and expropriation is defined in detail by the Law on Expropriation.¹⁹ This legal provision is problematic in itself and appears to contradict the Constitution's provision cited above. Limiting property rights in private interest contradicts the very concept of the inviolability of private property. This contradiction is further reinforced by the provision on exclusive state ownership of natural resources and goods of general interest. Consequently, the introduction of such a provision into the Law on Expropriation is problematic from several angles, both from a legal-theoretical and practical perspective.

These laws have so far served in practice as the basis for companies to obtain expropriation beneficiary status in an expedited manner for the purposes of exploiting mineral raw materials of special importance. This has often led to violations of the right to private property and other human rights, including situations in which mining operations commence on disputed land before the compensation decision becomes final. The Law on Expropriation stipulates that property may be handed over before the compensation decision becomes final only in urgent cases.²⁰ What is manifestly clear, and frequently overlooked, is the fact that the construction of mines for the purpose of generating profits for private companies cannot be considered an urgent case.²¹

The Mining Law designates the Strategy for Managing Mineral and Other Geological Resources of the Republic of Serbia ("Strategy") as a strategic mineral policy document and development plan for geological explorations and mining. The Strategy is adopted for at least ten years. Its purpose is to establish general objectives for developing mining and geological exploration of energy, metallic, non-metallic and technogenic mineral raw materials, underground waters and geothermal resources.²² The Republic of Serbia currently does not have a valid Strategy, though a public consultation procedure on the draft Strategy was conducted in early August 2025.²³

The draft Strategy states: "Serbia's strategically important metallic mineral resources include copper, gold, lead, zinc, silver and lithium. Their development through 2040, with projections to 2050, entails a series of activities aimed at increasing the total quantities of strategically important mineral resources, a reliable assessment of their current quantities, quality and

¹⁷ Ibid., Art. 4, para. 5.

¹⁸ Ibid., Art. 4, para. 6.

¹⁹ Law on Expropriation [in Serbian] ("Official Gazette of RS", no. 53/95, "Official Gazette of FRY", no. 16/2001 - decision of the FCC and "Official Gazette of RS", nos. 20/2009, 55/2013 - decision of the CC and 106/2016 - authentic interpretation).

²⁰ Ibid., Art. 35.

²¹ "Expropriation for Čukaru Peki: How Zijin is Trying to Pay Less for Land" [in Serbian] (CINS), <https://www.cins.rs/eksproprija-cija-za-cukaru-peki-kako-zidjin-pokusava-da-plati-manje-za-zemlju/>, accessed August 29, 2025.

²² Law on Mining and Geological Explorations [in Serbian], Art. 12.

²³ Ministry of Mining and Energy, "Public Consultation on the Draft Strategy for Managing Mineral and Other Geological Resources of the Republic of Serbia" [in Serbian], August 7, 2025, <https://www.mre.gov.rs/vest/11751/javna-rasprava-o-na-rtu-strategije-upravljanja-mineralnim-i-drugim-geoloskim-resursima-republike-srbije.php>.

possibilities for economic valorization”.²⁴ It further notes that lithium belongs to “critical mineral raw materials that the EU has classified as deficit minerals”.²⁵ The Jadar deposit near Loznica is particularly highlighted, where proven reserves of 158 million tonnes of ore have already been confirmed, and the draft provides several scenarios for the development of the mining sector. Thus, in the “accelerated development” variant, the draft envisions opening a lithium mine with annual production of up to 58,000 tonnes of lithium carbonate. This mine would represent a key driver of increasing mining’s share in GDP (from the current 2.7% to a potential 5–8%), along with growth in foreign direct investment and additional multiplier effects on employment, services and taxes.²⁶ It also states that the Government of the Republic of Serbia should strive for the role of a stable and long-term supplier to the European Union of minerals critical to the green transition.²⁷ The document also identifies risks that could jeopardize achieving the Strategy’s objectives. These include: an underdeveloped regulatory framework, incomplete supervision capacities, low public awareness about mineral resources’ importance for economic development, disagreements between non-governmental organizations and environmental movements regarding mining, and the presence of environmentally threatening activities.²⁸

II LEGAL ASPECTS OF MINING IN BOSNIA AND HERZEGOVINA

Substantial impacts of mining activities on the environment and citizens’ rights require this area to be precisely and comprehensively regulated at both the legislative and regulatory levels. However, existing laws in Bosnia and Herzegovina are largely inadequate to address the development of the mining industry, impacts on fundamental human rights, or contemporary challenges in practice, and do not provide appropriate protection of the environment and citizens’ rights.²⁹ Vague and incomplete legal provisions leave room for abuses and tendentious interpretations that in practice place the private interests of investors above the public interest.

²⁴ Draft Strategy for Managing Mineral and Other Geological Resources of the Republic of Serbia for the period from 2025 to 2040, with projections to 2050 [in Serbian], <https://www.mre.gov.rs/extfile/sr/10833/Nacrt%20Strategije%20upravljanja%20mineralnim%20i%20drugim%20geoloskim%20resursima.pdf>, accessed August 28, 2025, p. 53.

²⁵ Ibid., p. 54.

²⁶ Ibid., pp. 53, 58-59.

²⁷ Ibid., p. 60.

²⁸ Ibid., p. 61.

²⁹ The key laws regulating this area that were the subject of analysis are the Law on Geological Explorations of the Federation of Bosnia and Herzegovina [in Bosnian] (“Official Gazette of FBiH” nos. 9/10 and 14/10), the Law on Geological Explorations of Republika Srpska [in Serbian] (“Official Gazette of RS” nos. 64/22 and 63/24), the Mining Law of the Federation of Bosnia and Herzegovina [in Bosnian] (“Official Gazette of FBiH” no. 26/10), the Mining Law of Republika Srpska [in Serbian] (“Official Gazette of Republika Srpska” no. 62/18).

Responsible management of mineral resources requires an adequate strategic framework grounded in social dialogue. The key strategic document in this area is a strategy for managing mineral resources, which establishes the objectives for the development of mining and geological explorations, and measures and activities for their achievement. However, in both the Federation of Bosnia and Herzegovina and Republika Srpska, such a strategy has not yet been adopted.³⁰ Although the Development Strategy of the Federation of BiH, adopted for the period up to 2027, envisages the development of a Mineral Raw Materials Management Strategy, this document has not been adopted to date, while Republika Srpska has not adopted a valid Development Strategy.³¹ A particular problem is the absence of the highest-level planning document in the area of spatial planning, given that the Spatial Plan developed for the period from 1981 to 2000 is still in force in the Federation of BiH.³²

Excessively broad exceptions regarding the conversion of agricultural and forest land carry a considerable risk of abuse in the context of mineral raw material exploitation. Namely, although the Law defines agricultural land as a natural resource of general interest subject to a special protection regime, the Law on Agricultural Land provides for exceptions that allow temporary conversion of this land for the purposes of surface exploitation of industrial mineral raw materials.³³ The existing law allows even the highest quality agricultural land to be designated for the construction of facilities for surface mining of industrial and other mineral raw materials – a particularly concerning provision.³⁴ The situation is similar when it comes to the conversion of forest land. Of particular concern is the absence of a valid Law on Forests in the Federation of BiH. Meanwhile, the Republika Srpska Law on Forests, although it defines forests and forest land as natural assets of general interest under special protection and stipulates

³⁰ The Decision on the Development of a Mineral Raw Materials Management Strategy in Republika Srpska was adopted at the beginning of 2023, and in the Federation of BiH in April 2024. More information available at: <https://fbihvlada.gov.ba/bs/334-odluka-o-izradi-strategije-upravljanja-mineralnim-sirovinama-u-federaciji-bosne-i-hercegovine-do-2030-godine-sa-projekcijom-do-2050-godine> and <https://www.vladars.net/sr-SP-Cyrl/Vlada/Premijer/Media/Vijesti/Pages/Odrzana-14.-sjednica-Vlade-.aspx>.

³¹ Development Strategy of the Federation of Bosnia and Herzegovina 2021-2027 [in Bosnian], available at https://parlamentfbih.gov.ba/v2/userfiles/file/Materijali%20u%20proceduri_2021/Strategija%20razvoja%20FBiH%202021-2027_bos.pdf.

³² The Government of the Federation of BiH submitted in July 2025 a Draft Decision on Commencing the Development of a Spatial Plan of the Federation of BiH for a period of 20 years with a development deadline of 18 months from the date of signing the contract for its development. Draft Decision on Commencing the Development of the Spatial Plan of the Federation of BiH [in Bosnian], available at <https://fmpu.gov.ba/prostorno-planiranje/prostorni-planovi/> and https://parlamentfbih.gov.ba/v2/userfiles/file/Materijali%20u%20proceduri_2025/1469-25%20Prijedlog%20Odluke_prostorni_plan.pdf.

³³ Articles 2 and 47 of the Law on Agricultural Land of the Federation of BiH [in Bosnian] (“Official Gazette of FBiH”, no. 52/09). Concession contracts for the exploitation of industrial mineral materials are concluded for periods of several decades, meaning such arrangements cannot be considered temporary changes of use of agricultural land, but rather a permanent conversion with a high probability of land contamination that renders future agricultural use impossible.

³⁴ Article 48 of the Law on Agricultural Land of the Federation of BiH [in Bosnian] prescribes that, as an exception, major infrastructure may be built on agricultural land from the 1st to the 4th productivity categories, but only when there are no other possibilities, when required by the general interest as determined by the cantonal government, and when no less valuable agricultural land exists. Article 8, paragraph 1 (23) prescribes that major infrastructure of general interest includes: roads, railways, airports, hydroelectric reservoirs, water management facilities for flood protection, and facilities for surface mining of industrial and other mineral materials.

that the total area of forests owned by Republika Srpska cannot be reduced, simultaneously provides for exceptions that allow forest clearing and permanent conversion of forest land.³⁵ Namely, the existing legislative framework allows forest clearing and permanent conversion of forest land for implementing spatial planning documents and location requirements, once the relevant authority officially establishes public interest. It also permits such conversion for executing concession contracts.³⁶ Such a legal provision in practice opens the door for forest land to be permanently converted in all cases where this is necessary for the purposes of mineral resource exploitation, provided that a concession contract has been previously concluded. Broadly defined exceptions applied under vague and imprecise criteria are routinely abused in practice, effectively undermining the basic legal provisions for which those exceptions were prescribed.

POTENTIAL FOR ABUSE OF LEGAL PROVISIONS ON CONCESSIONS

In the territory of BiH, mining and geological exploration activities may only be conducted on the basis of concessions. However, the regulatory framework in this area has numerous shortcomings, particularly regarding how concessions are awarded and the broad freedom of contracting in individual concession agreements with inadequate legal constraints. In both the Federation of BiH and Republika Srpska, concessions are awarded through public tenders and unsolicited proposals.³⁷ However, although both laws stipulate that concessions through unsolicited proposals should be awarded only in exceptional cases, this practice has become the norm rather than the exception.³⁸ All concession contracts concluded to date in the Federation of BiH have been based on unsolicited proposals, and this model of contract conclusion is also dominant in Republika Srpska.³⁹ The legislative framework facilitates this, with the Law on Concessions of Republika Srpska providing for a number of exceptions in which a concession may be awarded through an unsolicited proposal. These include cases where the applicant is a public enterprise or public institution performing activities of general interest, or a legal entity that has previously conducted mineral exploration whose exploration work value exceeds a certain threshold.⁴⁰ The award of concessions through direct negotiations, without a public tender, fails to ensure greater value for money, stronger environmental safeguards, or equal treatment of economic operators, and is contrary to the basic EU principles of transparency.⁴¹

³⁵ Articles 2 and 3 of the Law on Forests of RS [in Serbian] (“Official Gazette of RS”, nos. 75/08, 60/13, 70/20 and 49/22).

³⁶ Article 42 of the Law on Forests of RS [in Serbian].

³⁷ Articles 23 and 28 of the Law on Concessions of the Federation of BiH [in Bosnian] (“Official Gazette of the Federation of BiH”, nos. 40/02 and 61/06) and Article 11 of the Law on Concessions of Republika Srpska [in Serbian] (“Official Gazette of Republika Srpska”, nos. 59/13, 16/18, 70/20 and 111/21).

³⁸ Article 28 of the Law on Concessions of FBiH [in Bosnian] and Article 26 of the Law on Concessions of RS [in Serbian].

³⁹ Information on concluded contracts is available in the reports on the work of the Concessions Commission of RS [in Serbian], <https://koncesije-rs.org/category/izvjestaji/>.

⁴⁰ Article 26, paragraph 1 of the Law on Concessions of RS [in Serbian].

⁴¹ Transparency International Bosnia and Herzegovina, “[The Concessions System in Bosnia and Herzegovina - Legal and Institutional Framework](#)” [in Bosnian], 2024.

An additional problem with unsolicited proposals is the absence of a clearly defined public interest that must be established, which leaves broad room for discretionary decision-making, thereby enabling in practice that every mineral resource exploitation project be declared a project of public interest.

The main reason for concessions is to enable implementation of public interest projects through private capital investment when budget funds are insufficient. Precisely because of this, the concession regime requires clearly defined legal frameworks that ensure the protection of public interest and limit freedom of contracting in individual concession contracts. However, the existing laws do not contain adequate and sufficient contracting limitations but instead give the contracting parties broad discretion to regulate key contract provisions. Given the unique nature of mining concession contracts and their long-term duration, such a legal provision carries significant risk, as it allows the most important legal provisions to favor the investor, without effective legal mechanisms for protecting public interest. Thus, although the existing legal provisions provide for framework regulation of the duration of concession contracts, they do not prescribe criteria for establishing the optimal validity period for each specific case, nor do they prescribe the minimum annual fee for concessions in the field of mining, or the method and criteria for setting it.⁴² A particular risk is the lack of an obligation to update concession fees to reflect changes in laws and regulations - especially problematic given that such changes are inevitable over multi-decade concessions. The Law on Concessions of the Federation of BiH does not regulate harmonization of concession fees at all. Republika Srpska's Law on Concessions provides for fee harmonization only as a possibility, not an obligation. If the concessionaire does not agree with an amendment, the fee remains unchanged for the concession's duration.⁴³ In such circumstances, there is a risk that the concession fee will remain unchanged throughout the entire duration of the concession, and such contracts are unequivocally detrimental to public interest and economically profitable for investors.

Analysis of the existing legal framework in the field of geological explorations and mining in Bosnia and Herzegovina indicates that legal provisions are shaped in favor of investors, while simultaneously reducing their liability for the consequences of exploration and mining activities and weakening mechanisms for protecting public interest and the human rights of affected communities. Thus, the obligation to provide a financial guarantee before the start of geological explorations and exploitation represents a standard preventive mechanism that ensures responsible conduct by investors and protection of public interest. This mechanism, however, is not recognized in the existing mining legislation of Bosnia and Herzegovina, which does not require holders of explorations and exploitation rights to provide financial guarantees for the remediation and recultivation of land that may be degraded by their activities. The absence of mandatory security before mining activities begin creates no incentive for compliance with prescribed criteria, technical standards and professional rules, but rather enables investors to abandon degraded areas after completion without facing real consequences. Misdemeanor sanctions available to relevant authorities in such cases are neither proportionate to the po-

⁴² Article 29 of the Law on Concessions of FBiH [in Bosnian] and Article 28 of the Law on Concessions of RS [in Serbian].

⁴³ Article 29 of the Law on Concessions of RS [in Serbian].

tential damage, nor do they provide the funds necessary for remediation and recultivation, thereby shifting the burden of remediating negative environmental consequences onto the state and local communities. Even the key mechanism of environmental impact assessment, which should ensure the protection of the environment and citizens' health, as well as public participation and information about potential environmental impacts, is not mandatory in the earliest phase, when permits for geological explorations are issued.

A clear pattern of restricting civil liberties can be observed in the recent amendments to the Law on Geological Explorations of Republika Srpska, which enable the extension of exploration rights even when the holder has not conducted explorations to the prescribed extent, whereby protests are also recognized as "force majeure".⁴⁴ In this way, the exercise of fundamental civil liberties is formally treated as an obstacle to investment, while the already broadly and imprecisely defined conditions for extending exploration rights are further expanded in favor of investors. On the other hand, the existing laws regulating geological explorations and mining do not ensure the right of the interested public to participate as a party in decision-making procedures regarding activities that may have a major impact on the environment, and thus effectively influence and challenge decisions made in those procedures. Challenging decisions in Republika Srpska is further complicated by procedural restrictions. For all decisions made under the Law on Geological Explorations, a two-tier appeals system is excluded, limiting legal protection exclusively to administrative litigation without suspensive effect.⁴⁵ This enables investors to conduct geological explorations and mining activities unimpeded while the legality of decisions is reviewed in lengthy court proceedings. Bearing in mind the considerable consequences that these activities can have on the environment and the rights of affected communities, the right to appeal against administrative acts should represent the rule, not the exception.

The problem of supervision over the work of mining companies is reflected in unclearly and insufficiently precisely regulated powers of inspectors, which in practice can lead to failure to identify illegalities and inconsistent application of regulations. Such normative incompleteness undermines the effectiveness of supervision, legal certainty and enables potential abuses. Moreover, considering the possible consequences for human health and the environment from mining law violations and illegal geological explorations and exploitation, the penal policy is inadequate and effectively encourages investors to operate illegally. It should be particularly noted that neither the Mining Law of the Federation of BiH nor the Mining Law of RS prescribe criminal offenses for serious violations, containing only misdemeanor provisions with symbolic monetary fines. As expected, penalties in these ranges provide insufficient incentive for companies to comply with regulations. Therefore, it comes as no surprise that it is often more economically profitable for a company to begin mineral exploitation or mining facility construction before obtaining a permit from the relevant authority. On that basis, it generates daily profits in amounts many times greater than the prescribed monetary fine, and in the event that it is convicted of a misdemeanor, it pays a negligible monetary fine. Therefore, a

⁴⁴ Article 38, paragraph 1 of the Law on Geological Explorations of RS [in Serbian].

⁴⁵ Articles 36, 38, 43, 48a, 52 and 65 of the Law on Geological Explorations of RS [in Serbian].

stricter and clear penal policy in the field of mining is necessary to achieve both specific deterrence (influencing individual investors), and general deterrence (deterring other companies from violating the law).

Expropriation procedures linked to mining projects represent one of the most common, but also most serious forms of interference with citizens' rights, with far-reaching consequences for the realization of fundamental human rights, and often serve as a clear indicator of the true state of the rule of law in a country. Due to its nature, expropriation produces not only legal, but also serious social and economic consequences, especially in situations when procedures last for years, during which owners are deprived of their property and means of livelihood. Given the intensity and permanence of the consequences it produces, and the tendency to generally manipulate this sensitive and complex matter, it is necessary to regulate this matter restrictively, carefully and in detail. Consequently, one of the greatest risks in the existing legislative framework is the following: Although the Federation of BiH's Law on Expropriation does not explicitly allow expropriation in favor of private companies, the provision stating that expropriation is allowed "unless otherwise provided by law" creates a loophole. This formulation leaves room for other special laws, such as mining laws, to effectively introduce this possibility.⁴⁶ Such a broad legislative approach enables the expansion of the concept of public interest in a way that favors private investors, which, as experience from the Republic of Serbia shows, can lead to systematic derogation of the protection of citizens' rights and subordination of public to private interest.

III THE LEGAL FRAMEWORKS UNDERPINNING THE EU GREEN AGENDA AND THE CRITICAL RAW MATERIALS REGULATION

The [European Green Deal](#) is the Union's key policy framework for achieving climate neutrality by 2050, and its primary vehicle for implementing the United Nations 2030 Agenda and the Sustainable Development Goals.⁴⁷

The fundamental intention of the European Green Deal is to establish a systematic framework in which issues of sustainability and citizens' well-being are placed at the center of economic development and policy-making. This commits the EU to transforming numerous economic sectors – from energy and industry to transport and agriculture – in order to achieve a "just and efficient transition". Indeed, the Green Deal contains a series of legislative and strategic instruments, including: the [European Climate Law](#), [Just Transition Mechanism](#), [Biodiversity](#)

⁴⁶ Article 6 of the Law on Expropriation of FBiH [in Bosnian] ("Official Gazette of FBiH", nos. 70/2007, 36/2010, 25/2012, 8/2015).

⁴⁷ EUR-Lex, Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, "The European Green Deal", December 11, 2019, COM(2019), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52019DC0640>, accessed August 27, 2025.

[Strategy for 2030](#), [Circular Economy Action Plan](#), and [Farm to Fork Strategy](#), alongside numerous sectoral regulations relating to energy efficiency, renewable energy sources and industrial transformation.

A special dimension of the European Green Deal is the issue of the secure and sustainable supply of raw materials. The European Commission, in this context, emphasizes the following: “Access to resources is also a strategic security issue for Europe’s ambition to deliver the Green Deal. Ensuring the supply of sustainable raw materials, in particular critical raw materials necessary for clean technologies, digital, space and defense applications, by diversifying supply from both primary and secondary sources, is therefore one of the prerequisites to make this transition happen”.⁴⁸ In other words, access to raw materials – especially critical raw materials such as lithium, cobalt and rare earth elements – is recognized as a prerequisite for achieving the goals of the green and digital transition.

This aspect was further formalized in March 2024 with the adoption of Regulation (EU) 2024/1252 of the European Parliament and of the Council of April 11, 2024 establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) (“Critical Raw Materials Regulation”, “Critical Raw Materials Act” or “CRMA”).⁴⁹ The CRMA defines the critical raw materials value chain from exploration, extraction and processing to recycling and substitution, sets quantitative targets for capacities within the EU and introduces the category of “strategic projects”, including those outside EU territory (from so-called “third countries”), which enjoy accelerated procedures and financial support.⁵⁰

In June 2025, the Jadar project – the planned exploitation of lithium in western Serbia, in the Jadar River valley by the transnational corporation Rio Tinto through its subsidiary company Rio Sava Exploration – was included on the list of strategic projects in so-called “third countries”, in accordance with the CRMA.⁵¹

By its legal nature, the CRMA is a regulation of the European Union that has direct application in the EU member states; thus, it prescribes norms that bind them directly, without requiring prior transposition into their national legal systems. However, this does not apply to countries that are not EU members. Hence, it does not create direct legal obligations for the Republic of Serbia and other “third countries” where strategic projects are being implemented or planned

⁴⁸ Ibid.

⁴⁹ Official Journal of the European Union, Regulation (EU) 2024/1252 of the European Parliament and of the Council of April 11, 2024 establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) 2019/102, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024R1252&qid=1720020986785>, accessed August 27, 2025.

⁵⁰ Ibid.

⁵¹ Commission Decision of June 4, 2025 recognizing certain critical raw material projects located in third countries and in overseas countries or territories as Strategic Projects under Regulation (EU) 2024/1252 of the European Parliament and of the Council, C(2025) 3491 final, https://single-market-economy.ec.europa.eu/document/download/808502c2-21c7-4ca8-855f-ff0b528f91c4_en?filename=C_2025_3491_1_EN_ACT_part1_v4.pdf, accessed August 26, 2025.

in accordance with the CRMA. This regulation does prescribe certain obligations for the so-called project promoters who have nominated their projects to the Commission, as will be discussed further below.

The CRMA preamble defines “strategic partnership” as the commitment of the Union and a third country (or overseas country/territory) to increase cooperation on the raw materials value chain. This is established through a non-binding instrument that identifies actions of mutual interest. Such partnerships facilitate beneficial outcomes for both the Union and the relevant third country or overseas countries/territories, particularly regarding strategic projects.⁵² Thus, the EU has concluded several such strategic partnerships with the aim of implementing the 2020 Action Plan on critical raw materials, and the plan is to continue this, while periodically examining whether the partnerships are achieving the planned objectives.⁵³

The authors observe two fundamental problems with the CRMA as a legal act. First, the decision-making process for including projects on the strategic projects list is not clearly and precisely defined. Second, the regulation itself contains very general criteria and conditions for such decisions (see below in the analysis).⁵⁴ Consequently, this leaves room for discretionary interpretation by decision-makers, without an obligation to justify the inclusion or exclusion of a particular project from this list. The second major shortcoming lies in the lack of transparency. Non-governmental organizations and experts cannot participate meaningfully in the selection process, as the European Commission is not required to consider or respond to their submissions. There is no obligation to take third parties’ comments or objections into consideration, and the entire relationship is regulated on an inter partes basis, which is inadequate, particularly in the case of managing public goods and the interest that such projects may have for a country and its population.

This Regulation also established the so-called [European Critical Raw Materials Board](#), which has an advisory role vis-à-vis the European Commission and performs certain duties prescribed by the Regulation.⁵⁵ One such duty is to periodically discuss which third countries will be given priority for concluding strategic partnership agreements. The Regulation lists several criteria to be considered, including whether cooperation between the EU and the third country can enhance that country’s ability to ensure supervision, prevention and minimization of negative environmental impacts through its regulatory framework and its implementation, respect for human rights and workers’ rights, particularly with regard to forced and child labor, genuine cooperation with local populations, and proper functioning of public administration and the rule of law.⁵⁶

⁵² Critical Raw Materials Regulation, preamble, para. 65.

⁵³ Ibid., para. 64.

⁵⁴ Ibid., Art. 6.

⁵⁵ Ibid., Art. 35.

⁵⁶ Ibid., Art. 37 (1)(c).

The Regulation emphasizes that strategic projects should be implemented in accordance with the objectives of the European Green Deal, the principles of sustainable development and for the mutual benefit of the European Union and the respective “third” country.

As stated above, the CRMA also defines the criteria for designating a project as strategic. Namely, a project must contribute to EU objectives regarding security of supply, possess technical and financial sustainability, and meet requirements relating to environmental protection, human health and the participation of local communities.⁵⁷ Annex III of the Regulation prescribes that when assessing the fulfillment of criteria, the project’s compliance with both national law and international documents should be taken into account, including the International Labour Organization’s Tripartite Declaration on Multinational Enterprises, and OECD Guidelines for Multinational Enterprises and UN Guiding Principles on Business and Human Rights. The project is designed to contribute to strengthening multiple stages of the value chain in the country or region, stimulating private investment and creating broader economic and social benefits, including employment.

The CRMA also explicitly prescribes that the consent of the state on whose territory the implementation of that project is planned is crucial in the process of awarding strategic project status; that is, in the case of a potential project in a “third country”, upon receiving the application from the project promoter, the Commission must notify that state, and the application must not be approved before the Commission receives that state’s explicit consent.⁵⁸ An interesting provision of the same article requires that project promoters applying for strategic project status in third countries must attach an environmental improvement plan. This plan must aim to restore the extraction site to its previous environmental state, while considering technical and economic feasibility.⁵⁹

In July 2025, the NGO ClientEarth filed a complaint with the European Ombudswoman. It alleged that the Commission violated basic transparency rules in the Regulation when recognizing strategic projects. Specifically, the Commission denied access to reports on the ecological and social aspects of nominated projects, invoking exceptions under Art. 4(2) (protection of commercial interests) and Art. 4(3) (protection of internal consultations) of Regulation 1049/2001. However, ClientEarth argues that the Commission did not conduct the mandatory overriding public interest test, nor did it consider the special circumstances that require the publication of documents relating to environmental protection and human rights. Such conduct, according to the complaint, is contrary to obligations under the Aarhus Convention.⁶⁰ ClientEarth points out that these very documents are of crucial importance for assessing whether projects aspiring to strategic status comply with the criteria from Art. 6 of the CRMA, and thus, according to the complaint, not only has the principle of transparency been under-

⁵⁷ Ibid., Art. 6 (1)(e).

⁵⁸ Ibid., Art. 7 (8).

⁵⁹ Ibid., Art. 7 (1)(h).

⁶⁰ Law on Ratification of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters [in Serbian] (“Official Gazette of RS - International Treaties”, no. 38/2009);

mined, but the legitimacy of the entire procedure for recognizing strategic project status has been compromised.⁶¹

The project promoter is obliged to submit a report to the European Commission every two years after recognition of strategic project status, containing information on:

- progress in project implementation, particularly regarding the permitting process;
- reasons for any delays and a plan for overcoming those delays;
- the state of project financing, including information on public support.⁶²

The Commission may request additional information from the project promoter if necessary to verify whether the project continues to meet the criteria from Article 6.

The project promoter is obliged to inform the Commission of all changes that affect the fulfillment of strategic project criteria, and permanent changes in the control structure over the project. The Commission may adopt implementing acts establishing a uniform reporting template to harmonize the process and facilitate documentation, with the obligation that the required documentation be of reasonable scope.⁶³

Additionally, the project promoter must regularly update the company's website or project website with information relevant to the local population and to strengthen public acceptance of the project. This includes information on the environmental, social and economic impacts and benefits of the project. The website must be available free of charge and in the language or languages that the local population can understand.⁶⁴

The Regulation prescribes that when the Commission concludes that a strategic project no longer meets the prescribed criteria or if the application contained inaccurate information that affects the fulfillment of criteria, it has the right to withdraw the "strategic" status from such a project.⁶⁵ Nevertheless, this possibility remains insufficiently defined, both as to the procedure for withdrawing this status and as to the grounds for doing so.

IV CASE STUDY: JADAR

In 2001, the British-Australian mining corporation Rio Tinto established in Serbia its subsidiary Rio Sava Exploration d.o.o., which was issued a permit for conducting geological explorations

⁶¹ More about the complaint: <https://www.clientearth.org/media/u2ujcdna/complaint-to-the-european-ombudswoman-lack-of-transparency-in-crma-strategic-projects.pdf>.

⁶² Critical Raw Materials Regulation, Art. 8 (1).

⁶³ Ibid., Art. 8 (3).

⁶⁴ Ibid., Art. 8 (5).

⁶⁵ Ibid., Art. 7 (11).

and mining activities. Rio Tinto geologists discovered in 2004 a new mineral containing lithium and boron, named jadarite, after the Jadar River located near Loznica in western Serbia, the area where exploitation of this mineral is planned.⁶⁶

After several years in which the company conducted preparatory and exploration activities, and the project was not yet in the public eye, the Government of the Republic of Serbia launched an intensive campaign, effectively acting as a lobbying force for the implementation of the jadarite exploitation project. Alongside this governmental support,⁶⁷ strong resistance grew among concerned citizens, the scientific community, non-governmental organizations, opposition politicians, and activists.⁶⁸ One of the reasons for concern was the poor global reputation of the Rio Tinto corporation⁶⁹ and the experimental nature of the planned lithium exploitation. Experts warned from the start that there are currently only two mines in the world that use a similar lithium extraction process to the one planned in Jadar, both of which are located in unpopulated (desert) areas, unlike the project in Serbia, which would be implemented in a densely populated agricultural area.⁷⁰ A second concern relates to weak administrative capacity of the Republic of Serbia and the high level of corruption⁷¹ in public administration and society broadly, but also to Serbia's deteriorating rule of law rankings.⁷²

In 2020, the Government of Serbia adopted the Regulation Establishing the Spatial Plan of the Special Purpose Area for the Implementation of the Jadarite Mineral Exploitation and Processing Project "Jadar", which was intended to represent the planning basis for the implementation of this project.⁷³ Shortly after this, the first significant public opposition to the planned project emerged, primarily from the local population in the Jadar valley, due to the lack of information provided about the project.⁷⁴ This period saw a complete absence of communication between the investor company and the local population, as well as non-transparent

⁶⁶ "About the Company" [in Serbian] (Rio Tinto), <https://riotintoserbia.com/o-kompaniji-rio-tinto/>; "Jadar Project" [in Serbian] (Rio Tinto), <https://riotintoserbia.com/projekat-jadar/>, accessed August 30, 2025.

⁶⁷ "Memorandum of Understanding between the Government of Serbia and Rio Tinto on Jadar Project" (Rio Tinto) July 24, 2017, <https://www.riotinto.com/en/news/releases/2017/jadar-mou-serbia-signed>, accessed August 30, 2025.

⁶⁸ "Dissatisfied citizens of Serbia increasingly vocal against Rio Tinto's investment in jadarite mine" [in Serbian] (Balkan Green Energy News), November 6, 2020, <https://balkangreenenergynews.com/rs/nezadovoljni-gradjani-srbije-sve-glasni-ji-protiv-investicije-rio-tinta-u-rudnik-jadarita/>.

⁶⁹ "How Rio Tinto destroyed Aboriginal caves" [in Serbian] (Nova.rs), April 25, 2021, <https://nova.rs/vesti/drustvo/kako-je-rio-tinto-unistio-pecine-aboridzina/>, accessed August 30, 2025.

⁷⁰ "Why a lithium mine project in Serbia worries the European Union", an article by Tatjana Dordevic (Aspenia online), October 21, 2024, <https://aspeniaonline.it/why-a-lithium-mine-project-in-serbia-worries-the-european-union/>.

⁷¹ "Corruption Perceptions Index, Serbia" (Transparency International), <https://www.transparency.org/en/cpi/2024/index/srb>, accessed August 30, 2025.

⁷² "Rule of Law Index, Serbia" (World Justice Project), <https://worldjusticeproject.org/rule-of-law-index/country/2024/Serbia/>, accessed August 30, 2025.

⁷³ "Official Gazette of RS" [in Serbian], no. 26/20.

⁷⁴ "Dissatisfied citizens of Serbia increasingly vocal against Rio Tinto's investment in jadarite mine" [in Serbian] (Balkan Green Energy News), November 6, 2020, <https://balkangreenenergynews.com/rs/nezadovoljni-gradjani-srbije-sve-glasni-ji-protiv-investicije-rio-tinta-u-rudnik-jadarita/>.

conduct by the state and a campaign targeting those who expressed any doubt regarding this project.

In such circumstances, citizens feared possible negative consequences for health and the environment. Rio Tinto's announcement that it planned to open the mine as early as 2022 led to the first mass protest in April 2021, with demands that the state protect the environment and public health; new protests followed in September of the same year.⁷⁵ During this period, again without adequate public consultation, the Government of Serbia proposed amendments to the Law on Expropriation, which would enable easier land expropriation, and amendments to the Law on Referendum and Popular Initiative, which introduced restrictions on holding referendums.⁷⁶ These proposed amendments received support from the President of the Republic,⁷⁷ while citizens perceived them as a way to facilitate the path for the implementation of this concrete project and the opening of a lithium mine⁷⁸ through a simplified procedure. The controversial amendments were eventually withdrawn from the legislative process under public pressure, but protests continued.⁷⁹ In January 2022, Serbian citizens blocked roads in multiple locations for the fifth time – consequently, the Government of Serbia annulled the Regulation on the Spatial Plan for the Jadar project.⁸⁰

Before the annulment of the Spatial Plan, the Ministry of Environmental Protection in July 2021, based on the request for establishing the scope and content of the environmental impact study for the Jadar project, which was submitted by the company Rio Sava Exploration, initiated the environmental impact assessment procedure for the related project. In January 2022, the Administrative Commission of the Government of Serbia annulled the Ministry's initial decision on the submitted request for establishing the scope and content of the study.

⁷⁵ "Thousands of environmental protesters demand that Serbia cancel all obligations to Rio Tinto" [in Serbian] (Balkan Green Energy News), September 11, 2021, <https://balkangreenenergynews.com/rs/hiljade-ekoloskih-ustanika-trazi-lo-da-se-poniste-sve-obaveze-srbije-ka-rio-tintu/>.

⁷⁶ "What is controversial about the laws being protested in Serbia?" [in Serbian] (Radio Free Europe), December 8, 2021, <https://www.slobodnaevropa.org/a/srbija-protesti-zakon/31599642.html>.

⁷⁷ "President of Serbia in favor of amendments to the expropriation law" [in Serbian] (Radio Free Europe), December 4, 2021, <https://www.slobodnaevropa.org/a/vucic-rio-tinto-nedeljice/31593898.html>.

⁷⁸ "Thousands Rally In Serbia Against Expropriation Law, Lithium Mine", Radio Free Europe November 25, 2021, <https://www.rferl.org/a/serbia-mining-lithium-expropriation-/31577972.html>, "Rio Tinto lithium mine: thousands of protesters block roads across Serbia", The Guardian, December 5, 2021, <https://www.theguardian.com/world/2021/dec/05/rio-tinto-lithium-mine-thousands-of-protesters-block-roads-across-serbia>.

⁷⁹ "Serbia Eco Protests to Continue Despite Backdown Over Disputed Laws", Balkan Insight, December 10, 2021, <https://balkaninsight.com/2021/12/10/serbia-eco-protests-to-continue-despite-backdown-over-disputed-laws/>.

⁸⁰ "Serbia scraps plans for Rio Tinto lithium mine after protests", The Guardian, January 21, 2022, <https://www.theguardian.com/world/2022/jan/20/serbia-scraps-plans-for-rio-tinto-lithium-mine-after-protests>;

Regulation on the Termination of Validity of the Regulation on Establishing the Spatial Plan of the Special Purpose Area for the Implementation of the Jadarite Mineral Exploitation and Processing Project "Jadar" [in Serbian], "Official Gazette of RS" no. 8/22.

After that, in accordance with the Law on Referendum and Popular Initiative,⁸¹ in May 2022, a popular initiative for a ban on lithium and boron exploitation, signed by more than 38,000 citizens, reached the National Assembly of the Republic of Serbia. The National Assembly had the obligation to schedule a debate on the proposal that is the subject of the popular initiative within 6 months at the latest.⁸² However, this was never done,⁸³ with the explanation that all (certified) signatures, together with the initiative, were lost after submission. This explanation is illogical and unconvincing. More importantly, no one was held accountable – politically or criminally – for this gross violation of the law and fundamental democratic principles.

Even after the Government annulled the Spatial Plan at the beginning of 2022, the Rio Tinto company repeatedly requested deadline extensions for submitting missing documentation to obtain an exploitation permit, which the Ministry of Mining and Energy informally granted on multiple occasions, contrary to Serbian regulations.⁸⁴ In accordance with the law, an incomplete application of this type must be rejected; however, instead of this, the Ministry continued to extend the deadline indefinitely, on multiple occasions and based on oral communication with the investor.

In 2024, the Rio Tinto project was fully revived, and the turning point was the controversial decision of the Constitutional Court of July 11, 2024, which ruled that the previous annulment of the Spatial Plan by the Government of RS was contrary to the Constitution of Serbia.⁸⁵ Following that decision, the Government reinstated the Spatial Plan,⁸⁶ by adopting the Regulation on the Application of the Regulation on Establishing the Spatial Plan of the Special Purpose Area for the Implementation of the Jadarite Mineral Exploitation and Processing Project “Jadar”.⁸⁷ This effectively returned the project to its status prior to the Government’s 2022 decision.

The Constitutional Court’s decision was highly controversial, as both its legal basis and technical reasoning faced well-founded criticism. The reasoning itself suffers from inconsistency, informal style, and the judges’ failure to distinguish between two completely different regulations – the Law on Environmental Impact Assessment and the Law on Strategic Environmental Impact Assessment. In addition, the decision was not adopted unanimously: two judges is-

⁸¹ Official Gazette of RS [in Serbian], nos. 111/21 and 119/21, Art. 56.

⁸² Law on Referendum and Popular Initiative [in Serbian], (“Official Gazette of RS”, nos. 111/21 and 119/21), Art. 69.

⁸³ “Where did 38,000 signatures for banning lithium mining disappear: Don’t Let Belgrade D(r)own demands special Assembly session” [in Serbian] (Nova.rs), March 5, 2023, <https://nova.rs/vesti/politika/gde-je-nestalo-38-000-potpisa-za-zabranu-iskopavanja-litijuma-ne-davimo-beograd-trazi-posebnu-sednicu-skupstine/>.

⁸⁴ “Ministry of Mining and Energy improperly extends Rio Tinto’s deadline for obtaining lithium exploitation permit” [in Serbian] (RERI), April 11, 2023, <https://reri.org.rs/ministarstvo-rudarstva-i-energetike-neopravdano-produzava-rok-kompaniji-rio-tinto-za-dobijanje-dozvole-za-eksploataciju-litijuma/>.

⁸⁵ Constitutional Court Decision [in Serbian]: <https://drive.google.com/file/d/1FOZ8uyeBEbDKk7uqVqZZ6ADCPXAW3ANh/view?usp=sharing>.

⁸⁶ “Government of Serbia ‘brought back to life’ the Jadar project, welcomed by Rio Tinto, condemned by environmental activists” [in Serbian] (Radio Free Europe), July 16, 2024, <https://www.slobodnaevropa.org/a/rio-tinto-litijum-vlada-srbije/33038609.html>;

⁸⁷ Official Gazette of RS [in Serbian], no. 60/24.

sued separate opinions regarding this decision. These opinions, however, are also inadequately reasoned and appear – in the authors' view – to serve more as personal justifications for the judges' votes rather than substantive legal analysis, thus offering no additional legal value.

Immediately before this, numerous pro-government media began an intensive campaign in favor of lithium mining, presenting the project's return as a foregone conclusion, thereby effectively foreshadowing the outcome of the Constitutional Court's decision and further intensifying pressure on that institution. In that process, the President of Serbia⁸⁸ once again played the most prominent role, publicly announcing that he would personally insist on strong guarantees regarding ecological and health standards – although, according to the Constitution and existing legislation, he has no formal authority regarding the implementation of this project.

Shortly after the Constitutional Court's decision, a summit was held in Belgrade at which Serbia and the European Union signed a Memorandum of Understanding (MoU) on strategic partnership in the field of strategic raw materials, and supply chains in the field of batteries and electric vehicles. The MoU was signed in the presence of Serbian President Aleksandar Vučić and then-German Chancellor Olaf Scholz.⁸⁹

Particularly surprising – and alarming – is the fact that previously, in September 2023, during the period when the project was officially suspended by the Government of Serbia, the European Commission and the Government of Serbia signed a Letter of Intent to deepen cooperation in the field of critical raw materials and electric vehicles. Serbian citizens became aware of this only through the above-described MoU, and it is particularly concerning that something like this was done in anticipation of the Constitutional Court's decision. This should be viewed as yet another form of political pressure on the Constitutional Court aimed at legally reviving this project in Serbia, which ultimately happened.

From the end of July to the beginning of August 2024, protests against lithium mining were organized throughout Serbia, encompassing a total of 48 cities and municipalities.⁹⁰ The most massive gathering was held on August 10 in Belgrade, when tens of thousands of people took to the streets demanding a complete ban on lithium and boron exploration and exploitation, and pointing to serious risks to citizens' health and the environment. Just a few hours after

⁸⁸ "Vučić: Lithium will not be mined for at least another four years, I demand guarantees for the people of Rađevina" [in Serbian], July 4, 2024, <https://n1info.rs/vesti/vucic-litijum-se-nece-iskopavati-bar-jos-cetiri-godine-trazim-garancije-za-ljudu-u-radjevini/>.

⁸⁹ "Serbia and EU signed memorandum supporting the opening of Rio Tinto's lithium mine" [in Serbian], Balkan Green Energy News, July 19, 2024, <https://balkangreenenergynews.com/rs/srbija-i-eu-potpisale-memorandum-koji-podrzava-otvaranje-rudnika-litijuma-rio-tinta/>.

⁹⁰ "Protests against lithium mining throughout Serbia" [in Serbian], Balkan Green Energy News, July 29, 2024, <https://balkangreenenergynews.com/rs/sirom-srbije-protesti-protiv-iskopavanja-litijuma/>; "Rio Tinto, get out of Serbia": Protests against lithium mining held in Pančevo, Topola", N1, August 2, 2024, <https://n1info.rs/english/news/rio-tinto-get-out-of-serbia-protests-against-lithium-mining-held-in-pancevo-topola/>; "Protests Flare Up In Serbian Towns Over Reversal On Huge Lithium Mine", RadioFreeEurope, August 2, 2024, <https://www.rferl.org/a/serbia-rio-tinto-lithium-mine-protests/33059581.html>.

that rally, arrests took place: a total of 14 people were suspected of committing criminal offenses, three on misdemeanor charges, while two foreign citizens were detained for being in proximity to state institutions.⁹¹ Particular attention was drawn to the fact that three activists were imprisoned for allegedly committing a misdemeanor, which can be assessed as a precedent in Serbian judicial practice. One of the arrested citizens was sentenced to 40 days in prison, and two to 30 days each, based on the Law on Public Peace and Order, with charges of “crude, brazen and reckless behavior” in a group.⁹² According to their statements, only two of these individuals were present at the scene during the alleged incident, while the third was not even there, although he was included in the verdict. Such qualification was obviously intended to treat the arrested persons as a “group,” because for this misdemeanor, the law provides for monetary fines or community service as penalties for individuals, while in the case that the same offense was committed in a group (at least three persons), a prison sentence of 30 to 60 days can also be imposed. Parallel to the court proceedings, pro-government tabloids launched a campaign labeling activists as “hooligans” and “thugs”⁹³ and President Vučić himself further stigmatized them by calling them Marxists and anarchists who behave like imbeciles.⁹⁴ All circumstances indicate strong political pressure behind such decisions, which was confirmed by the fact that the Court of Appeals annulled the verdict just three days later and ordered the release of the activists, thereby clearly showing that the initial decision of the Misdemeanor Court was unlawful.

In September 2024, the Rio Tinto company submitted to the Ministry of Environmental Protection a new request for establishing the scope and content of the environmental impact assessment study for the Jadar project. The Ministry responded on November 15, 2024, by adopting a decision establishing the scope and content of the study. Renewables and Environmental Regulatory Institute (RERI) then filed a lawsuit seeking to annul the decision as unlawful.⁹⁵ The procedure is currently under review by the Administrative Court, after the Government of Serbia upheld the first-instance decision. Problematically, the lawsuit does not suspend execution of the decision, meaning the investor may continue project implementation even while the Administrative Court reviews its legality. Considering that the Administrative Court typically takes 3-5 years to decide such cases, it is clear that the project could, theoretically, be fully implemented before the Administrative Court rules that the decision was unlawful.

⁹¹ “Detention for three activists after protest in Belgrade” [in Serbian] (Radio Free Europe), August 11, 2024, <https://www.slobodnaevropa.org/a/privedeni-aktivisti-beograd-protest-litijum/33074431.html>.

⁹² Official Gazette of RS [in Serbian], nos. 6/2016 and 24/2018, Art. 8.

⁹³ “Đilas’s and Šolak’s hooligans attacked Informer’s news crew! They assaulted a journalist and cameraman, angry mob surrounded them and poured beer on them (VIDEO)” [in Serbian], Informer, August 11, 2024, <https://informer.rs/politika/vesti/933607/dilasovi-i-solakovi-huligani-napali-ekipu-informera-nasrnuli-na-novinarku-i-kamermana-besna-rulja-ih-opkolila-i-polivala-pivom-video>.

⁹⁴ “Vučić on the attack on Informer’s journalist: An angry mob surrounded her, pushed a sandwich in her mouth and poured beer on her (VIDEO)” [in Serbian], Informer, August 11, 2024, <https://informer.rs/politika/vesti/933702/vucic-o-napadu-na-novinarku-informera>.

⁹⁵ <https://reri.org.rs/rudnik-ni-na-nebu-ni-na-zemlji/> [in Serbian];

The previous decision on the scope and content of the study for the same project, which the Ministry adopted on August 18, 2021, was annulled by the decision of the Government of Serbia on January 25, 2022. Despite this, the company again submitted a request for establishing the scope and content in September 2024. The Ministry's latest decision of November 15, 2024, does not represent a final or binding act. In addition, the CRMA explicitly stipulates that such decisions must be made within a period not exceeding 45 days from the submission of the request, which in this case was not observed, indicating limited administrative capacities of the relevant authorities in Serbia to implement obligations under the CRMA.

The requests from 2021 and 2024 both rely on the existing Law on Environmental Impact Assessment, which is not aligned with the requirements of Directive 2011/92/EU. In the authors' opinion, Rio Tinto employed a strategy commonly known as salami slicing through both procedures. This strategy has been used by many previous investors in the Republic of Serbia. It involves dividing one integral project into several smaller segments to avoid comprehensive assessment of the overall environmental and health impacts. Ultimately, each fragmented "part" of the project appears less invasive than the collective impact of the integral project.

Both requests addressed exclusively underground exploitation and did not include the ore processing facility, mining waste disposal, water treatment systems, or the infrastructure necessary for the implementation of this project. As already mentioned, such "project division" in practice is not an isolated case, but rather a widespread practice in the Republic of Serbia, largely enabled by the authorities. Such behavior is characteristic of companies from outside the European continent,⁹⁶ as well as those from EU member states.⁹⁷ Unfortunately, the Government of Serbia and other relevant institutions do not sanction such unlawful conduct; rather, they appear to actively support investors and facilitate illegal activities, especially in "projects of strategic interest" for the Republic of Serbia.

Given that similar projects in Serbia have so far been marked by numerous illegalities and irregularities, there is justified concern that the Jadar project would have a similar negative impact on the environment and human rights. Experience to date provides little confidence. The operations of Zijin Mining and Zijin Copper in Bor serve as blatant examples of environmental pollution, violations of existing laws and fundamental human rights by a mining company in Serbia.⁹⁸

⁹⁶ O tempora, o mores! Case study of tire factory construction in Zrenjanin #2 [in Serbian], <https://reri.org.rs/publikacija/o-tempora-o-mores-studija-slucaja-izgradnje-fabrike-guma-u-zrenjaninu-2/>.

⁹⁷ This practice of project fragmentation in Serbia is explained in detail in the RERI publication "Application of the Law on Environmental Impact Assessment in the Republic of Serbia – twenty lost years" [in Serbian], p. 28, <https://reri.org.rs/wp-content/uploads/2024/07/Primena-Zakona-o-proceni-uticaja-na-zivotnu-sredinu-u-R-Srbiji.pdf>.

⁹⁸ "RERI: Zijin Zgrade has operated unimpeded for more than three years without necessary permits" [in Serbian] (N1), April 30, 2025, <https://n1info.rs/vesti/reri-zidjin-zagradje-neometano-radi-vise-od-tri-godine-bez-potrebnih-dozvola/>; "Criminal complaint against Zijin for environmental pollution" [in Serbian] (N1) July 10, 2025, <https://n1info.rs/zeleni-kutak/krivica-na-prijava-protiv-zidjina-zbog-zagadjjenja-zivotne-sredine/>; "Zijin sentenced to two million dinars for illegal construction in Bor" [in Serbian] (RERI) September 6, 2024, <https://reri.org.rs/zijin-osudjen-na-dva-miliona-dinara-zbog-nelegalne-izgradnje-u-boru/>.

For any mining project to be considered in Serbia going forward, fundamental requirements must first be met: respect for stakeholder inclusion and participation and, above all, full compliance with environmental protection and human health regulations. Additionally, Serbia must improve public administration, establish an independent judiciary, implement transparent and high-quality environmental impact assessment procedures, create efficient control (inspection) mechanisms, and ensure access to timely and objective information.⁹⁹ Without respect for these basic principles, the implementation of such projects carries a high level of risk.

V THE IMPACT OF MINING ON THE ENVIRONMENT, HEALTH AND SOCIETY IN SERBIA

Serbia faces the challenge of aligning its mineral and geological resource management policy with environmental protection requirements, the values and objectives of the European Green Deal, the Green Agenda for the Western Balkans, and international instruments for responsible business conduct in mining. Mining activities can lead to land degradation, water pollution, endangerment of health, and human rights. The expansion of mining in the last decade in Serbia coincides with a worrying erosion of democracy and the rule of law, evident decline in the capacity of public institutions that cannot ensure the application of environmental protection standards, prevention, elimination or reduction of negative environmental impacts, supervision of regulatory implementation, and sanctioning in cases of law violations.

In the mining sector and in Serbia's planning system generally, there is an obvious systemic lack of both a strategic framework and basic social agreement on development directions. This results in negative impacts of mining on the environment and society. Before any social dialogue was initiated about increasing mineral resource exploitation as a development opportunity or as a risky venture, extractivism became the dominant development paradigm in Serbia. The commitment to extensive exploitation of natural and mineral resources for the sake of short-term economic growth and private company profits, while neglecting impacts on the environment and society, is being pursued haphazardly, without appropriate impact assessments, public participation, and long-term development vision.

The Draft Strategy for Managing Mineral and Other Geological Resources of the Republic of Serbia for the period from 2025 to 2040, with projections to 2050, proposes an accelerated development scenario. The accelerated mining development scenario is characterized by coal production of 40,000,000 tonnes with partial imports, increased exploitation and production

⁹⁹ "Lithium mining in Serbia: An open and productive debate is not possible", Heinrich-Böll-Stiftung, July 19, 2024, <https://eu.boell.org/en/2024/07/19/lithium-mining-serbia-open-and-productive-debate-not-possible>.

of copper, gold, silver, the opening of a lithium mine with annual production of 58,000 tonnes and the initiation of cobalt and nickel production at 20,000 tonnes annually.¹⁰⁰

The Republic of Serbia does not have a state development plan which, as the highest-level and long-term development planning document, should have been adopted five years ago.¹⁰¹ However, the Government only adopted the Regulation on the Procedure for Preparing the Draft Development Plan of the Republic of Serbia in June 2023, and in April 2025, by amending the Regulation, established a deadline for forming an expert group.¹⁰² The preparation of the Development Plan of the Republic of Serbia should have ensured the broadest social dialogue and agreement on the development priorities of the entire society, including long-term goals and plans for managing natural and mineral resources. But this did not happen at all.

The Republic of Serbia has also not established the goal of mining and geological exploration development and strategic directions of action in this area through the Strategy for Managing Mineral and Other Geological Resources of the Republic of Serbia.¹⁰³ This strategy was only recently made available for public review, and the public consultation on this strategic document was accompanied by unprecedented measures to prevent the public from participating in the public presentation, with police assistance.¹⁰⁴

The planning framework is further undermined by the fact that the Spatial Plan of the Republic of Serbia has still not been adopted, given that the previous one was valid for the period up to 2020.¹⁰⁵ The new spatial plan has still not been adopted, although the draft was presented to the public back in 2021. However, despite the incomplete national spatial planning framework, land use and resource management planning in Serbia is happening haphazardly and

¹⁰⁰ Draft Strategy for Managing Mineral and Other Geological Resources of the Republic of Serbia for the period from 2025 to 2040, with projections to 2050 [in Serbian], p. 58.

¹⁰¹ Article 53 of the Law on the Planning System [in Serbian] ("Official Gazette of RS", no. 30/18) establishes the Government's obligation to submit to the National Assembly a proposal for the Development Plan no later than January 1, 2020, that is, slightly less than two years from the adoption of this law.

¹⁰² Regulation on the Procedure for Preparing the Draft Development Plan of the Republic of Serbia [in Serbian] ("Official Gazette of RS", nos. 54/23 and 33/25).

¹⁰³ The Proposal for the Strategy for Managing Mineral Resources of the Republic of Serbia until 2030 was sent to the National Assembly for consideration in March 2012: http://www.parlament.gov.rs/Pedeset_tre%C4%87a_sednica_Odbora_za_industriju_15090.941.html. Although the Law on Mining and Geological Explorations [in Serbian] ("Official Gazette of RS" no. 101/15) provided for the development of a strategy, ten years after the adoption of this law the strategy has not been adopted.

¹⁰⁴ Public consultations and public discussion on the Draft Strategy for Managing Mineral and Other Geological Resources of the Republic of Serbia were initiated in June 2025 [in Serbian]: <https://www.mre.gov.rs/tekst/10821/-javne-konsultacije-i-javna-rasprava-nacrt-strategije-upravljanja-mineralnim-i-drugim-geoloskim-resursima-republike-srbije-php>.

After several postponements, the public presentation of the Draft Strategy for Managing Mineral and Other Geological Resources was held at the premises of the Serbian Chamber of Commerce on August 7, 2025. On that occasion, despite the fact that the hall was mostly empty, police and private security did not allow citizens, activists, experts and members of parliament to enter the public presentation [in Serbian]: <https://n1info.rs/vesti/na-ulazu-u-pks-privatno-obezbedjenje-na-drugom-interventna-pesnice-i-guranje-ulicna-rasprava-umesto-javne/>.

¹⁰⁵ Law on the Spatial Plan of the Republic of Serbia from 2010 to 2020 [in Serbian] ("Official Gazette of RS", no. 88/10).

in a piecemeal manner – most often using special purpose area plans as an instrument for planning in accordance with particular and immediate interests. Developers of such plans selectively cite either the 2010 Spatial Plan or the 2021 Draft Spatial Plan – depending on which serves their argument.

With approximately 130 km² of land covered by mining activities, Serbia ranks among the ten European countries with the largest absolute mining area in relation to the total area of the state.¹⁰⁶ Serbia annually generates approximately 170 million tonnes of mining waste, of which 76.9% is non-hazardous and 23.1% is hazardous waste.¹⁰⁷ Mining waste undoubtedly represents the largest source of waste generation in Serbia. The total amount of waste, excluding mining waste, in the Republic of Serbia in 2023 was 10,888,212 tonnes.¹⁰⁸ The State Audit Institution points out that the mining waste management system in the Republic of Serbia is not effective.¹⁰⁹ In 2024, as much as 22% of wastewater in industry was generated in the mining sector, of which only 12% was treated, which is less than the 16% that was treated during 2023, and certainly less than the 50.7% that was treated in 2011.¹¹⁰

The weaknesses of institutions that cannot ensure the application of regulations and environmental protection standards in mining are also evidenced by the alarming fact that in Serbia not a single operator has a permit for the collection, transport, treatment and disposal of mining waste.¹¹¹ The alarming situation is not alleviated by the State Audit Institution's finding from 2022 that only one operator disposes of and manages mining waste based on a mining waste permit and mining waste management plan.¹¹² The State Audit Institution also concluded that an effective system for submitting and controlling the accuracy of data on the quantities produced and character of mining waste has not been established, and that there is no electronic or other database on total quantities of mining waste and mineral raw materials.¹¹³

It is precisely the deficiency highlighted by the State Audit Institution that should have been resolved much earlier by the project “Cadaster of Mining Waste of the Republic of Serbia” fi-

¹⁰⁶ Maus, Victor; da Silva, Dieison M; Gutschlhofer, Jakob; da Rosa, Robson; Giljum, Stefan; Gass, Sidnei L B; Luckeneder, Sebastian; Lieber, Mirko; McCallum, Ian (2022): Global-scale mining polygons (Version 2) [dataset]. PANGAEA, <https://doi.org/10.1594/PANGAEA.942325>.

¹⁰⁷ Statistical Office of the Republic of Serbia, [Generated and Treated Waste](#), 2023 [in Serbian]. Data for 2023 are presented to be comparable with data from the Environmental Protection Agency for that same year (author's note).

¹⁰⁸ Ministry of Environmental Protection, Environmental Protection Agency, [Waste Management in the Republic of Serbia in the period 2011-2023](#) [in Serbian], Belgrade, September 2024, p. 6.

¹⁰⁹ State Audit Institution, Report on Performance Audit: Hazardous Waste Management [in Serbian], Belgrade, December 2022, p. 2.

¹¹⁰ Jovan Cvjetinović, Ljubica Vukčević, Hristina Vojvodić and Marija Martić, [\(In\)visible Pollution: Industrial Wastewater Management in Serbia](#) [in Serbian], Regulatory Institute for Renewable Energy and Environment, May 2025.

¹¹¹ Waste Management Program in the Republic of Serbia for the period 2022-2031 [in Serbian] (“Official Gazette of RS”, no. 12/22).

¹¹² State Audit Institution, Report on Performance Audit: Hazardous Waste Management [in Serbian], Belgrade, December 2022, p. 3.

¹¹³ Ibid., p. 6.

nanced by the EU.¹¹⁴ As one of the environmental protection measures in the Draft Spatial Plan of the Republic of Serbia, the development of a cadaster of abandoned mines and mining facilities is envisaged, as well as the remediation and reclamation of abandoned mining facilities.¹¹⁵

As early as 2018, data were collected on 250 abandoned mining waste sites (landfills) in the Republic of Serbia, of which 41 sites were selected for detailed research and analysis due to their potential impact on the environment, safety and human health.¹¹⁶ In official documents of the Republic of Serbia, data on the results of this project can be found indicating the existence of over 200 active mines with mining waste deposits, 250 abandoned and inactive mining waste sites, of which 41 sites were characterized as high risk for the environment and human health.¹¹⁷ The project was supposed to offer the public detailed and up-to-date data on mining landfills in Serbia and provide a basis for environmental analysis and planning regarding mining waste resolution. However, the database is no longer available on the Ministry of Mining and Energy's website, except for limited data on 41 abandoned mining waste landfills.¹¹⁸

Environmental protection is ensured, above all, through preventive action, in accordance with the principle that prevention is better than cure. The principle of prevention and precaution requires that every activity must be planned and implemented in a manner that:

- causes the least possible change in the environment;
- represents the least risk to the environment and human health;
- reduces spatial burden and consumption of raw materials and energy in construction, production, distribution and use;
- includes the possibility of recycling; prevents or limits environmental impact at the source of pollution itself.

The principle of precaution is implemented through environmental impact assessment and the use of best available and accessible technologies, techniques and equipment.¹¹⁹

It is precisely for this reason that, in the process of European integration, preventive environmental protection instruments were introduced into the legal framework of the environmental protection system in Serbia as early as 2004: environmental impact assessment, strategic

¹¹⁴ EU in Serbia: [Mining Waste Cadastre in Serbia with support from the EU Delegation](#) [in Serbian], September 3, 2018.

¹¹⁵ Draft Spatial Plan of the Republic of Serbia from 2021 to 2035 [in Serbian], p. 201.

¹¹⁶ EU in Serbia, [Mining Waste Cadastre in Serbia with support from the EU Delegation](#) [in Serbian], September 3, 2018.

¹¹⁷ Ministry of Agriculture, Forestry and Water Management, Republic Water Directorate, Water Management Plan on the Territory of the Republic of Serbia [in Serbian].

¹¹⁸ BIRN, [Mines and landfills in Serbia: Mining waste cadastre - forgotten state project paid two million euros](#) [in Serbian], Miodrag Marković, October 22, 2024; Ministry of Mining and Energy, Mining Waste Cadastre [in Serbian]: <https://kro.mre.gov.rs/jkro/>.

¹¹⁹ Law on Environmental Protection [in Serbian] ("Official Gazette of RS" nos. 135/04, 36/09, 36/09, 72/09, 43/11, 14/16, 76/18, 95/18, 95/18 and 94/24).

environmental assessment, and integrated pollution prevention and control. However, not even 20 years after the adoption of regulations, Serbia has not established a functional system of preventive environmental protection, which has undoubtedly contributed to ineffective environmental protection in the field of mining.

MEMORANDUM OF UNDERSTANDING IN THE FIELD OF CRITICAL RAW MATERIALS BETWEEN THE EUROPEAN UNION AND SERBIA

Given Serbia's weaknesses regarding prevention and environmental protection in the field of mining, one might expect the EU-Serbia critical raw material strategic partnership to be founded on critical analysis and firm guarantees. Specifically, improved environmental protection and human rights standards should be indispensable preconditions for considering critical raw materials exploitation. The Memorandum of Understanding, signed between the EU and Serbia in July 2024, was announced as setting preconditions for a partnership that "aims to support the development of new local industries and high-quality jobs along the electric vehicle value chain in full respect of high environmental and social standards while addressing the concerns of local communities with full transparency".¹²⁰ However, the document appears to neglect the real situation in Serbia regarding mining's environmental impact. The Memorandum emphasizes that signatory parties agree to ensure full respect for human rights and high environmental protection standards through cooperation.¹²¹ However, the assessment of Serbia's legal and strategic framework development is extremely optimistic compared to the current situation and the European Commission's assessments in its annual reports. Namely, the Memorandum states that "in recent years there have been a number of significant events that were taken into account when establishing this partnership," where a series of laws and regulations adopted in Serbia are listed, but the considerable delay in harmonizing regulations in Serbia with the EU acquis in the field of environmental protection is completely neglected. The importance of the Law on Environmental Impact Assessment and the Law on Strategic Environmental Assessment is also highlighted, although these regulations had not been adopted at all at the time of signing the Memorandum. The European Commission in its reports firmly adhered to the methodological rule that progress in transposition of the EU acquis is recorded only in relation to adopted laws, but not in relation to drafts or proposals.

Otherwise, in the report for 2023, the European Commission assessed the current situation in Serbia in Chapter 27 (environment and climate change) as having "some level of preparation," which is only one step above "early stage" as the weakest level of preparedness. Regarding progress in the reporting period, Serbia was assessed as having made "some progress." Such

¹²⁰ European Commission, EU and Serbia sign strategic partnership on sustainable raw materials, battery value chains and electric vehicles: https://ec.europa.eu/commission/presscorner/detail/en/ip_24_3922, July 19, 2024.

¹²¹ Memorandum of Understanding Between the European Union and the Republic of Serbia on a Strategic Partnership on Sustainable Raw Materials, Battery Value Chains and Electric Vehicles: https://single-market-economy.ec.europa.eu/document/6fe0e605-9299-45c3-b846-2efb85585251_en.

an assessment by the European Commission in the report does not align with the optimistic assessments contained in the Memorandum.

The Memorandum establishes a partnership that should be “open, transparent and inclusive, and provide for a strong public-private multi-level partnership engaging representatives of EU institutions and bodies, industrial actors, business associations, social partners, representatives of civil society from both sides, as well as relevant ministries of interested Member States and Serbia.” This document particularly emphasizes respect for the principle of transparency. However, such an approach has not been confirmed in practice. Namely, the Memorandum envisages the development of a strategic roadmap within 6 months from the date of its signing. There is no indication that such a document has been drafted or published, or that the signatory parties adhered to the principles of transparency and inclusiveness during the preparation of the strategic roadmap. Also, the public in Serbia is not familiar with the outcome of the annual ministerial-level meetings envisaged by the Memorandum, or whether these meetings were held at all. Supervision of the implementation of the Memorandum should be carried out by a working group composed of senior officials, yet here too, the public in Serbia has not been informed whether this working group has met and what the outcomes of those meetings were.

Although the Memorandum of Understanding is not a document that creates rights and obligations between the signatory parties, it envisages some concrete steps that should ensure monitoring of its implementation, defining strategic directions of cooperation, and respect for the principles of inclusiveness and transparency. The public reaction in Serbia to the signing of the Memorandum – more precisely, the months-long protests that followed – at the very least demanded full openness from both signatory parties, regular public information, and strict monitoring of Serbia’s progress in improving environmental protection standards. However, the provisions of the Memorandum relating to transparency and stakeholder participation have so far remained only on paper.

VI DEFICIENCIES IN POLLUTION PREVENTION MECHANISMS THROUGH ENVIRONMENTAL IMPACT ASSESSMENT USING: THE CASE OF THE JADAR PROJECT

The weaknesses of the preventive environmental protection system through environmental impact assessment became evident during the procedures for establishing the scope and content of the environmental impact assessment study for the underground exploitation project of lithium and boron deposits by the company “Rio Sava Exploration”.¹²² In this procedure, methods were applied that investors use to present environmental impacts as smaller than they actually are, including project fragmentation (so-called salami slicing) and neglecting the conditions and approvals of other relevant authorities in the environmental impact assessment procedure. This case points to broader, systemic deficiencies in the application of the Law on Environmental Impact Assessment in Serbia, and to an institutional framework that enables, and even encourages, practices that lead to minimizing the real impacts of projects on the environment and making decisions without adequate protection measures.¹²³

Rio Tinto company resorted to dividing a single project into several smaller units, which is immediately noticeable because the company submitted a request for establishing the scope and content of the environmental impact assessment study exclusively for underground exploitation of lithium and boron deposits.¹²⁴ Such an approach ignores the fact that the planned project in the Jadar valley encompasses underground exploitation, ore processing, mining waste disposal at a landfill, water extraction from the Drina River alluvium, and construction of infrastructure for the project’s implementation.

Consequently, the request itself does not show the impact of ore processing on the environment. It is not known which types of reagents will be used, which types of waste and waste-

¹²² The company submitted the request on September 17, 2024. (The request that this company submitted in 2021 will not be analyzed here). More information about the submitted request is available at RERI: Rio Tinto - Salami slicing according to “the highest European environmental protection standards” [in Serbian]: <https://reri.org.rs/rio-tinto-salami-slicing-po-na-ivisim-evropskim-standardima-zastite-zivotne-sredine/>, October 7, 2024.

¹²³ For more details on problems in applying the Law on Environmental Impact Assessment, see: Application of the Law on Environmental Impact Assessment in the Republic of Serbia - twenty lost years [in Serbian], Regulatory Institute for Renewable Energy and Environment, Belgrade 2024.

The Law on Environmental Impact Assessment was adopted in 2004, and amendments to this law were adopted in May 2009. The new Law on Environmental Impact Assessment, which is currently in force, was adopted in November 2024 and entered into force on December 6, 2024. Neither the law from November 2024, nor its predecessors, are fully aligned with the current EU Directive on Environmental Impact Assessment.

¹²⁴ RERI: Rio Tinto - Salami slicing according to “the highest European environmental protection standards” [in Serbian].

water will be generated, nor how they will be treated. It is also not known how the mine will be supplied with water, and there was no presentation of the disposal of sludge from the production of lithium carbonate, boric acid and sodium sulfate, which can have significant negative environmental impacts. The Ministry of Environmental Protection issued a decision establishing the scope and content of the impact assessment study based on Rio Tinto's request and took the position that the mine (underground exploitation) can function as an independent unit, that is, that there is no causal relationship between the mine and the ore processing facility.¹²⁵ Such a conclusion by the Ministry is an obvious example of a state body's effort to protect the interests of a private company at any cost, contradicting both the provisions of the law and elementary logic. Namely, in theory it is possible for an underground mine to be an independent functional unit in relation to an ore processing facility, and such cases exist in practice. Consider a scenario in which a mining company builds a mine and begins exploitation but does not process the ore at all, but instead hands over the raw ore to another company that processes that ore at another location, perhaps even in another country. Such a situation is possible – except that is not the case with the Jadar project. Namely, it is a single project that includes the exploitation and processing of the jadarite mineral. When making the decision, the Ministry of Environmental Protection was not entitled to consider a hypothetical situation, but was obliged to decide on the basis of the project's specifics and location, the opinions of interested bodies and organizations, and the interested public. There was no room for any kind of abstraction such as the one the Ministry of Environmental Protection resorted to.¹²⁶ This conclusion is also confirmed by the conditions of the Institute for Nature Conservation, which explicitly state that this project requires an impact assessment study of the main mining project that will cover all phases of exploitation and processing of jadarite ore.¹²⁷

The procedure for deciding on Rio Tinto's request to establish the scope and content of the environmental impact assessment study also revealed the weaknesses of state bodies. RERI pointed out in its appeal against the Decision of the Ministry of Environmental Protection that the request for establishing the scope and content of the impact assessment study was not prepared in accordance with the water conditions set and issued by the Republic Water Directorate. In the decision establishing the scope and content of the study, the Ministry of Environmental Protection took the position that the project promoter fulfilled the legal obligation merely by attaching the water conditions, considering that there was no obligation to harmonize the request with the content of the issued conditions. In doing so, the Ministry reduced the conditions of public authorities to a mere formality, thereby essentially deviating from the purpose and rationale. The purpose of these conditions is to ensure that the project content is harmonized with them and integrated into the project itself. The Ministry's position was also confirmed by the Government of Serbia as the second-instance body in this procedure. The

¹²⁵ Ministry of Environmental Protection, Decision no. 002541265 2024 of November 15, 2024 [in Serbian].

¹²⁶ This conclusion is also confirmed by the opinion of retired university professor Vera Dondur, who stated in the TV program "Lithium: experts speak," produced by N1 [in Serbian]: "Instead of preparing an environmental impact study of jadarite exploitation and processing, (the company) presented this in fragments, in three completely separate materials that were done by different teams that obviously did not communicate much with each other".

¹²⁷ Decision of the Institute for Nature Conservation 03 no. 021-2818/7 of August 21, 2024 [in Serbian].

Government concluded that “the project promoter has attached conditions and approvals from other relevant bodies and organizations obtained in accordance with the special law to the request for establishing the scope and content of the impact assessment study, whereby that law (the Law on Impact Assessment) does not oblige the promoter to align said request with water-related and other conditions.”¹²⁸ Thus, both the Government and the Ministry of Environmental Protection take the position that the project promoter was not obliged to answer essential questions in the request for establishing the scope and content – the basis on which the relevant ministry establishes the content of the impact assessment study itself. The essential questions relate to: preventive protection of water sources of strategic importance for the Republic of Serbia in the Drina valley and the right bank of the Sava; risk management in case of emergency pollution or consequences of earthquakes; traffic accidents during transport of hazardous chemicals; and defense against catastrophic floods.

VII SOCIAL IMPACTS OF MINING PROJECTS – THE CASE OF THE ‘JADAR’ PROJECT

The project for exploiting lithium and boron in the Jadar River valley in Western Serbia has not been approved by the relevant authorities of the Republic of Serbia, nor have mining works begun. However, this project, currently in the environmental impact assessment decision-making phase, is a unique example of a project that has undoubtedly already had far-reaching impacts, considerably shaping the socio-political reality in Serbia.

This project has been promoted by officials as transformative for Serbian society, a project that will enable accelerated economic growth, create development opportunities and improve the country’s international position. High-ranking officials announced that, with the growth of gross domestic product that lithium exploitation would allegedly bring, Serbia would become a “different country”.¹²⁹ And while some experts dismiss these expectations, considering the overall benefits for the economy to be marginal,¹³⁰ this raises the question not only of the ecological costs, but also the social costs of implementing this project. In a context where the decision to pursue a particular project was made outside strategic frameworks, non-transparently and without the possibility of review, the consequences of such a decision encompass all levels of decision-making, reshaping decision-making processes, mechanisms for public participation and social organization.

To consider the social impacts of this mining project so far, it is crucial to take into account undemocratic patterns at different levels of governance in Serbia, and the absence of long-

¹²⁸ Decision of the Government of the Republic of Serbia, Administrative Commission, 14 no. 353-6953/2025 of June 26, 2025 [in Serbian].

¹²⁹ <https://europeanwesternbalkans.com/2024/07/19/eu-and-serbia-sign-a-memorandum-on-raw-materials-with-lithium-mine-in-sight/>.

¹³⁰ <https://n1info.rs/english/news/experts-warn-jadar-project-should-not-go-ahead/>.

term planning and a strategic approach to development. The state of democracy in Serbia has been gradually eroded over the last decade. Under the rule of the Serbian Progressive Party (SNS), which has been in power since 2012, Serbia has regressed from the status of a semi-consolidated democracy to a hybrid regime – an electoral autocracy with one of the highest rates of democratic erosion at the global level.¹³¹ Elections at all levels are held in highly irregular conditions that favor the ruling party, while power remains concentrated in the hands of the president of the state.¹³² The protection of human rights and fundamental freedoms has also been undermined, while the media are predominantly under regime control, with critics of the government exposed to discreditation and public attacks, intimidation, and even police repression.¹³³

Although it has been an EU membership candidate since 2012, Serbia has achieved very limited progress in the accession process – only two chapters have been provisionally closed. Since 2021, there has been no progress in negotiations, while annual European Commission reports persistently point to numerous challenges in implementing key reforms, including in the area of natural resource management and environmental protection. Serbia's regression has deepened further following the irregular elections in December 2023, which undermined the legitimacy of key institutions, and due to repression against civil society, environmental and student activists that has been ongoing since the summer of 2024.¹³⁴

LITHIUM EXPLOITATION PROJECT IN A CAPTURED STATE

The Jadar project represents one of the key polarizing issues in the domestic public sphere. The space for public dialogue has been narrowed by the undermining of democratic institutions and the rule of law.¹³⁵ More precisely, institutions in Serbia can be described as captured, which refers to a state in which individuals and/or groups gradually but systematically change the formal “rules of the game” to align them with their personal or special interests, at the expense of public interest.¹³⁶ These interests may include material gain or accumulation of political power at different levels of government, and are most often aimed at consolidating power as a means of strengthening further influence on decision-making and adapting those decisions to the particular interests of ruling groups.

The adaptation of the “rules of the game” in institutions of all branches of government and at all levels of governance best describes the course of implementing the Jadar project in Serbia, thereby preventing effective public debate and public participation in decision-making.

The Government's support was unequivocal from the project's announcement – it was declared strategically important and a unique development opportunity for Serbia. However, there was no inclusive and open discussion about the specific impacts of the project on the

¹³⁵ Katja Giebel, Mirko Popović and Jovan Rajić, “Lithium Mining in Serbia: “An Open and Productive Debate Is Not Possible”, July 18, 2024, <https://www.boell.de/en/2024/07/18/lithium-mining-serbia-open-and-productive-debate-not-possible>.

¹³⁶ Predrag Petrović, “State Capture in Serbia – A Conceptual and Contextual Introduction”, Security Sector Capture in Serbia – An Early Study, 2020. <http://dx.doi.org/10.55042/AZZW46a98>.

economy, environment and society. When President Vučić publicly stated that decisions are not being made because “we are waiting for Rio Tinto to come, to see what they have prepared and how they will protect the environment”,¹³⁷ decisions were already being made, without effective public participation. In Loznica, the spatial plan was amended to align with the Spatial Plan of the Special Purpose Area for the Jadar project, despite massive opposition from the local community. The Ministry of Environmental Protection then approved the company’s request for establishing the scope and content of the environmental impact assessment study, ignoring key objections from experts and civil society representatives.

The president announced that the project’s implementation could be decided by referendum at the local or national level. However, the Government initiated amendments to the Law on Referendum and Popular Initiative and the Law on Expropriation. The public perceived this as an attempt by the ruling majority to facilitate project implementation at the expense of public interest.¹³⁹ This provoked strong public reactions and led to protests and blockades across the country in November and December 2021. Faced with growing public dissatisfaction ahead of snap elections in April 2022, the Government eventually withdrew the proposed amendments to the laws and annulled the regulation on adopting the spatial plan, and all valid permits for the Jadar project. Demanding a permanent ban on lithium and boron mining projects in Serbia, civil society associations initiated a ban on lithium and boron mining, which was signed by more than 38,000 citizens and submitted to the National Assembly in May 2022.¹⁴⁰

However, the Assembly did not verify the citizens’ signatures, despite the legal obligation to do so, because the initiative was allegedly “lost”.¹⁴¹ In this way, the Assembly did not discuss this popular initiative despite its legal obligation. The suspension of the project remained based exclusively on the Government’s decision, which can be arbitrarily revoked just as easily as it was made, in accordance with the current political interests of the ruling majority. It soon became clear that the project was only temporarily “on hold” ahead of snap parliamentary elections, so as to meet the demands of a considerable part of the electorate.

In the meantime, the Ministry of Mining and Energy repeatedly extended the company’s deadline for obtaining an exploitation field permit, as many as 18 times over two years, without any explanation.¹⁴² This proved very convenient when the Government’s decision to suspend the project was annulled by the Constitutional Court just days before the signing of the Memoran-

¹³⁷ <https://www.slobodnaevropa.org/a/rio-tinto-rudnik-poslovanje-srbija/31576691.html>.

¹³⁸ Igor Todorović, “[Protests as City of Loznica in Serbia adopts spatial plan for Rio Tinto’s lithium project](#)”, Balkan Green Energy News, July 29, 2021.

¹³⁹ Igor Todorović, “[Masses block roads in Serbia in protest against lithium mining, controversial laws](#)”, Balkan Green Energy News, December 4, 2021.

¹⁴⁰ Insajder, “[Slučaj nestanka Inicijative sa 38.000 potpisa građana: Rokovi prošli, zakon prekršen, nadležni ne reaguju](#)”, July 24, 2024.

¹⁴¹ European Commission, Serbia 2023 Report, Brussels, November 8, 2023.

¹⁴² RERI, Ministry of Mining and Energy unjustifiably extends Rio Tinto’s deadline for obtaining lithium exploitation permit [in Serbian], April 11, 2023, <https://reri.org.rs/ministarstvo-rudarstva-i-energetike-neopravdano-produzava-rok-kompaniji-rio-tinto-za-dobijanje-dozvole-za-eksploataciju-litijuma/>.

dum of Understanding (MoU) on strategic partnership with the EU in the field of sustainable raw materials, battery value chains and electric vehicles.¹⁴³

These examples illustrate the manipulation of institutional and legal frameworks when it comes to a project whose implementation is strongly supported by the Government. Examples of various extractivist projects at the global level show that authoritarian governments resort to deregulation of legal frameworks, violation of procedures and clientelistic practices to ensure the most favorable conditions for investors.¹⁴⁴ Tendencies of constant reshaping of legal and institutional procedures, unjustified extensions of deadlines and selectively effective judicial mechanisms show that institutions do not function as independent guarantees of the rule of law, but as instruments in the service of particular interests, under the control of executive power. This not only undermines legal certainty and accountability, but also erodes citizens' trust in institutions, whereby public participation is systematically suppressed.

This was also confirmed during the public consultation on the Draft Strategy for Managing Mineral and Other Geological Resources in Serbia for the period from 2025 to 2040, with projections to 2050, which represented an opportunity for public participation in shaping policies in this area. Citizens' participation, however, was conditional on prior registration, although the date of the public consultation was announced only one day before it was held, and for most interested participants, including representatives of the expert public and civil society organizations, there was "no room" at the public consultation.¹⁴⁵ In this way, the possibility for inclusive dialogue on an important strategic and developmental issue was significantly limited, while the interested and expert public was prevented from influencing the content of this document, despite pointing out numerous harmful provisions, primarily when it comes to environmental protection and natural resources.¹⁴⁶

EU SUPPORT – EXTERNAL LEGITIMATION MECHANISM

Strong support for the project from EU and German officials has further expanded the regime's maneuvering space, given that claims about the project's benefits and sustainability very much rely on expected "guarantees from Europe".¹⁴⁷ This argument is frequently used to discredit existing criticisms about the project's harmful impacts in the domestic public sphere. European officials have praised the signing of the Memorandum of Understanding and the implementation of the Jadar project as an important step in Serbia's European integration process, a way to "confirm Serbia's European path," without insisting on fundamental

¹⁴³ Igor Todorović, "[Constitutional Court of Serbia rules in favor of Rio Tinto's lithium project](#)", Balkan Green Energy News, July 11, 2024.

¹⁴⁴ Olga Nikolić and Zoran Erić (eds.), "Lithium Mining and Ecological (In)Justice" [in Serbian], Belgrade: Institute for Philosophy and Social Theory, University of Belgrade, 2025.

¹⁴⁵ Jelisaveta Perišić, "[Public consultation on strategy for managing mineral resources held – citizens and experts dissatisfied](#)" [in Serbian], Balkan Green Energy News, August 7, 2025.

¹⁴⁶ Ibid.

¹⁴⁷ Radio Free Europe, "Serbian Government Restarts Rio Tinto's Contentious Lithium Mine Project", July 16, 2024, <https://www.rferl.org/a/serbia-lithium-mine-approved-rio-tinto/33038776.html>.

reforms and effective implementation of regulations, and without considering serious consequences for the environment and human rights.¹⁴⁸ The EU's symbolic support has enabled the Government of Serbia to present the project to the domestic public as a guarantee of Serbia's progress, not only in the EU accession process, but also on the international stage – as a way for Serbia to become “a reliable partner to Europe, Germany and the whole world in the full production chain”.¹⁴⁹

Support for the project without taking into account key problems regarding democratic governance and implementation of environmental protection regulations in Serbia, which are constantly pointed out in the European Commission's annual reports, threatens to undermine the credibility of the EU approach. Symbolic support for a government that does not implement substantial reforms and seriously undermines democracy and the rule of law as fundamental EU values may further contribute to the phenomenon of the “captured state.” Statements of support for the project from high EU officials may be interpreted as approval of the authorities' actions on the domestic front, including their attitude toward “critics” of the project, which further contributes to the suppression of existing criticisms and the weakening of accountability mechanisms.¹⁵⁰

This is particularly important given that repression against demonstrators, activists and civil society organizations opposing the project has progressively increased, escalating during mass protests across Serbia in July and August 2024 due to the project's relaunch. Against a backdrop of growing political divisions and an already highly polarized media landscape, the voices of local activists, civil society organizations and the academic community have increasingly faced negative campaigns and targeting by government representatives and pro-government media. Every form of organized citizen resistance to the project has been repressively quashed, most often under the pretext of hindering development and economic growth. Opponents of the project have been exposed to threats, especially in the digital space, where they have been labeled as “foreign agents,” “traitors” or even “eco-terrorists”.¹⁵¹ In addition to attacks in pro-regime media, activists have faced arbitrary police investigations and unlawful surveillance, which further testifies to the erosion of the rule of law and protection of fundamental rights and freedoms.¹⁵²

¹⁴⁸ European Commission, “[EU and Serbia sign strategic partnership on sustainable raw materials, battery value chains and electric vehicles](#)”, July 19, 2024.

¹⁴⁹ NIN, “Vučić: The project will mean Serbia's quantum leap into the future, I trust Scholz's word” [in Serbian], July 19, 2024, <https://www.nin.rs/politika/vesti/53329/vucic-projekat-ce-znaciti-kvantni-skok-srbije-u-buducnost-bicemo-pouzdan-partner>.

¹⁵⁰ Solveig Richter and Natasha Wunsch, “[Money, power, glory: the linkages between EU conditionality and state capture in the Western Balkans](#)”, *Journal of European Public Policy*, 27(1), 2020: 41-62.

¹⁵¹ Arthur Neslen, “Activist opposed to Rio Tinto lithium mine receives anonymous death threats”, *The Guardian*, August 22, 2024; Mašina, “‘They were dead silent’: Protest held in front of RTS against repression of activists”, September 2, 2024.

¹⁵² Amnesty International, “[Serbia: Authorities using spyware and Cellebrite forensic extraction tools to hack journalists and activists](#)”, December 16, 2024.

In its 2024 Report on Serbia, the European Commission reported on increased pressure on civil society and environmental activists, particularly highlighting arrests, home searches and seizure of activists' IT equipment after protests against lithium exploitation.¹⁵³ However, political statements in favor of the project proved far more effective in conveying the message than lengthy, bureaucratic reports. Linking the strategic partnership in the field of critical raw materials with Serbia's EU accession process has called into question the credibility of EU conditionality mechanisms, especially regarding the "fundamentals first" principle, which is emphasized in the new enlargement methodology. Brussels' strong support for the project was understood by the public as a message that the EU was placing its strategic interests ahead of substantial reforms, and such sentiment has further deepened in light of the ongoing political crisis in Serbia.¹⁵⁴

The European Commission's decision in June 2025 to recognize the Rio Tinto Jadar project as strategic within the CRMA regulation came during a period of historic protests in Serbia. The collapse of a canopy in Novi Sad, which claimed 16 lives, revealed corrupt practices, lack of accountability and inadequate institutional response, prompting months-long protests across Serbia. Amid increased regime repression, such a decision by the EU may send a strong message, particularly given the lack of response to numerous appeals from the academic community, experts, civil society organizations and students addressed to EU institutions. Ignoring the positions of important social actors could further affect growing citizen indifference toward the EU, which is reflected in a continuous and significant decline in support for EU membership in recent years.¹⁵⁵

LITHIUM EXPLOITATION – CAUSE OF SOCIAL DIVISIONS

Public opinion research shows that there is pronounced polarization in Serbia when it comes to lithium exploitation, with citizens' attitudes on this issue highly correlating with their political views. According to a Demostat poll from September 2024, about a third of respondents had a predominantly positive attitude toward environmental protests, with citizens who support the ruling party much more often having a negative attitude toward protests.¹⁵⁶ Namely, as many as 67% of citizens closer to the ruling party believed that protests against lithium and the construction of small hydroelectric plants are "exaggerated," while this is the view of only 5% of respondents closer to opposition parties.¹⁵⁷ On the other hand, when it comes to the project's impact on the environment and citizens' health, the majority of respondents (65%) trust experts the most, 7% the president of the state, while a significant number of citizens (20%) do not trust anyone, indicating a high degree of distrust in institutions.¹⁵⁸

¹⁵³ European Commission, [Serbia 2024 Report](#), SWD(2024) 695 final. Brussels, October 30, 2024.

¹⁵⁴ Marko Kmezić, "Student protests in Serbia: The eleventh hour for EU fundamentals", January 23, 2025, <https://www.biepag.eu/blog/student-protests-in-serbia-the-eleventh-hour-for-eu-fundamentals>.

¹⁵⁵ Regional Cooperation Council, "[Balkan Public Barometer](#)", 2024.

¹⁵⁶ Demostat, "[Presentation of Demostat research findings: Government?-Dissatisfaction/Institutions?-distrust/Life?-Satisfaction](#)" [in Serbian], October 9, 2024.

¹⁵⁷ Ibid

¹⁵⁸ Ibid

According to research from February 2025, several months after the start of student protests in Serbia, about 80% of Serbian citizens support most of the students' demands, while student protests in general were supported by 64% of citizens.¹⁵⁹ A high degree of distrust in institutions, however, is also present among citizens who do not support the protests (56.3%), while citizens who support the protests consider this, along with corruption, one of the biggest problems in Serbia (80.3%).¹⁶⁰ On the other hand, over half of citizens, 55.4%, consider lithium mining as one of the major problems in Serbia.¹⁶¹ According to public opinion polls conducted by the New Serbian Political Thought (NSPM) from June 2024 to July 2025, about 55-60% of Serbian citizens do not support the implementation of the Jadar project.¹⁶²

A negative attitude toward lithium mining is particularly pronounced among young people. Research by NSPM from December 2024 showed that as many as 88.2% of young people under 30 years of age oppose the Jadar project, while among those over 60 years of age this percentage is 34%, which also correlates with their political views.¹⁶³ This is also confirmed by the latest research by the National Youth Council of Serbia (KOMS) conducted among young people aged between 15 and 30 in April and May 2025, which shows that 93% of young people oppose lithium mining in Serbia in the near future.¹⁶⁴ The same research indicates that young people consider the state of the environment in Serbia to be poor, while 91.7% of them believe that the state does not contribute sufficiently to environmental protection, which is recognized among young people as one of the most significant values in society.¹⁶⁵

VIII MINING ACTIVITIES IN THE BOR REGION – HEALTH IMPACTS AND ENVIRONMENTAL REGULATION ENFORCEMENT

IMPACTS OF MINING ON HUMAN HEALTH

A study by the Ministry of Health, the Ministry of Environmental Protection and the Institute of Public Health of Serbia “Dr. Milan Jovanović Batut” concludes that with regard to malignant tumors other than skin tumors, there is a significantly higher risk of disease in both men and

¹⁵⁹ CRTA, “[Overwhelming support from Serbian citizens for student demands and protests](#)” [in Serbian], February 19, 2025.

¹⁶⁰ Institute of Social Sciences, “[Student and civic protests in Serbia](#)” [in Serbian], April 4, 2025.

¹⁶¹ Ibid.

¹⁶² Nova srpska politička misao: Lithium and Serbian public opinion [in Serbian]: <http://www.nspm.rs/istrazivanja-javnog-mnjenja/litijum-i-srpsko-javno-mnjenje.html>; <http://www.nspm.rs/istrazivanja-javnog-mnjenja/srbija-jul-2025-%E2%80%93-i-komparacija-sa-majem.html>.

¹⁶³ Nova srpska politička misao, “[December 2024 - government, opposition, Rio Tinto, EXPO and national stadium by age groups](#)” [in Serbian], January 3, 2025.

¹⁶⁴ National Youth Council of Serbia (KOMS), [Alternative Report on the Position and Needs of Young People in the Republic of Serbia 2025](#) [in Serbian], Belgrade, 2025.

¹⁶⁵ Ibid.

women;¹⁶⁶ when it comes to malignant tumors other than skin tumors, a significantly higher risk of death has been observed in both men and women in Bor.¹⁶⁷ Analysis by the Public Health Institute of Zaječar indicates that the expected life expectancy of the population of the Bor District in the period from 2018 to 2022 decreased by more than two years.¹⁶⁸

Despite the fact that available data clearly indicate alarming trends, relevant authorities have taken an irresponsible and passive approach, deliberately postponing the implementation of new analyses of impacts on human health. The aforementioned study, which was never officially published by state institutions, is based on data collected before Zijin took over the Mining and Smelting Basin Bor ("RTB Bor") in 2018. Taking into account data on increased emissions into air, water and soil due to mine expansion and intensification of smelter operations, it is reasonable to assume that current environmental indicators are even more alarming. Although the short-term action plan from 2021 prescribed that "the possibility will be ensured for all interested citizens of the city and residents of surrounding villages to undergo toxicological laboratory tests for heavy metals once a year, free of charge," according to publicly available information this activity has not been implemented to date.¹⁶⁹ On the other hand, the air quality plan for the city of Bor envisages that "an epidemiological study will be done that links the state of air quality with effects on human health".¹⁷⁰ However, the fact that the deadline for preparing the study has been postponed to 2033 defeats the very purpose of the analysis and prevents its use in adopting timely public health protection measures.

Taking into account the chronic lack of available data, but also the evident unwillingness to collect and analyze it, RERI initiated data analysis by independent health experts, with the aim of assessing the impact of exposure to heavy metals and sulfur dioxide on the health of

¹⁶⁶ This pattern is observed for specific cancer sites, including cancers of the colon and rectum, pancreas, kidney, bladder, thyroid gland, lymphopoietic tissue, Hodgkin's and non-Hodgkin's lymphoma, leukemia and mesothelioma, and a significantly higher risk of lung cancer has been registered in both men and women in Bor. Ministry of Health, Ministry of Environmental Protection and Institute of Public Health of Serbia "Dr. Milan Jovanović Batut", "Improvement of Contaminated Site Management in Serbia - Strengthening national capacities and intersectoral synergies in the field of safe management of contaminated sites and hazardous chemicals in order to prevent harmful effects on human health and the environment in the Republic of Serbia" [in Serbian], 2020, p. 30.

¹⁶⁷ A higher risk of death in both sexes has been registered for all diseases and disorders, diabetes mellitus, diseases of the circulatory system, diseases of the respiratory system, and congenital deformities, malformations and chromosomal aberrations. Ibid.

¹⁶⁸ The expected life expectancy in 2018 was 74 years, while in 2022 it drastically decreased to 71.99 years. See "Analysis of the health status of the population of the Bor district in the period from 2018 to 2022" [in Serbian], available at:

chrome-extension://efaidnbnmnibpcjpcglclefindmkaj/https://zavodzajecar.rs/wp-content/uploads/2024/08/Analiza-zdravstvenogstanjaokrugBor2018-2022_compressed.pdf.

¹⁶⁹ Short-term action plan for reducing air pollution in the city of Bor [in Serbian] ("Official Gazette of the City of Bor" no. 20/21).

¹⁷⁰ Air quality plan for the Bor agglomeration [in Serbian] ("Official Gazette of the City of Bor" no. 9/24).

Bor's population.¹⁷¹ Thus, according to an opinion compiled based on data on arsenic emissions in the air in the period from 2019 to 2024, residents of the Bor region suffer from chronic arsenic intoxication with consequent severe multisystemic damage (increased risk of developing numerous respiratory, neurological, malignant and other chronic diseases). The analysis also concluded that cancer risk among Bor residents exposed to long-term inhalation of elevated arsenic concentrations drastically increased at some measurement sites during 2019- 2021 compared to previous years. The cancer risk rate per 100,000 residents reached up to 277, depending on the measurement site. It was also pointed out that children are particularly vulnerable, and that arsenic exposure is associated with reduced intellectual function and neurocognitive and behavioral problems, while reproductive and developmental effects of arsenic exposure may include low birth weight, neonatal mortality and increased infant mortality. Also, according to expert opinion, recorded concentrations of cadmium in the air in Bor during 2023 and 2024 inevitably lead to acute symptoms, and in the case of exposure over a longer period of time, to kidney function disorders with severe irreversible kidney damage, as well as lung, prostate, kidney, testicular and other cancers. According to expert opinion, on days when sulfur dioxide concentrations dangerous to human health were recorded, the risk of respiratory morbidity increased manifold, manifesting as elevated rates of emergency examinations and hospital admissions due to respiratory diseases, particularly asthma. During certain days in 2020, this risk was found to be up to 32 times higher than baseline levels.

LAND DEGRADATION DUE TO MINING ACTIVITIES

The analysis of soil quality in Bor and its surroundings indicates long-term pollution associated with the activities of the mining and smelting complex. Although soil quality testing was conducted at 25 locations, the analysis neither assessed the consequences of the contamination nor examined its causes, extent, or degree, but was limited to presenting the sampling results. For this reason, a forensic expert was engaged to prepare an expert opinion, confirming that soil contamination results from continuous air, water and soil pollution arising from surface mining and metallurgical ore processing.¹⁷² The results show significant presence of heavy metals (arsenic, cadmium, chromium, nickel, lead and mercury), with concentrations at multiple locations measuring two to three times above reference values.¹⁷³

¹⁷¹ The author of the expert opinions is Dragana Jovanović, a distinguished pulmonologist in Serbia, retired professor of internal medicine and palliative medicine at the Faculty of Medicine, University of Belgrade, Doctor of Medical Sciences, specialist in pneumophthisiology, specialist in pulmonology and (pulmo)oncology, founder of the specialization program in palliative medicine and head of the Department of Palliative Medicine 2012-2019. From 1979 until her retirement in 2019, she worked at the Institute for Pulmonary Diseases and Tuberculosis of the Clinical Center of Serbia (KCS), specifically at the KCS's Clinic for Pulmonology, and from 1996 until retirement she was head of the clinical department. She was also director of the Institute for Pulmonary Diseases, founder of the Center for Interventional Pulmonology at the KCS Institute for Pulmonary Diseases, and founder of the Palliative Care Unit and the Cancer Pain Clinic at the KCS Institute for Pulmonary Diseases. She is the author/co-author of more than 370 scientific papers. She is the founder of the Association of Pulmonologists of Serbia and founder and first president of the Respiratory Society of Serbia.

¹⁷² Opinion of forensic expert Snežana Milošević no. 4-2023-1 dated August 30, 2023 [in Serbian].

¹⁷³ Analysis Report no. 1440/23 by the Institute for Mining and Metallurgy Bor [in Serbian], <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fbor.rs%2Fwp-content%2Fuploads%2F2023%2F05%2Fizvestaj-o-ispitivan-ju-GU-Bor-1440-23.docx&wdOrigin=BROWSELINK>.

In addition to heavy metals, the analysis also detected carcinogenic volatile organic compounds, including toluene and xylene, attributable to traffic and heavy machinery operations at surface mines. The consequences of such pollution are reflected in the loss of soil fertility, degradation of vegetation and wildlife, and increased health risks for the population due to long-term exposure. Based on measured contamination levels, the need for implementing remediation measures has been identified at multiple locations, indicating serious ecological consequences of mining activities and the lack of a comprehensive approach to assessing impacts on soil and biodiversity.

OVERSIGHT OF REGULATORY IMPLEMENTATION

If grounded in adequate legal provisions that are consistently applied, inspection supervision represents the most important and effective mechanism in the system of legal environmental protection, intended for timely prevention of violations and harm. As a first-instance mechanism, inspection supervision should order companies to bring their operations into compliance with regulations and prevent further violations. As such, it should be easily accessible to citizens and ensure a timely response from relevant authorities. However, in recent years the role of inspection has been marginalized, especially in the oversight of large infrastructure and investment projects that are designated as projects of “strategic” or “national” importance. Obstructed and ineffective communication with relevant inspection authorities, combined with systematic failure to act on requests for extraordinary inspection supervision, has resulted in ineffective protection and severe erosion of public trust in existing institutional protection mechanisms.

The systemic problem is not related to individual oversights, but to the way the inspection system interprets its role: extraordinary inspection supervision initiated by citizens is reduced in practice to an exception, even in situations where there is obvious and serious risk. This denies opportunities not only for prevention but also for documenting illegalities. Consequently, companies go unpunished, which can result in significant and often irreparable damage to citizens and the environment. Thus, the Ministry of Environmental Protection has established a practice of responding to almost all requests for conducting extraordinary inspection supervision with the statement that regular inspection supervision is planned on an annual basis, without explaining why it considers that the conditions for urgent action are not met. However, the purpose of regular and extraordinary inspection supervision are completely different in legal terms, which is why the law prescribes conditions for conducting each of these two types of supervision. In accordance with current regulations, an inspector can refuse to conduct extraordinary inspection supervision only in two cases: if they assess that there is no significant risk or if the applicant is abusing the right to initiate inspection supervision.¹⁷⁴ However, RERI's requests involved serious risks to health and the environment in almost every case and represented an exercise of the right to initiate inspection supervision, not an abuse of it. For example, although the arsenic content in Bor far exceeded permitted values at every measuring station in the city during 2022, the Ministry of Environmental Protection concluded that the

¹⁷⁴ Article 18, paragraph 5 of the Law on Inspection Supervision [in Serbian].

level of risk was insufficient to initiate extraordinary inspection supervision proceedings. It also noted that heavy metal emissions had been subject to verification through regular inspection.¹⁷⁵ On the other hand, in cases where certain facilities were not covered by the inspection supervision plan, since they were built illegally, without building permits and an environmental impact assessment, the environmental protection inspection resorted to either completely disregarding submitted requests entirely or forwarding them to authorities lacking jurisdiction over the matter. The inspection of the Ministry of Construction, Transport and Infrastructure in a significant number of cases delayed inspection supervision until building permits were obtained, after which it suspended proceedings on the grounds that the company had obtained the necessary permits.¹⁷⁶

CASE STUDY: DIVERSION OF THE KRIVELJ RIVERBED DUE TO LANDFILL EXPANSION

The illegal construction of a bypass tunnel for the Krivelj River, Bor River and Saraka Stream in the zone of the Veliki Krivelj flotation tailings pond represents one of the most illustrative examples of the passivity of inspection authorities and abuse of regulations in supervising the work of mining companies. The Serbia Zijin Copper company has been carrying out work on tunnel construction since 2022 without a decision approving the execution of mining works. These activities also include the construction of a dam and reservoir downstream from the Krivelj village, which are being implemented without obtained water permits and without a conducted environmental impact assessment. Due to the absence of an impact assessment, it is not known whether the Bor River has the capacity to receive redirected waters from the Krivelj and Bor Rivers, which exposes residents of the villages of Krivelj and Slatina to direct risk of flash floods. Additionally, excavated material resulting from tunnel excavation is being deposited in the depression below the Bor Mining and Smelting Complex's flotation tailings pond, designated for receiving material in the event of an accident, thereby further endangering the lives, health and property of the population.

The inspection of the Ministry of Construction, Transport and Infrastructure did not act on requests for conducting extraordinary inspection supervision. Subsequently, information obtained through a request for access to information of public importance showed that Serbia Zijin Copper notified the inspection about commencing "urgent" work on the construction of the Krivelj River bypass tunnel, without having previously obtained a building permit. Al-

¹⁷⁵ More information on arsenic emissions in Bor available at <https://reri.org.rs/otrovna-prasina-opasnija-tisina/> [in Serbian].

¹⁷⁶ For example, in April 2022, RERI submitted a request for inspection supervision of Serbia Zijin Copper to the Ministry of Construction, Transport and Infrastructure because the reconstruction of the Bor smelter was being carried out without appropriate permits and provided all necessary evidence. In correspondence from the Ministry of Construction, Transport and Infrastructure no. 363-354-00127/2022-18 dated February 13, 2023, after several follow-ups, RERI was informed that the inspection carried out inspection supervision on June 22, 2022. Just a week later, the company obtained permits, and the procedure was suspended. The inspector did not file charges against the company.

though the Law on Planning and Construction provides for an exception that enables work without a building permit exclusively based on an inspector's decision, no such decision was made in this case. Nor did the construction inspection issue an order or approval for the works or redirecting the flow of the Krivelj River.¹⁷⁷ Instead, the inspection accepted that a simple notification from the company could replace the legally prescribed procedure and "legalize" the undertaken works.¹⁷⁸ In parallel, the Ministry of Environmental Protection forwarded RERI's request to the Ministry of Mining and Energy, claiming it lacked jurisdiction to assess whether facilities are being built without environmental impact assessment. Meanwhile, RERI received no response to its objections and appeals – a case of administrative silence.¹⁷⁹ Only the inspection of the Ministry of Agriculture, Forestry and Water Management determined that the project is being implemented without previously obtained water permit and initiated appropriate penalty proceedings. However, follow-up inspections were not conducted. As a result, authorities failed to establish that activities were continuing without necessary permits, and that the tunnel was already in use, despite continuous requests from the local community and RERI.

In none of the inspection supervision proceedings initiated before relevant authorities was RERI enabled to actively participate in the procedure as a representative of public interest.¹⁸⁰ Even more problematic is the newly established practice whereby members of the local community are not recognized as having party status in inspection supervision proceedings. This is despite the fact that illegal exploitation activities are carried out directly in front of their homes and undoubtedly and directly affect their rights and interests.¹⁸¹ Thus, inspection supervision in practice is reduced to a closed procedure between the inspection and the investor, preventing citizens and organizations that protect public interest from effective protection of rights and control of the work of inspection authorities.

¹⁷⁷ Article 143 of the Law on Planning and Construction [in Serbian] ("Official Gazette of RS", nos. 72/09, 81/09, 64/10, 24/11, 121/12, 42/13, 50/13, 98/13, 132/14, 145/14, 83/18, 31/19, 37/19, 9/20, 52/21, 62/23 and 91/25).

¹⁷⁸ Minutes of the Ministry of Construction, Transport and Infrastructure no. 363-354-00195/2022-18 dated October 3, 2022 [in Serbian].

¹⁷⁹ Correspondence from the Ministry of Environmental Protection no. 353-03-00043/38/2022-07 dated July 6, 2022 [in Serbian].

¹⁸⁰ For example, see decisions of the Ministry of Mining and Energy no. 000087874 2025 14820 007 003 042 002 of March 6, 2025 and no. 003570053 2024 14820 007 003 042 002 of February 28, 2025, Decisions of the Ministry of Environmental Protection no. 915-480-501-16/2022-07 of May 19, 2022 and no. 910-480-501-00063/2021-04 of February 18, 2022 [in Serbian].

¹⁸¹ Conclusion of the Ministry of Mining and Energy, Sector for Geology and Mining, Department of Geological and Mining Inspection, no. 001831532 2025 14820 007 003 070 001 dated May 29, 2025 [in Serbian].

CASE STUDY: ILLEGAL OPERATIONS AT ZAGRAĐE LIME FACTORY STOPPED ONLY AFTER ADMINISTRATIVE INSPECTION RESPONSE

Serbia Zijin Copper's lime factory, which was expanded and put into operation before obtaining building and operating permits, represents an example of enabling multi-year violation of regulations due to the absence of timely inspection response. During a three-year period, the Ministry of Construction, Transport and Infrastructure and the Ministry of Mining and Energy passed responsibility back and forth for inspection supervision, claiming they lacked jurisdiction to conduct supervision over the factory's operations. Illegal activities were discovered only after the administrative inspection initiated oversight of the construction inspection's work and issued multiple follow-ups. At that point, a ban on operations was imposed until the company obtained necessary permits, due to endangerment of human lives and health and environmental safety.¹⁸² The company has not obtained operating permits to date.

SANCTIONS IN CASE OF REGULATORY VIOLATIONS

While inspection supervision primarily represents a preventive protection mechanism, the issue of companies' criminal liability for violating regulations also represents a repressive mechanism aimed to motivate the specific company, and other ones, to comply with relevant regulations. Serbian law recognizes criminal liability for environmental pollution, but prescribes liability for that criminal offense exclusively in the case where the consequence is pollution of air, water or soil.¹⁸³ The Criminal Code does not cover cases where pollution creates a risk to human health, which represents a fundamental legislative gap and lack of alignment with European Union *acquis*.¹⁸⁴

INADEQUATE PUNISHMENT FOR YEARS-LONG POLLUTION

Serbia Zijin Copper has for years emitted enormous quantities of polluting and hazardous substances, which has led to pollution of air, water and soil, as well as increased risk of carcinogenic diseases in Bor and the surrounding area. Air quality in Bor has been classified as excessively polluted during all years of the company's operations. However, although the Law

¹⁸² Correspondence from the Ministry of Public Administration and Local Self-Government, Administrative Inspectorate, no. 001243835 2025 14800 010 004 070 002 dated June 9, 2025 [in Serbian].

¹⁸³ Article 260 of the Criminal Code of the Republic of Serbia [in Serbian] ("Official Gazette of RS", nos. 85/05, 88/05, 107/05, 72/09, 111/09, 121/12, 104/13, 108/14, 94/16, 35/19 and 94/24).

¹⁸⁴ Directive (EU) 2024/1203 of the European Parliament and of the Council of April 11, 2024 on the protection of the environment through criminal law.

on Liability of Legal Entities for Criminal Offenses¹⁸⁵ is in force in Serbia, under which companies can be held liable and sanctioned for environmental crimes, the company has not been adequately sanctioned to date, in a manner sufficient to compel compliance with regulations.

RERI filed criminal charges against the company Serbia Zijin Copper in 2021 for the criminal offense of Environmental Pollution, due to years of violating environmental protection regulations. After criminal proceedings, the company was convicted in the first instance by the Basic Court in Bor.¹⁸⁶ The court found that from 2019 to 2020, by violating regulations related to environmental protection, preservation and improvement, the company polluted the air, water, and soil in Bor, thereby endangering human health and increasing carcinogenic risk for the population. However, although the judgment undoubtedly established the impact of pollution on human health, the court was limited by existing legal norms and prescribed penalties, and sentenced the company to a penalty insufficient to motivate it to align its operations with laws.¹⁸⁷

The existing regulatory framework clearly fails to deter Serbia Zijin Copper and similar companies from further violations. Investigative evidentiary actions are, at the time of writing, being conducted against this company before the Basic Public Prosecutor's Office in Bor for the same criminal offense covering 2020 to 2022. Meanwhile, RERI, together with ten residents of Krivelj, Bor and Slatina, filed a criminal complaint for air, soil, and water pollution during the period 2022 to 2023. The years-long continuity of court proceedings against the same company for the same criminal offense indicates that the existing punishment model is neither adequate nor effective.

In practice, illegal construction without appropriate building permits represents one of the most common regulatory violations in large mining project. This violation is continuously repeated due to inadequate judicial response. The unwillingness of public prosecutor's offices to act in a timely and adequate manner against companies that illegally build complex facilities is particularly noticeable, despite clear legal authority to prosecute and a precisely defined criminal offense of construction without a building permit. Despite criminal complaints filed by RERI, public prosecutor's offices have not submitted a single indictment, and consequently courts have not issued a single conviction for this criminal offense.

IMPUNITY FOR ILLEGAL CONSTRUCTION

When it comes to multinational mining companies, in practice it has almost become the rule to build complex construction facilities without a building permit. However, although Construction Without a Building Permit is prescribed as a criminal offense by the Criminal Code, the relevant public prosecutor's offices show lack of interest in prosecuting Serbia Zijin Cop-

¹⁸⁵ Law on Liability of Legal Entities for Criminal Offenses [in Serbian] ("Official Gazette of RS", no. 97/08).

¹⁸⁶ Judgment of the Basic Court in Bor K19/24 dated September 3, 2024 [in Serbian].

¹⁸⁷ The company Serbia Zijin Copper was sentenced by judgment K 19/24 to a monetary fine of one million dinars.

per.¹⁸⁸ For example, in 2021 RERI submitted to the Basic Public Prosecutor's Office in Bor a criminal complaint against this company and the responsible person due to suspicion that they committed the criminal offense of Construction Without a Building Permit, that is, carried out work on increasing the capacity of the smelter within the mining and smelting complex. However, although RERI, along with the criminal complaint and its subsequent amendments, provided relevant evidentiary material, the public prosecutor's office in Bor continues to conduct evidentiary proceedings without making a decision on the submitted complaint. Such conduct – effectively allowing time to pass without initiating court proceedings – carries a serious risk that the statute of limitations for criminal prosecution will expire, while public interest is further endangered by illegal construction of complex facilities without established construction conditions.

RECOMMENDATIONS

RECOMMENDATIONS FOR THE EUROPEAN UNION

Political support for strategic projects of importance to the EU, such as critical raw materials exploitation projects, must be based on knowledge of the real conditions in partner countries. The EU's interest in critical raw materials in its neighborhood is recognized as a priority for preserving the Union's competitiveness at the global level and implementing the green transition. However, this cannot be accompanied by neglect of human rights violations and erosion of democracy and the rule of law in countries that possess mineral resources.

The European Commission should review the decision to grant strategic project status to the Jadar project, because such recognition should depend on strategic decision-making about the project at the national level and be conditional on observing democratic principles and the rule of law, including transparency, public participation and respect for environmental protection standards.

Full transparency should be ensured in the implementation of the Memorandum of Understanding in the field of critical raw materials, including publication of the roadmap and outcomes from institutional mechanisms and working bodies implementing the Memorandum. EU institutions should insist on publishing information about the course of preparation and content of documents whose preparation is envisaged by the Memorandum, and on regularly informing the public about the work of joint working bodies and ministerial meetings. Transparency of implementation must become the standard, not the exception, especially for projects with high risks for society and the environment.

¹⁸⁸ Article 219a of the Criminal Code [in Serbian].

RECOMMENDATIONS FOR GOVERNMENTS OF SERBIA AND BOSNIA AND HERZEGOVINA

The Governments of Serbia and Bosnia and Herzegovina should adopt key strategic documents in the areas of economic development, spatial planning, mining and mineral resource management that are based on genuine social dialogue, timely public information provision and meaningful participation of local communities. The absence of such a framework reinforces arbitrary institutional decision-making and increases the risk of conflicts and abuses. Key strategic documents must identify, describe and assess risks to vital resources (water, air, soil) and base decisions on mineral exploitation on the capacity to protect and preserve these resources.

Governments must thoroughly review legal provisions that enable broadly and imprecisely defined exceptions regarding the conversion of agricultural and forest land, declaration of public interest and award of concessions. Exceptions must be strictly limited, clearly justified and subject to independent control, so as to prevent systemic abuses.

RECOMMENDATIONS FOR IMPROVING PENAL POLICY AND SUPERVISION

Courts in Serbia and Bosnia and Herzegovina should consistently recognize the procedural legitimacy (party status in proceedings) of civil society organizations in proceedings concerning environmental protection.

The judiciary should use existing legal provisions to ensure genuine individual and corporate accountability for environmental pollution and regulatory violations, while laws should prescribe stricter sanctions with deterrent effects – especially in cases of recidivism (repeated violations of law). Mild and symbolic penalties encourage repetition of violations and undermine public trust in the rule of law.

Inspection authorities bear direct institutional responsibility for preventing and stopping illegal and harmful activities in mining. In cases of high risk to human health and the environment, the absence of a timely, coordinated and decisive inspection response must be treated as a serious institutional failure, not as a matter of discretion. Clear accountability mechanisms must be established for inspection inaction, including mandatory public documentation of inspections carried out, measures taken, and reasons for any inaction.

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ABOUT US

The Balkans in Europe Policy Advisory Group (BiEPAG) is a group of policy analysts, scholars, and researchers established as a joint initiative of the European Fund for the Balkans and the Centre for Southeast European Studies at the University of Graz. It works to advance the European integration of the Western Balkans and to support the development of democratic, open, and resilient societies across the region. BiEPAG brings together leading experts from the Western Balkans and across Europe, recognised for their expertise and in-depth understanding of the region and the political, economic, and social processes shaping its future.

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The European Fund for the Balkans (EFB) is a joint initiative of the Erste Foundation, Robert Bosch Foundation, and King Baudouin Foundation, dedicated to strengthening democracy, advancing European integration, and reinforcing the role of the Western Balkans in addressing Europe's shared challenges. Its strategy focuses on three core areas: fostering democratisation, enhancing regional cooperation, and supporting the EU integration process.

EFB works to strengthen the credibility and effectiveness of EU enlargement policy across the Western Balkans, while promoting cooperation among civil society actors through solidarity and demand-driven dialogue. It provides platforms and opportunities for informed and empowered citizens to advocate for accountable institutions and democratic governance, with a strong emphasis on supporting continuous reforms in policies and practices as countries progress toward EU accession.

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The Centre for Southeast European Studies was established in November 2008, following the designation of Southeast Europe as a strategic priority at the University of Graz in 2000. It is an interdisciplinary, cross-faculty institution dedicated to research and education, providing a platform for the university's diverse teaching and research activities on Southeast Europe, while fostering interdisciplinary collaboration.

The Centre also serves as a hub for information and documentation, and as a point of contact for the media and the wider public interested in political, legal, economic, and cultural developments in Southeast Europe. Its interdisciplinary team, comprising legal scholars, historians, and political scientists, contributes to the field through articles, monographs, and other publications. The Centre regularly organizes international conferences and workshops to advance cutting-edge research on Southeast Europe.

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