

MINING AND GEOLOGICAL EXPLORATION

1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Needed harmonization of laws and regulations from other related fields such as planning and construction, waste management, environmental protection and health and safety at work.				
Geological exploration				
The law should define the deadlines for issuing approvals for applied geological exploration that the competent authorities will adhere to.	2023			√
The provisions of the Law regarding the permitted quantities of mineral raw materials that can be taken for technological testing during the performance of approved geological exploration for the purpose of determining technological characteristics and proving reserves should be amended, especially with respect to mineral raw materials of strategic importance for the Republic of Serbia.	2023			√
Harmonized implementation of regulations in the field of geological exploration and regulations in other fields in accordance with the statutory competences is necessary. For example, agricultural inspection authorities acting in accordance with the Law on Agricultural Land, do not distinguish between geological exploration and exploitation works when performing inspection supervision over agricultural land on which geological exploration is carried out. Thereon, inspection orders obtaining of the consent for the change of land use (from agricultural to non-agricultural) and other measures in accordance with the applicable law, while clearly such obligation is triggered only for exploitation works or construction of infrastructure facilities subject to the general regime of obtaining building permits.	2023			√
A Rulebook should be adopted that prescribes the conditions, criteria, content and method of classifying resources and reserves of mineral raw materials and other geological resources and the method of presenting them in the elaborate (in accordance with the Law).	2023			√
The bylaws that regulate the manner, scope and preparation of the annual and final report on the results of geological exploration of solid mineral resources should be updated, as well as the manner of preparation of certain projects for the exploration of geothermal resources, which do not require prior approval of geological exploration works, but only the notification of construction works submitted at the local level.	2023			√
Mining				
The Law should clearly provide that the request for approval of geological exploration works will be rejected if another entity holds the certificate on resource and reserves for the same area and the six-year period during which such company is entitled to obtain exploitation rights has not expired.	2023			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
<p>The Law should regulate more precisely the correlation and order of the preparation of studies and projects according to the Law and obtaining of acts and preparation of studies under the environmental impact assessment legislation. The Law should allow for the possibility of implementing a simplified procedure for subsequent changes to the feasibility study of exploitation of mineral resources in certain cases, without the need to implement a new procedure for obtaining exploitation rights and determining the scope and content of the environmental impact assessment study. It is necessary for the Law to recognize the force majeure institute (especially civil protests, strikes, delays of authorities and holders of public authorisations or them acting contrary to the statutory deadlines) in the provisions prescribing validity terms or deadlines for obtaining approvals. The Law should regulate more precisely the triggering events for payments under collateral for the execution of remediation and recultivation of degraded land due to exploitation.</p>	2023			√
<p>To harmonize the competences of MRE and the Ministry of Environmental Protection in the areas of accreditation of laboratories and the implementation of the characterization and classification of mining waste. Regulations in the field of mining waste should be aligned and the area of mining waste should be more precisely and comprehensively regulated in the bylaws of the Law.</p>	2023			√
<p>Amend the existing Rulebook on technical norms for the underground exploitation of metallic and non-metallic mineral resources, so as to enable: (i) the transport of people and materials in the same shaft when the skip compartment has a steel barrier (brattice) between its own compartment and other conveyances, in accordance with ISO Standards (ISO 19426 - Shaft Infrastructure and ISO 22111 - Basics for the design of steel partitions); (ii) the use of steel structures such as Tehnograd system, which has a proven application in mines with underground exploitation instead of tapered wooden guides; (iii) the use of Epoxy resin in accordance with ISO 3108 and ISO 2408 Standards and ISO 17893 Standard which defines several potential socketing methods instead of molten metal socketing ; (iv) the use of SANS 10208 Standard for shaft steelwork and guides, which is used globally and represents the most updated and onerous standard for shaft guides but considers different safety systems; and (v) the automatic hoisting and signaling system in line with modern alternatives.</p>	2023			√
<p>New bylaws to the Law to be adopted or the existing ones to be supplemented in order to improve mining technical requirements, such as to: (i) provide for the use of Standard ISO 7243 for defining the effective air temperature in the mine; (ii) introduce all types of backfill for excavated areas (eg Cemented Rock Fill, Paste Fill as well as usage of GeoPolimer, etc.); (iii) regulate the use of emulsion explosives (storage of emulsion explosive components before their mixing in underground storage as chemical components, as well as their mixing and filling of mine holes into prepared mine holes) and ignition sources (new methods for ignition including EDK (Electronic Detonator Capsules), Busters and electronic ignition); and (iv) enable and regulate the use of battery electric vehicles for pit machines and the use of hybrid vehicles.</p>	2023			√

CURRENT SITUATION

The legal framework for geological explorations and mining in the Republic of Serbia is given in the Law on Mining and Geological Explorations (the "Law"), with the most recent amendments adopted in 2021 as part of legislative reforms in the energy and mining sectors.

The latest amendments significantly improved the existing legal framework and introduced numerous innovations aimed at further modernization and closer alignment with international practices in this field. A draft of new amendments to the Law is currently in preparation and its finalization and adoption is expected soon.

The Ministry of Mining and Energy (the "Ministry") is responsible for the implementation of the Law and oversight of its provisions.

More than 40 by-laws in the field of geological explorations and mining are currently in force. Some of these by-laws were adopted under earlier laws in this field and have not been harmonized with later amendments to the Law, which further limits their application and creates difficulties in practice.

The field of geological explorations and mining is complex and multidisciplinary. For this industry, harmonization of the Law with regulations from other related areas such as planning and construction, waste management, environmental protection, and occupational safety and health is crucial. Despite obvious progress in the legislative framework and the involvement of the competent Ministry, geological and mining companies in Serbia continue to face numerous challenges in practice when applying the Law, due to insufficiently precise elaboration of certain provisions of the law, the lack and obsolescence of certain bylaws and conflicts with regulations from other related fields.

With this in mind, the following recommendations are presented to improve the legislative framework applicable to the geological explorations and mining sector.

POSITIVE DEVELOPMENTS

In the past year, there have been no improvements, as the Law has not been amended and the issues related to its implementation remain the same. Improvements in the field

of geological explorations and mining require amendments to the Law and the relevant by-laws, as well as broader social consensus and close cooperation among all stakeholders in the field of geological explorations and mining.

REMAINING ISSUES

Geological Explorations

Bearing in mind that the Law does not specify deadlines for issuing approvals for applied geological explorations, the Ministry, as the competent authority, is obliged to act within the general deadline prescribed by the Law on General Administrative Procedure. Given the nature of the administrative procedure that involves issuing the aforementioned approval, the general deadlines (30 days) seem short for the Ministry to efficiently make decisions within the deadline, considering the large volume of work under its jurisdiction. In practice, the Ministry often makes decisions within deadlines longer than the general deadline. Therefore, it would be purposefully that the Law specifies a deadline for issuing approvals for applied geological explorations in line with the realistic capacities of the Ministry, and for this deadline to be longer than 30 days, while ensuring the Ministry adheres to it for legal certainty and in the best interest of further developing geological explorations in the Republic of Serbia.

Additionally, in practice, further geological explorations may be hindered or prevented by external events or circumstances that could not have been foreseen, avoided, or resolved (such as natural disasters etc.). This results in the inability of the exploration holder to carry out the necessary scope of approved works and thereby qualify for an extension of the exploration period in accordance with the Law. Therefore, it would be beneficial for the Law to introduce a "force majeure" mechanism in regulating geological explorations, as well as in the part of the Law dealing with the exploitation of mineral reserves and the execution of mining operations.

Moreover, it has been noted that the allowable quantities of mineral raw materials that can be taken for technological testing during approved geological explorations for certain mineral raw materials are inadequate. For example, 2,000 tons are allowed for lithium ores, the same as for polymetallic ores, but lithium is present in ore in much smaller concentrations than metals in polymetallic ores, and therefore requires a larger scope of technological testing.

In terms of the harmonized application of regulations in the field of geological explorations and regulations from other areas in accordance with their competencies, practice has shown that strict adherence to the competencies of state authorities (e.g., the Ministry and the Ministry of Agriculture), as well as consistent application of regulations, is of vital importance for the efficient and timely execution of geological explorations and the elimination of potential threats to the investment rights of exploration holders and other indirect participants in the geological exploration process.

Finally, the Rulebook prescribing the conditions, criteria, content, and method for classifying resources and reserves of mineral raw materials and other geological resources, and the method for presenting them in an elaboration, which is still in use and was adopted in 1979, does not contain criteria for determining the reserves of solid mineral raw materials or the conditions for classifying lithium and boron into categories and classes. This creates practical difficulties when lithium and boron are the subject of geological explorations, which is particularly significant given that these are mineral raw materials of strategic importance to the Republic of Serbia.

Mining

In the previous practice of developing geological exploration and mining projects, certain challenges have been noticed that, despite last year's recommendations, remain under consideration. Furthermore, the current regulations, in the form of the Law and accompanying by-laws, reflect potential legal risks in the subsequent phases of managing and operating mining projects. In this regard, it is necessary to eliminate legal uncertainties regarding the continuity and rights related to the approvals issued for a project (e.g., exclusivity rights over the exploration area, introduction of force majeure as a basis for extending statutory deadlines that bind approval holders) and improve the efficiency of procedures required for the development of geological exploration and mining projects, meaning the clear division of institutional competencies, simplification of certain administrative procedures for subsequent modifications of approved studies and clarification of conditions and procedures in the area of mining waste. Lastly, it is necessary to harmonize the technical requirements and regulations with best available practices and new solutions in the geo-

logical and mining industries.

Since the provisions of paragraphs 15 and 16 of Article 69 of the Law on Planning and Construction have simplified certain steps related to the construction of facilities under the general construction regime (particularly energy facilities), mining sector investors believe that these provisions should be transferred to the Law to the extent that they are applicable to the construction of mining facilities. Specifically, on land above underground parts of facilities such as linear infrastructure (e.g., oil pipelines, product pipelines, gas pipelines) and land below overhead power lines and wind turbine blades, the investor has the right of passage underneath or flight over the land, with the landowner or holder of that land being obligated not to obstruct the construction, maintenance, and use of the facility. In the mentioned cases, proof of resolved property-legal relations is not submitted, nor is a construction plot formed for the land in question, regardless of the purpose of the land, which is expected by the amendment to the Law in the case of the construction of mining facilities.

In addition, if a request is made for the issuance of an approval for an exploitation field on a previously approved exploration or exploitation field or area, or for an approved retention of rights over an exploration area, the Ministry, in accordance with Article 70 of the Law, will refuse to issue the approval for the exploitation field. However, in practice, it often happens that the applicant already holds an exploitation approval or exploitation field on the same area for a different mineral raw material, in which case overlapping exploitation fields should be allowed. This is particularly relevant when oil and natural gas reserves overlap below the Earth's surface, which is a common occurrence in the Republic of Serbia, and it would be useful for the Law to provide for this exception to allow the unhindered exploitation of these mineral raw materials.

Related to the exploitation of groundwater and geothermal resources, the issue of transferring approvals for exploitation spaces for groundwater resources from one legal entity to another remains unresolved and unregulated by the Law. The Law needs to clearly provide for the possibility of transferring such approvals (including approvals issued under earlier regulations).

FIC RECOMMENDATIONS

- Harmonization of the Law and regulations from other related areas such as planning and construction, waste management, environmental protection, and occupational safety and health

Geological Explorations

- The Law should define deadlines for issuing approvals for applied geological explorations that the competent authorities will adhere to.
- In the part of the Law concerning geological explorations, the concept of “force majeure” should be defined in the same way as recommended in Mining of this text.
- The provisions of the Law regarding the allowable quantities of mineral raw materials that can be taken for technological testing (Article 45), particularly for mineral raw materials of strategic importance to the Republic of Serbia, should be amended.
- Harmonized application of regulations in the field of geological explorations and other areas in accordance with the respective competencies is necessary. For example, inconsistency is evident in the actions of agricultural inspectors under the Law on Agricultural Land, who, during inspections on agricultural land where geological explorations are conducted, do not distinguish between geological explorations and exploitation. In this context, they require the approval for the conversion of land use (from agricultural to non-agricultural) and impose other measures in accordance with the relevant law, even when exploitation or the construction of infrastructure facilities is not in question, in line with the general procedure for obtaining construction permits.
- A Rulebook should be adopted, prescribing the conditions, criteria, content, and method for classifying resources and reserves of mineral raw materials and other geological resources, as well as the method for presenting them in an elaboration (in accordance with the Law).

Mining

- The Law should explicitly stipulate that a request for an exploration approval will be rejected if another entity holds a certificate of resources and reserves for the same area and the six-year period for obtaining exploitation rights has not expired.
- The Law should be amended to more precisely regulate the relationship and order of preparation of studies and projects under the Law and the obtaining of permits and preparation of studies in the field of environmental impact assessment. The Law should provide for the possibility of conducting a simplified procedure for subsequent amendments to feasibility studies for the exploitation of mineral deposits in certain cases without the need to repeat the procedure for obtaining exploitation rights and determining the scope and content of the environmental impact assessment study. The Law should recognize the force majeure concept (especially civil protests, strikes, delays, or non-compliance by authorities and holders of public powers in accordance with legal deadlines) in the provisions on the validity periods or deadlines for obtaining approvals. The Law should more precisely regulate the conditions under which security measures can be enforced for the execution of land remediation and reclamation tasks due to exploitation.
- In order to harmonize the legal solutions provided for by the Law on Planning and Construction and this Law, the Law should be amended in such a way that investors who are obliged to obtain approvals in accordance with

this Law, and in connection with the construction of mining facilities, especially facilities, plants and devices in oil and gas fields that are directly related to the transportation of oil and gas as well as linear infrastructure facilities to the extent that their construction is approved under this Law, including already existing mining facilities built in accordance with previously valid regulations on which the rights of investors are registered, shall not be obliged to submit proof of settled property-legal relations on the land (including agricultural and forest land) with the obligation of the investor to compensate for the damage caused by the execution of works, passage and transportation, i.e. to return the land to its original state.

- In the case of oil and gas exploitation, the Law should be amended to allow for the approval of an exploitation field on a previously approved exploration or exploitation field or area, as well as for the retention of rights to the exploration area by an applicant who already holds an exploitation approval or exploitation field or area for another mineral raw material on the same site.
- The Law should provide for the possibility of transferring rights for the exploitation of groundwater and geothermal resources arising from approvals for exploitation spaces and quantities of groundwater and/or geothermal resource reserves (including approvals issued under earlier regulations).
- The competencies of the MRE and the Ministry of Environmental Protection should be harmonized regarding the accreditation of laboratories and the execution of characterization and classification of mining waste. Mining waste regulations should be harmonized and the area of mining waste should be more precisely and comprehensively regulated in the by-laws of the Law.
- The existing Rulebook on Technical Standards for the Underground Exploitation of Metallic and Non-metallic Mineral Raw Materials should be amended to allow for: (i) the transport of people and materials in the same shaft when skips are separated by a steel partition from other containers for transporting personnel, in accordance with ISO Standards (ISO 19426 – Shaft Infrastructure and ISO 22111 – Fundamentals for the Design of Steel Partitions); (ii) the use of steel structures such as Technogrid, which has proven to be applicable in underground mining instead of thickened wooden guides; (iii) connecting fitting devices and ropes using epoxy resin instead of liquid metal, in accordance with ISO 3108 and ISO 2408 Standards, and harmonizing with ISO 17893, which defines several potential methods for connecting; (iv) the application of SANS 10208 Standards, used globally as the most modern safety system for guides and guide supports; and (v) the detailed specification of automatic control of hoisting equipment and replacing the signaling system with more modern alternatives.
- A new Rulebook on the Classification and Categorization of Resources and Reserves of Oil, Condensates, and Natural Gas should be adopted.
- It is proposed that new solutions be envisaged through amendments to existing or the adoption of new by-laws that would: (i) introduce the application of ISO 7243 Standards for defining effective temperature in mines; (ii) regulate all types of backfilling for mined-out areas (e.g., dry backfill, paste backfill, etc.); (iii) more closely regulate the use of emulsion mixtures for blasting in underground mines (storage of components of emulsion explosives before their mixing in underground storage as chemical components, as well as their mixing and charging of blast holes with prepared blasting holes) and initiation devices (new methods used for initiating explosives, including EDK (Electronic Detonator Cap), Boosters, and electronic initiation); and (iv) enable and regulate the use of battery-powered underground mining machinery and hybrid vehicles.