

The proposed amendments to the Law on Mining and Geological Research in Serbia are unconstitutional

Adoption of the proposed amendments to the law in energy and mining is planned for April 15th.

The Regulatory Institute for Renewable Energy and Environment (“RERI”) demands from the Government of the Republic of Serbia to urgently withdraw from the parliamentary procedure the proposed amendments to the Law on Mining and Geological Research, which it considers unconstitutional, because they leave the possibility for the state to formally suspend legal order of the Republic of Serbia during negotiations with foreign investors. Namely, the proposed changes leave the possibility for the state to conclude the so-called investment agreement with the investor in the exploitation project, which would regulate in more detail “relations regarding the construction of the missing infrastructure, environmental protection, pre-emptive rights to purchase products in favor of domestic processors, fiscal and legal benefits related to the project.”

RERI reminds the proposer of these changes that the Republic of Serbia has its own constitutional and legal order and regulations that regulate the environment and fiscal obligations of all individuals and legal entities in the territory of the Republic of Serbia, and that these obligations and regulations cannot be derogated by any new regulations “more suitable” for the investor, all depending on when the state in these situations deems it suitable for such relief.

“In this way, it is theoretically possible for the state to release a privileged investor from the obligation to obtain consent for a study on environmental impact assessment in projects in which obtaining it on the basis of the Law on Environmental Impact Assessment is necessary.”

Also, a situation is conceivable in which such an agreement enables the investor to calculate VAT at a preferential rate of e.g. 5% or income tax at the rate of 10% instead of 15%.

We have already encountered situations where the state allows foreign investors, for example in Zrenjanin or Bor, benefits of various kinds, beyond any commercial and rational explanation, but such amendments to the law would legalize this practice and actually become the rule of conduct, which is and legally and commercially unacceptable “, said on this occasion the lawyer Jovan Rajić, President of the Board of RERI.

If the Government of Serbia does not withdraw the disputed changes from the procedure, and the law in this form is adopted in the Assembly, RERI informs the public that immediately after its entry into force, it will submit an initiative to the Constitutional Court to assess the constitutionality of those provisions it considers unacceptable and unconstitutional.

Source: reri.org.rs



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