

## PENAL PROVISIONS OF THE WATER LAW - PREVENTIVE ROLE IN WATER PROTECTION

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**Abstract:** *Environmental protection has been a topical issue for decades. The need for environmental protection and water protection is not only a cultural and civilizational aspect of life, but to a greater extent it can also represent an existential issue. In this research, the issue of penal provisions provided for in the Water Law will be considered. The consideration of the aforementioned is based on the presentation of legislative water protection in a preventive and repressive sense. Therefore, this represents the hypothesis of this research. The goal of the paper is to point out this type of water protection, but also to raise awareness about it. In the paper, special attention will be paid to legal and sub-legal documents that exist in the positive law of the Republic of Serbia, and which at the same time represent a wide range of legislative water protection. Then, in a separate part of this research, the protection of the environment will be pointed out, and will be considered in a concise manner, viewed through the issue of water protection, primarily from the domestic legal aspect, as well as from the aspect of international*

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*law, i.e. legislation of the European Union. In the last part of this research, the focus will be on the penal provisions provided for in the Water Law. The aforementioned Law foresees criminal acts, economic offenses and misdemeanors as penal provisions that will be presented in detail, not only with the aim of a closer look, but also in order to raise awareness about them and thus promote prevention in the context of water protection.*

**Keywords:** *Environment, water protection, environmental protection, international law, criminal offense, Water Law.*

## INTRODUCTION

A chemical compound of oxygen and hydrogen, tasteless, odorless and colourless. In the history of mankind, peoples settled where it was abundant or at least sufficient. Today, in the broadest sense, there is water, but it is disproportionately represented (70% of the earth's surface is covered by water, of which 2.5% is fresh water), which by no means means that where there is "more" it is possible to use it don't worry. It is common knowledge that one drop of motor oil can contaminate around 500-600 liters of water, that one liter of motor oil can contaminate around one thousand liters of water, and that, for example, one liter of oil can contaminate a million liters of water. The above is intended to show that with very little carelessness, incredible direct damage can be done, not to mention indirect damage. Keeping in mind that water is one of the most valuable natural resources on the planet, it absolutely must be protected as such in every sense of the word. Of course, water is most polluted by humans, directly or indirectly, and therefore water protection has long been a priority. Decades ago, the basic problems of water pollution were recognized, but the depletion of water resources is also emerging, which is no less a problem. The largest amount of fresh water is found in glaciers and underground reservoirs, and therefore it is undeniable that more available fresh water must be used very rationally and carefully. Toxic substances from industrial plants, pesticides and herbicides from agriculture, as well as untreated waste water, are the causes of water pollution, ecosystem damage and endangering human health. Polluted water can easily and relatively quickly lead to a decrease in biodiversity in aquatic ecosystems, and in particularly high levels of pollution, the complete destruction of aquatic habitats can follow.

One of the segments of protection is certainly legislative protection. It has a special role in the preservation of water resources and environmental protection. Legislative measures establish water protection, regulate efficient water management, prevent pollution and maintain water quality as well as rational use. Penal provisions should achieve general and special prevention. Being aware that water has international importance and that many water resources (both surface and underground) and flows extend to several countries, legislative protection of water and the environment in general must be foreseen and harmonized with international agreements. Precisely because of everything mentioned in this research, special attention will be paid to the penal provisions of the Water Law, as the umbrella law for this area in the Republic of Serbia, with the aim of pointing out the penal form of preventive or repressive protection of water and the environment in general.

## **LEGAL AND SUB-LEGAL DOCUMENTS OF SIGNIFICANCE FOR WATER PROTECTION**

When looking at the issue of water protection, the Korvin Law, which is practically the only Law that foresees and regulates the mentioned issue, is the Water Law.

*The Water Law* was adopted in 2010, while it was last amended in 2018. Regulation of the legal status of water, integral water management, management of water land and facilities, sources and methods of funding water activities, oversight of the law's implementation, and other matters of water management are all envisioned in the first article.

The following article stipulates that this law applies to all of the Republic of Serbia's surface and subsurface waters, including thermal and mineral waters, with the exception of subsurface waters that can be used to produce geothermal energy and valuable mineral raw materials. Furthermore, it is foreseen that the provisions of this law also apply to watercourses that form or cross the state border of the Republic of Serbia, as well as the underground waters belonging to them, unless otherwise prescribed by a separate law. Finally, it should be noted that

the provisions of this law also apply to river sediment that does not contain admixtures of other useful mineral raw materials.

Article 3, paragraph 1 of this law defines that the term water means all flowing and stagnant water on the surface of the earth and all underground water (item 8). The Law also clearly demarcates water for drinking, water for bathing and water for sanitary and hygienic needs.

Bearing in mind the above, it will be briefly stated that the Law stipulates (item 5) that drinking water is water intended for human consumption and includes:

- (1) water, whether untreated or treated, that is used for drinking, cooking, food preparation, or other domestic purposes, regardless of where it comes from or whether it is supplied by a public well, distribution network, public source, tanks, containers, bottles, or tanks,
- (2) water used by food production companies to produce, process, store, or market goods or substances meant for human consumption, provided that the relevant authorities concur that the water's quality has no bearing on the final product's nutritional value.

Bathing water (item 4) represents water that people use for sports and recreational purposes, and is part of the water body of surface water, while water for sanitary and hygienic needs (item 6) represents water used for maintaining personal and general hygiene.

*Regulations* related to water protection are: Regulation on limit values of priority and priority hazardous substances that pollute surface waters and deadlines for reaching them; Regulation on limit values of emissions of polluting substances into water and deadlines for reaching them; Appendices to the Regulation on Amendments to the Regulation on Limit Values of Water Emissions and Deadlines for Reaching them; Regulation on limit values of polluting substances in surface and underground waters and sediment and deadlines for reaching them; and Regulation on determining the annual water status monitoring program for 2024.

The priority and priority hazardous substance limit values in surface waters, as well as the deadlines for achieving them, are outlined in the Regulation on the Limit Values of Priority and Priority Hazardous Substances that Pollute Surface Waters and the Deadlines for Their Achievement.

The emission limit values for specific groups or categories of polluting substances are outlined in the Regulation on Emission Limit Values of Polluting Substances into Water and the Deadlines for Reaching The deadlines for reaching the emission limit values are as follows: water that is discharged into the recipient after being purified from the public sewage system; waste water that is discharged into the recipient from the septic tank and collection pit; and technological waste water prior to its discharge into public sewers. It should be noted that emissions from the thermal treatment of waste are exempt from the rules in this regulation.

Annexes to the Regulation on Amendments to the Regulation on Limit Values of Emissions into Water and Deadlines for Their Attainment, more closely examine and determine the limit values of emissions for waste water.

The limit values of polluting substances in surface and subterranean waters and sediment, along with the deadlines for achieving them, are anticipated in the Regulation on Limit Values of Polluting Substances in Surface and Subterranean Waters and Sediment. The effects of accidents or extraordinary situations resulting from natural causes that are not reasonably foreseeable, preventable, or mitigated are exempt from this regulation.

The Regulation on establishing the annual water status monitoring program for the year 2024 foresees the aforementioned monitoring, which forms an integral part of the Regulation.

*Rulebook* related to water protection are: Regulations on parameters of ecological and chemical status of surface waters and parameters of chemical and quantitative status of underground waters; Rulebook and the method and criteria for determining the minimum sustainable flow; and the Rulebook on the method and conditions for measuring the quantity and testing the quality of waste water and its impact on the recipient and the content of the report on the measurements performed.

*Rulebook* on the parameters of the ecological and chemical status of surface waters and the parameters of the chemical and quantitative status of groundwater, the parameters of the ecological and chemical status for rivers and lakes, the parameters of the ecological potential for

artificial water bodies and significantly modified water bodies and the parameters of the chemical and quantitative status of groundwater are foreseen, on the basis of which a status assessment is made for water bodies of surface and underground waters.

The Rulebook on the method and criteria for determining the minimum sustainable flow predicts what follows from the name of the rulebook itself.

In the Rulebook on the Method and Conditions for Measuring the Quantity and Testing the Quality of Waste Water and Their Effect on the Recipient, as well as the Content of the Report on the Performed Measurements, the method and deadlines for its delivery are anticipated, as are the conditions and location for the installation of devices for measuring the quantity, taking samples, and testing the quality of waste water and its effects on the recipient.

Bearing in mind that water pollution is the release of substances into water bodies, as a result of which water becomes unsafe for human use, but aquatic ecosystems are also damaged, it is quite clear why there are so many legal regulations in domestic legislation, which was shown in the previous part.

Bearing in mind the complexity of the matter that is legally protected, there was a need for legislators to adopt and consolidate several regulations and regulations, which are subordinated to the guilty Law, ie the Water Law.

## **ENVIRONMENTAL PROTECTION VIEWED THROUGH THE ISSUE OF WATER PROTECTION**

The international community has long recognized the immeasurable importance and, of course, the necessity of environmental protection. The creation of European law in this area was not only aimed at accepting, that is, recognizing the problems that threaten a healthy environment, but by raising awareness, it was possible to create a positive atmosphere, which led to international documents being gradually implemented into domestic legislation. The Republic of Serbia is not an exception in this regard, and thus the ratification of international documents, one of the most important of which is the

Convention of the Council of Europe on Criminal Law Protection of the Environment of November 4, 1998. The next step of implementation is the implementation of a series of measures to protect the environment. The term living and working environment means everything that surrounds us, such as climate, air, water, soil, flora and fauna, residential and industrial areas, but also direct and indirect connection with production and life activities (Bingulac, Matijašević, 2013, pp. 547-547).

When a healthy environment is viewed as an existential right of man, and therefore a necessary condition for the survival of humanity, it can be clearly understood what degree of protection and guarantee of this value is necessary.

In the second part of the Constitution of The Republic of Serbia, in which human and minority rights and freedoms are guaranteed, Article 74, prescribed the right to a healthy environment. Therefore, everyone has the right to a healthy environment and timely and complete information about its condition, but also the obligation to protect, preserve and improve the environment.

Environmental crime actually represents collectively observed criminal activities aimed at violating the provisions of national laws, international laws and agreements, which ensure the preservation and sustainability of the environment in the world, but also the biological diversity of plant and animal species or natural resources (Uljanov, 2012, p. 71 ).

These often complex types of illegal actions represent a special international problem that must not be taken lightly (Matijašević, Dragojlović, Jež, 2012, p.286). They can directly or indirectly affect the national economy, the security of the state or the existence of the population. The impact, obviously negative, of environmental crime can be realized in several ways, the most common of which are the depletion of natural resources and the destruction of habitats leading to the loss of human lives. (Bingulac, Matijašević, 2013, p. 548).

Environmental protection represents a special complexity, which is why it is a separate branch of law (Bingulac, 2017, p. 343).

Through the perception of the European Union, water protection in terms of water resources and ecosystems has a special importance. The basic position is that all citizens of the "EU" have access to clean water

for drinking and bathing, emphasizing that clean water is the driving force of every person's life, but that clean water is an essential resource for nature as well. In the economic sense, water is important in the economy, agriculture, but also in energy production. It is undeniable that there is an awareness that "clean water" in the broadest sense of the word has many "pressures", starting from pollution with various chemicals, pesticides, pharmaceutical products...

When asked by the European Union, it is considered that the EU Water Policy is one of the cornerstones of environmental protection in the EU. Adopted decisions protect water resources, freshwater and saltwater ecosystems and ensure that drinking and bathing water is clean. In the context of the European Green Deal, the Water Framework Directive provides the main framework and objectives of water policy in Europe (European Commission - Energy, Climate change, Environment).

In the Treaty on the Functioning of the European Union (TFEU), Chapter XX entitled Environment, which is Articles 191 to 193, foresees, among other things, the protection of water. The articles of this Agreement are considered the basic legal sources on which EU policy is based. (The Treaty on the functioning of the European Union)

It is considered that water is not a commercial product, but a common good that is actually a limited resource, and therefore as such should be protected and used in a sustainable way, in terms of quality, and of course quantity. This resource has a wide application, and thus has a high environmental risk in the sectors of agriculture, industry, tourism, transport and energy. (Kurrer & Petit, 2024)

The importance of the issue of water protection in the EU was recognized during the seventies. As a positive legislative consequence, the first Drinking Water Directive (80/778/EEC) was adopted in 1980 with the aim of simplifying the national requirements of individual member states regarding water and to combat unequal conditions for economic competition.

The next significant step followed in 1992, when the Water Convention was adopted in Helsinki, with the aim of strengthening national measures and strengthening international cooperation in relation to the ecological management and protection of transboundary surface and groundwater (United Nations Economic Commission for Europe, 2021 , p.5).



The Convention on the Right of Non-Navigational Use of International Watercourses was adopted in 1997. The goal of this Convention was to establish and determine the basic standards and rules for cooperation between countries of the same watercourse in terms of use, management and protection of international watercourses (Convention on the Law of the Non-navigational Uses of International Watercourses).

During 2012, the Commission launched the Plan for the Conservation of European Water Resources. This plan represents a long-term strategy aimed at ensuring the availability of sufficient levels of quality water for all legitimate uses. In fact, this plan envisages a better implementation of the EU water policy, in a way that will integrate the goals of the water policy into other policy areas and, if necessary, fill certain legal gaps in the existing framework (Blueprint to Safeguard Europe's water resources).

During 2019, an evaluation of the EU Water Framework Directive - 2000/60/EC was made, and it was determined that it will not be changed because its goals and predictions are still suitable, but that its implementation must be accelerated. This insufficient level of implementation by member states and sectors with a large impact on water is especially visible in agriculture, energy and transport. This evaluation still remains priorities such as solving water pollution, reducing the loss of freshwater biodiversity and strengthening resilience to the impacts of climate change (Directorate-General for Environment 2019).

In terms of environmental protection, viewed through water protection in the broadest sense, in the EU there are special policies related to (European Commission - Energy, Climate change, Environment): bathing water: EU regulations to guarantee pure and superior bathing water across Europe; drinking water - expanding everyone's access to drinking water; floods: EU flood risk management measures and the hazards floods pose to the environment and human health; groundwater: EU initiatives to guarantee adequate groundwater quality and quantity; sea waters: EU measures to safeguard European oceans, seas, and coastlines; nitrates: preventing nitrates from agricultural sources from polluting water; surface waters: EU regulations that guard against chemical contamination of surface waters; EU regulations to guarantee

appropriate treatment of urban waste water; water reuse: facilitating water reuse in the EU and managing water resources more effectively; Prevention and mitigation of drought and water scarcity in the European Union...

Maintaining political will on the global water agenda and accelerating clean water and sanitation initiatives until 2030 are crucial objectives (EU efforts on the global water agenda). Clean and uncontaminated water has a direct impact on food security, as climate change and excessive water use can impact food prices and availability; energy security, as renewable energy sources use less water than fossil fuels, but there are still issues; health: people's health depends on having access to clean, safe water; peace: cross-border water cooperation can promote peace rather than conflict; and the natural world: clean water is necessary for thriving ecosystems, which can lessen the effects of climate change (EU efforts on the global water agenda).

## **PENAL PROVISIONS PROVIDED BY THE WATER LAW**

At the beginning of this part of the research, it is necessary to point out the general purpose of punishment and what sanctions are provided for in the Criminal Code, the Law on Misdemeanors and the Law on Economic Crimes. The general purpose of prescribing and imposing criminal sanctions is to suppress acts that violate or endanger values protected by criminal legislation (Đokić, 2020, p.188).

If one were to observe the common purpose of all criminal sanctions, it could be said that it is about protecting society from crime, but it is undeniable that in addition to the general purpose of all criminal sanctions, each type of sanction also has its own special purpose (Čejović, 1995, p. 376 ).

General prevention through the application of criminal sanctions aims to develop social discipline among citizens, while in terms of individualization it is envisaged to adapt the sanction to the special characteristics of the perpetrator, and also with the aim of achieving the purpose of the imposed sanction (Đurđić, 2008, p.28).

Criminal sanctions are provided by the Criminal Code as measures of social reaction or repressive measures implemented by the state in order

to achieve general and special prevention, and which are imposed by the court after criminal proceedings have been carried out against the perpetrator of the criminal offense (Jovašević, 2016, p. 77), and everything as to prevent the commission of criminal acts are: penalties; warning measures; security measures; and educational measures (Breneselović, 2011, p. 100).

Misdemeanor sanctions represent a repressive reaction undertaken by the state, all with the aim of protecting against the harmful consequences of misdemeanor offenses (Jovović, 2016, pp. 190-191). According to the Law on Misdemeanors, the following sanctions are foreseen: fines; penalty points; warning; protective measures; and educational measures (Stevanović & Batrićević, 2016, p.33).

The Law on Economic Offenses with the aim of protecting legality in the field of economic and financial operations regulates the general conditions and principles for the imposition of sanctions for economic offences, the system of sanctions, as well as the procedure in which liability is determined and sanctions imposed on the perpetrators of economic offences. The Law on Economic Offenses provides for the following sanctions: fine; probation and protective measures.

When it comes to punishment, the Law stipulates that only a fine can be imposed for an economic offense. The smallest fine that can be prescribed for a company is 10,000 dinars, and the largest is 3,000,000 dinars, while the smallest penalty for a responsible person is 2,000 dinars, and the largest is 200,000 dinars.

After a brief review of the sanctions provided for in the three aforementioned laws with the aim of pointing out the purpose of punishment, which indirectly has a special importance for the importance of the protective object, penal provisions in the Water Laws are needed.

The Water Law provides for penal provisions in Chapter XI. Two criminal offenses are foreseen, namely:

- Unauthorized filling and use of the reservoir (Article 209), which stipulates that anyone who without a water permit fills the reservoir or uses water from the reservoir and thus causes a danger to life or

health of people or property, will be punished with imprisonment from six months to five years.

- Damages during the exploitation of river sediments (Article 210), which stipulates that anyone who damages riverbeds, banks and regulatory facilities by exploiting river sediments from the watercourse bed, will be punished with imprisonment from six months to five years or a fine. The legislator also foresees that the object of the crime will be confiscated.

It can be seen that for the criminal offense of Damage during the exploitation of river sediments, an alternative punishment is provided, i.e. either a prison sentence or a fine, but also the mandatory measure of confiscation of the object.

The Water Law also provides for economic offenses in Article 211. A legal entity will be fined between RSD 500,000 and RSD 3,000,000 in cases where:

1) does not undertake measures and works to break the ice in order to protect against damage to water and other objects in the riverbed and near the coast; 2) uses water intended for drinking contrary to the provisions of the Water Law; 3) does not have evidence or does not have evidence in the prescribed scope about the performed laboratory analyzes on the healthiness of drinking water, that is, the quality of bathing water; 4) deliver drinking water, i.e. enable the use of water for bathing, for which the authorized health institution, on the basis of laboratory analyses, has determined that the drinking water is unhealthy, i.e. that the quality of the bathing water is not satisfactory; 5) uses drinking water for which the authorized health institution, based on laboratory analyses, has determined that the water is unhealthy; 6) uses the facility, that is, performs activities in a way that causes or may cause water pollution at the source; 7) does not obtain a decision on the determination of zones of sanitary protection of sources for water supply; 8) when taking water from watercourses, that is, reservoirs, downstream of the intake, it does not provide a minimum sustainable flow; 9) fails to undertake any of the actions related to the obligation to measure the quantity and test the quality of waste water; 10) fails to take the necessary measures related to the obligation to measure the quantity and test the quality of waste water; 11) performs works on the construction of new or reconstruction or removal of existing water facilities, or performs other works and activities without a water permit or contrary to a water permit issued; 12) performs an action without a

valid water permit or contrary to the issued water permit; 13) the right acquired on the basis of a water permit is transferred without the consent of the authority that issued the water permit; 14) builds facilities on water land or undertakes any of the actions contrary to prohibitions and 15) fails to transfer the water facilities it manages to the competent public water management company.

In addition to the above, the legislator foresees that the responsible person in the legal entity will be fined from 100,000 to 200,000 dinars. Two protective measures are also foreseen, namely the protective measure of confiscation of objects (for point 14) and the protective measure of prohibiting the responsible person from performing certain duties (for points 1, 5, 11 and 12).

The Water Law also provides for offenses against legal entities, responsible persons, entrepreneurs and persons in general.

Article 212 provides for violations of legal entities that will be punished with a fine ranging from 200,000 to 1,000,000 dinars in cases where: 1) dams with accumulation and retention basins are not maintained and used in a way that ensures the acceptance of flood waves; 2) fails to submit data related to the use of the dam with accumulation and retention basins; 3) uses the erosion area contrary to prohibitions and does not undertake actions; 4) does not undertake works and measures; 5) does not respect temporary restrictions on the right to special use of water; 6) uses water contrary to the Water Law; 7) does not protect the source and other objects from intentional or accidental pollution or other influences that may adversely affect the abundance of the source and the health of the water; 8) does not perform water quality testing, registers water quantities, does not install devices and does not take measures to ensure the technical correctness of devices, does not inform competent authorities about measurements of water quantity and quality; 9) does not measure the quantity and test the quality of water and does not submit data on this to the competent authorities; 10) acts contrary to the provisions of the Water Law as a contractor of investigative works; 11) does not equip wells and boreholes with free discharge of water with devices for regulation of discharge of water and protection of water from pollution; 12) carries out fish breeding contrary to the provisions; 13) accumulation of benefits contrary to provisions; 14) act contrary to the

provision; 15) undertakes any of the actions that are prohibited for the purpose of protecting water quality; 16) does not install measuring devices, does not measure quantities and does not examine the quality of waste water and does not submit a report on this to the competent public water management company; 17) does not measure quantities and examine the quality of waste water before and after treatment, does not ensure regular functioning of waste water treatment devices and does not keep a log of their work; 18) does not install devices for taking over waste mineral oils, oil mixtures, waste water and other waste materials from vessels; 19) does not use oil pipelines and devices for accepting, processing and storing mineral oils in accordance with the Water Law; 20) as the owner, that is, the user of a part of the coast, notices, and does not report to the competent authority, that water pollution has occurred in a watercourse, lake or reservoir; 21) does not obtain water conditions; 22) carries out removal of river deposits contrary to the issued water permit or without a water permit; 23) fails to submit data for the cadastre on water facilities that they have built for their own needs; 24) does not allow the use of any of the rights that provide for acts of tolerance; 25) fails to perform any of the actions required by the Water Law; 26) do not allow the use of official rights; 27) fails to eliminate damage in accordance with the Water Law; 28) does not enable the water inspector, sanitary inspector and environmental protection inspector to carry out supervision or does not provide him with the necessary data; 29) does not enable the water inspector, the environmental protection inspector to review business books and business premises in order to collect the elements needed for the calculation of fees; 30) does not act according to the decision of the water inspector, sanitary inspector and environmental protection inspector.

In addition to the above, the legislator foresees that the responsible person in the legal entity will be fined from 25,000 to 50,000 dinars. There is also one protective measure (as opposed to economic crime where there are two) and that is the protective measure of confiscation of objects (for point 22). It is also foreseen that the water inspector can collect a fine on the spot to the legal entity in the amount of 20,000 dinars and to the responsible person in the legal entity in the amount of 5,000 dinars.

A responsible person in an administrative body responsible for the implementation of state monitoring of water quality or another legal

entity will be fined from 25,000 to 50,000 dinars for a misdemeanor if he does not carry out a systematic examination of water quality in watercourses, in accordance with the annual program or if he does not fulfill an obligation that is provided by the Water Law. In addition to the aforementioned, the legislator also foresees that the responsible person in the authority responsible for keeping records of immovable properties and rights on them, i.e. the authority that performs the tasks of determining and calculating the amount of compensation for the use of construction land in the local self-government unit, will be fined from 10,000 to 50,000 dinars if you do not submit the information prescribed by the Water Law.

In Article 212a, the legislator foresees the misdemeanors of the responsible person, in such a way that they will be punished with a fine of 50,000 to 100,000 dinars or a prison sentence of up to 30 days. These penalties are provided for the responsible person in the authority, special organization, or public water management company who, during the implementation of the unified procedure, does not act in the manner and within the prescribed time limits. In addition to the above, it is foreseen that the request for initiation of misdemeanor proceedings is submitted by the authority responsible for issuing water conditions.

The legislator foresees the offense of an entrepreneur in Article 213, in such a way that he will be punished with a fine ranging from 100,000 to 500,000 dinars if he commits any of the actions provided for in Article 211 (economic crimes) paragraph 1. point: 1, 2, 5, 7, 8, 9, 10, 11, 12, 13 and 14.

The legislator foresees that the entrepreneur will be fined in the range of 100,000 to 500,000 dinars if he commits any of the actions provided for in Article 212 (offenses by the responsible person), paragraph 1, point: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28. point 22). In addition to the above, it is foreseen that the water inspector can collect a fine on the spot from the entrepreneur for offenses related to Article 212 in the amount of 20,000 dinars.

Violation of a person is provided for in Article 214. The legislator foresees that a person will be fined in the range of 20,000 to 50,000 dinars if he commits any of the actions from Article 211 (economic crimes), paragraph 1, point: 1, 2, 5, 7, 8, 9, 11, 13 and 14.

The legislator foresees that a person will be fined in the range of 5,000 to 50,000 dinars if he commits any of the actions provided for in Article 212 (offenses by a responsible person), paragraph 1, item: 1, 2, 3, 4, 5, 6, 7, 8, 9, 12, 13, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 25, 27, 28, 29 and 30. A protective measure is also provided for, namely the protective measure of confiscation of items that were used or were intended for the commission of a misdemeanor (for point 22). In addition to the above, it is foreseen that the water inspector can collect a fine on the spot from the entrepreneur for violations related to Article 212 in the amount of 5,000 dinars.

## CONCLUSION

Water protection and environmental protection in general represents a kind of moral obligation for all people who have at least a little developed awareness, regardless of education and interests. Legislative protection of water exists because of "others". The aim of this paper was to point out the penal provisions related to the legislative protection of water according to the Water Law, both in a preventive sense and in a repressive sense. Legislative protection represents the last segment of water protection, and it should be preceded by raising awareness and expanding education on this topic. Adequate management of industrial processes, using environmentally friendly technologies, recycling and reuse of water, as well as reducing the use of chemicals in agriculture and appropriate treatment of waste water are segments of water and environment protection in the strictest sense. Preservation of natural water ecosystems, rivers, lakes and other above-ground and underground water systems has a positive effect on the entire living world, and therefore on humans. The aim of this paper was to raise awareness of the importance of water protection, by presenting and analyzing international legislation, and certainly domestic legislation, with a special focus, as already indicated, on the penal provisions provided for by the Water Law. Legislative measures headed by penal provisions, i.e. criminal acts, economic offenses and misdemeanors, aimed at water protection enable adequate water management, management of water facilities and water land, prevention of pollution, preservation of water quality as well as rational use.



## REFERENCES

1. Bingulac, N. (2017). Misdemeanor penal policy in terms of protection of radiation and nuclear safety in Republic Serbia, *XIX International Eco-conference® and XII Environmental protection of urban and suburban settlements®*, 27st-29th September 2017, Novi Sad, Ecological movement of Novi Sad, 341-350.
2. Bingulac, N. & Matijašević, J. (2013). Integrated License in Regulations on Environmental protection of Serbia, *XVII International Eco-conference®*, 25st-28th Septemer 2013, Proceedings „Environmental protection of urban and suburban settlements“, Ekological movement of Novi Sad, 547-554.
3. Breneselović, L. (2011). Materijalna klasifikacija krivičnih sankcija kao osnov pravnog poređenja u krivičnom pravu, *Strani pravni život*, 2, 98-114.
4. Čejović, B. (1995). *Krivično pravo, Opšti deo*, Studentski kulturni centar, Niš.
5. Communication from the Commission to The European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions - A Blueprint to Safeguard Europe's water resources.
6. Convention on the Law of the Non-navigational Uses of International Watercourses, Adopted by the General Assembly of the United Nations on 21 May 1997.
7. Council Directive 80/778/EEC of 15 July 1980 relating to the quality of water intended for human consumption OJ L 229, 30.8.1980, p. 11-29.
8. Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy.
9. Directorate-General for Environment (2019). Evaluation of EU water legislation concludes that it is broadly fit for purpose but implementation needs to speed up.
10. Đokić, I. (2020), *Uslovna osuda*, Harmonius.
11. Đurđić, V. i dr. (2008). *Javno tužilaštvo, policija, krivični sud i suzbijanje kriminaliteta*, Udruženje javnih tužilaca i zamenika javnih tužilaca Srbije.

12. European Commision - Energy, Climate change, Environment (2024, oktobar, 11), [https://environment.ec.europa.eu/topics/water\\_en](https://environment.ec.europa.eu/topics/water_en)
13. European Commision - EU efforts on the global water agenda – Beyond UN 2023 Water Conference (2024, oktobar, 11), [https://environment.ec.europa.eu/topics/water/eu-efforts-global-water-agenda-beyond-un-2023-water-conference\\_en](https://environment.ec.europa.eu/topics/water/eu-efforts-global-water-agenda-beyond-un-2023-water-conference_en)
14. Jovašević, D. (2016). Krivične sankcije – sredstvo kontrole kriminaliteta pravnih lica, *Zbornik radova Pravnog fakulteta u Nišu*, 74, 71-90.
15. Jovović, M. (2016), Pojam i vrste prekršajnih sankcija, *Pravne teme*, 4(8)189-215.
16. Krivični zakonik, Sl. glasnik RS, br. 85/2005, 88/2005 - ispr., 107/2005 - ispr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 i 35/2019.
17. Kurrer, C. & Petit, A. (2024), Water protection and management, Fact Sheets on the European Union.
18. Matijašević, J., Dragojlović, J., Jež, Z. (2012). Krivičnopravni okvir zaštite životne sredine u Evropskoj uniji, *Evropsko zakonodavstvo*, 11 (41/12), Institut za međunarodnu politiku i privredu, Beograd, 286-308.
19. Pravilnik i načinu i merilima za određivanje minimalnog održivog protoka, (2024, oktobar, 11), [https://www.ekologija.gov.rs/sites/default/files/2024-03/pravilnik\\_o\\_nacinu\\_i\\_merilima\\_za\\_odredjivanje\\_minimalnog\\_odrzivog\\_protoka.pdf](https://www.ekologija.gov.rs/sites/default/files/2024-03/pravilnik_o_nacinu_i_merilima_za_odredjivanje_minimalnog_odrzivog_protoka.pdf)
20. Pravilnik o načinu i uslovima za merenje količine i ispitivanje kvaliteta otpadnih voda i njihovog uticaja na recipijent i sadržini izveštaja o izvršenim merenjima, Sl. glasnik RS, br. 18/2024
21. Pravilnik o parametrima ekološkog i hemijskog statusa površinskih voda i parametrima hemijskog i kvantitativnog statusa podzemnih voda, Sl. glasnik RS, br. 74/2011
22. Prilozi za Uredbu o izmenama i dopunama Uredbe o granicnim vrednostima emisije u vode i rokovima za njihovo dostizanje, (2024, oktobar, 11) [https://www.ekologija.gov.rs/sites/default/files/old-documents/Zastita\\_voda/Uredbe/Prilozi-za-Uredbu-o-izmenama-i-dopunama-Uredbe-o-granicnim-vrednostima-emisije-u-vode-i-rokovima-za-njihovo-dostizanje.pdf](https://www.ekologija.gov.rs/sites/default/files/old-documents/Zastita_voda/Uredbe/Prilozi-za-Uredbu-o-izmenama-i-dopunama-Uredbe-o-granicnim-vrednostima-emisije-u-vode-i-rokovima-za-njihovo-dostizanje.pdf)

23. Stevanović, I. i Batrićević, A. (2016). *Krivične i prekršajne sankcije i mere : izricanje, izvršenje i uslovni otpust*, Institut za kriminološka i sociološka istraživanja.
24. The Treaty on the functioning of the European Union, Official Journal of the European Union C 326/47.
25. Uljanov, S. (2012). Standardi Interpol-a u borbi protiv ekološkog kriminala, *Ekologija i pravo*, Institut za uporedno pravo, Pravni fakultet Univerziteta Union u Beogradu, Beograd, 68-88.
26. United Nations Economic Commission for Europe - Convention on the Protection and use of transboundary watercourses and international lakes (2021), Guide to Implementing The Water Convention, Geneva.
27. Uredba o graničnim vrednostima emisije zagađujućih materija u vode i rokovima za njihovo dostizanje, Sl. glasnik RS, br. 67/2011, 48/2012 i 1/2016
28. Uredba o graničnim vrednostima prioriternih i prioriternih hazardnih supstanci koje zagađuju površinske vode i rokovima za njihovo dostizanje, Sl. glasnik RS, br. 24/2014
29. Uredba o graničnim vrednostima zagađujućih materija u površinskim i podzemnim vodama i sedimentu i rokovima za njihovo dostizanje, Sl. glasnik RS, br. 50/2012
30. Uredba o utvrđivanju godišnjeg programa monitoringa statusa voda za 2024. godinu, (2024, oktobar, 11), [https://www.ekologija.gov.rs/sites/default/files/2024-03/uredba\\_o\\_utvrdjivanju\\_godisnjeg\\_programa\\_monitoringa\\_statusa\\_voda\\_za\\_2024\\_godinu.pdf](https://www.ekologija.gov.rs/sites/default/files/2024-03/uredba_o_utvrdjivanju_godisnjeg_programa_monitoringa_statusa_voda_za_2024_godinu.pdf)
31. Ustav Republike Srbije, Sl. glasnik RS, br. 98/06 i 115/2021.
32. Zakon o prekršajima, Sl. glasnik RS, br. 65/2013, 13/2016, 98/2016 - odluka US, 91/2019, 91/2019 - dr. zakon i 112/2022 - odluka US.
33. Zakon o privrednim prestupima, Sl. list SFRJ, br. 4/77, 36/77 - ispr., 14/85, 10/86 (prečišćen tekst), 74/87, 57/89 i 3/90 i Sl. list SRJ, br. 27/92, 16/93, 31/93, 41/93, 50/93, 24/94, 28/96 i 64/2001 i Sl. glasnik RS, br. 101/2005 - dr. zakon.
34. Zakon o vodama, Sl. glasnik RS, br. 30/2010, 93/2012, 101/2016, 95/2018 i 95/2018 - dr. zakon.
35. Zakon o zaštiti životne sredine, Sl. glasnik RS, br. 135/2004, 36/2009, 36/2009 - dr. zakon, 72/2009 - dr. zakon, 43/2011 -

odluka US, 14/2016, 76/2018, 95/2018 - dr. zakon, 95/2018 - dr. zakon i 94/2024 - dr. zakon.

## KAZNENE ODREDBE ZAKONA O VODAMA – PREVENTIVNA ULOGA U ZAŠTITI VODA

Nenad Bingulac

Vidoje Mitrić

**Sažetak:** *Zaštita životne sredine decenijama unazad predstavlja aktuelno pitanje. Potreba za zaštitom životne sredine i zaštitom voda ne predstavlja samo kulturološki i civilizacijski aspekt življenja, već u većoj meri može da predstavlja i egzistencijalno pitanje. U ovom istraživanju ukazaće se i razmotriti pitanje kaznenih odredbi koje su predviđene u Zakonu o vodama. Razmatranje pomenutog se zasniva na prikazu zakonodavne zaštite vode u preventivnom i represivnom smislu. Stoga ovo predstavlja hipotezu ovog istraživanja. Cilj rada je da ukaže na ovaj vid zaštite vode, ali i da se podigne svest o istom. U radu će se posebna pažnja posvetiti zakonskim i podzakonskim dokumentima koji postoje u pozitivnom pravu Republike Srbije, a koji ujedno predstavljaju lepezu zakonodavne zaštite vode. Zatim, u zasebnom delu ovog istraživanja ukazaće se, i u konciznoj meri će se razmotriti, zaštita životne sredine posmatrano kroz pitanje zaštite voda, kako prvenstveno sa domaćeg pravnog aspekta, tako i sa aspekta međunarodnog prava, tj. legislative Evropske unije. U poslednjem delu ovog istraživanja, fokus će biti na kaznenim odredbama koje su predviđene u Zakonu o vodama. Pomenuti Zakon predviđa krivična dela, privredne prestupe i prekršaje kao kaznene odredbe koji će biti detaljno prikazani, ne isključivo sa ciljem bližeg sagledavanja već i kako bi se podigla svest o njima pa samim tim se promovisala i prevencija u kontekstu zaštite voda.*

**Ključne reči:** *životna sredina, zašita voda, zaštita životne sredine, međunarodno pravo, krivično delo, Zakon o vodama.*