



СТРАТЕГИЈА
НАВОДЊАВАЊА
РЕПУБЛИКЕ СРБИЈЕ

SUPPORTING THE DEVELOPMENT OF STRATEGIC FRAMEWORK FOR IRRIGATION IN SERBIA

**OVERVIEW OF THE LEGAL FRAMEWORK
RELATED TO IRRIGATION
IN THE REPUBLIC OF SERBIA**

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I. INTRODUCTION

For the purposes of implementing the project to support the development of the strategic framework for irrigation in the Republic of Serbia (hereinafter: the Program), the drafted document contains an overview of the legal framework related to irrigation currently in force in the Republic of Serbia, including legal requirements for investment in irrigation systems.

Also, an overview of the procedures for the adoption and mandatory content of the Program as a planning document which would comprehensively determine the strategic direction of action and public policy in the field of irrigation is presented.

II. LEGAL FRAMEWORK FOR IRRIGATION

The legislative framework regulating the field of water on the territory of the Republic of Serbia includes numerous Laws and by-Laws, as well as strategic and planning documents that determine long-term goals, as well as directions for action for sustainable water management.

The Constitution of the Republic of Serbia, as its highest legal act, guarantees the right of every citizen to the protection of the environment and thus the protection of water as one of the natural resources.

1. The Law on Waters

The basic legal act in the field of water is The Law on Waters¹, which regulates the legal status of water, integrated water management, management of water facilities and water land², sources and method of financing water activities, as well as other issues important for water management.

The provisions of this Law apply to all surface and groundwater in the territory of the Republic of Serbia, including boundary and transboundary rivers, thermal and mineral waters, and extraction of river sand and gravel. The Law also refers to watercourses that form or cross the state border of the Republic of Serbia and the groundwater belonging to them, as well as to river sediments that do not contain impurities or other useful mineral raw materials.

In accordance with the Law on Waters, waters in the Republic of Serbia are of general interest and are state-owned. Water must be used rationally and economically, and the right to special use of water is acquired by a water permit or on the basis of a contract governing the concession.

Waters are a natural resource and are owned by the Republic of Serbia, which is responsible for their integrated management.

Integrated water management is a set of measures and activities aimed at maintaining and improving the water regime, providing the necessary quantities of water of a certain quality for various purposes, protection of water from pollution and protection from the water related hazards.

This Law also (determines the water areas on the territory of the Republic of Serbia, which are then divided into water units as the basic territorial units for performing operational activities in water management.

Water areas in the Republic of Serbia are:

1. Sava River Basin District,
2. Danube River water area,
3. Morava River water area,
4. The Water area of Ibar and Lepenac,
5. Beli Drim water area.

¹ "Official Gazette of RS", No 30/2010, 93/2012, 101/2016, 95/2018 and 95/2018

² The Law defines water land as land on which there is water permanently or occasionally, due to which special hydrological, geomorphological and biological relations are formed which are reflected on the aquatic and coastal ecosystem

Full and complete application of this Law is ensured by adopting the envisaged by-Laws harmonized with the relevant EU directives, including regulations that determine the methodologies, criteria and other necessary elements for the implementation of integrated water management in the territory of the Republic of Serbia.

Currently, a number of by-Laws have been adopted on the basis of this Law, which regulate in more detail the issues of water protection, regulation of watercourses and protection from the harmful effects of water, use of water for various purposes, method of financing, such as:

- Decree on Establishing the Water Management Program,
- Order on Determining the Operational Plan for Flood Defense,
- Decree on Determining the General Plan for Flood Defense³,
- Rulebook on Determining Land Amelioration Areas and Their Borders⁴,
- Rulebook on the Determination of Water Units and Their Boundaries⁵,
- Rulebook on the Content and Form of Requests for the Issuance of Water Acts, the Content of Opinions in the Procedure of Issuing Water Conditions and the Content of Reports in the Procedure of Issuing Water Permits⁶,
- Rulebook on Conditions for Distribution and Use of Funds from the Budget Fund for Waters of the Republic of Serbia and on the Manner of Distribution of Those Funds⁷.

2. Strategic and planning documents

The Law on Waters defines the planning documents that are the basis for water management in the territory of the Republic of Serbia, and they are as follows:

- **The Water Management Strategy on the territory of the Republic of Serbia** is a planning document which determines long-term directions of water management. The strategy is adopted by the Government, at the proposal of the Ministry of Agriculture (hereinafter: the Ministry) for a period of at least 10 years. The Ministry also monitors the implementation of the Strategy. In accordance with the Law, the Strategy contains in particular: assessments of the current state of water management, water management goals and guidelines, measures for achieving the established goals of water management as well as a projection of water management development.
- **The water management plan** is adopted in accordance with the Strategy for the Danube River Basin as well as for other water areas. The management plan for the Danube River is adopted by the Government on the proposal of the Ministry and the plans for other water areas are adopted by public water management companies. The water management plan is adopted for a period of six years, and after the expiration of that period, it is renewed.

³ “Official Gazette of RS”, No. 18/2019

⁴ “Official Gazette of RS”, No. 90/2018

⁵ “Official Gazette of RS”, No. 08/2018

⁶ “Official Gazette of RS”, No. 72/2017 and 44/2018

⁷ “Official Gazette of RS”, No. 13/2017, 79/2017, 40/2018 and 44/2018

- **The annual water management program** must be in accordance with the Strategy and Water management plan and is adopted by the Government, ie the Autonomous Province for the territory of the Autonomous Province. It is a planning document that determines water facilities, type and scope of works, ie works that are financed in the period for which the program is adopted, the amount of funds for the implementation of works, amount of participation and other issues related to construction, reconstruction, remediation and maintenance of water facilities and other activities of general interest.
- **Plans governing protection against the water-related hazards**, as follows: flood risk management plan, general and operational plan for flood defense as well as plans governing water protection (water protection plan against pollution and monitoring program).

The Law on Waters foresees the obligation of mutual harmonization of these and other national strategic and planning documents in the fields of spatial planning, sustainable development, agricultural development, sustainable use of natural resources and goods, environmental protection. Therefore, various other sectoral strategic documents require consideration of the water resources..

Mutual harmonization is mandatory and refers to the following strategic and planning documents that are currently in force, as follows:

- **Water Management Strategy on the Territory of the Republic of Serbia until 2034**⁸ sets long-term policies as well as strategic goals for the implementation of reforms in the water sector, bearing in mind the social and economic power of the state, and in accordance with the standards of the European Union;
- **Spatial Plan of the Republic of Serbia 2010- 2020**⁹ determines the long-term foundations of the organization, landscaping, use and protection of the territory of the Republic of Serbia in a way that harmonizes economic and social development with natural, ecological and cultural possibilities, as well as restrictions on its territory;
- **The National Sustainable Development Strategy of the Republic of Serbia**¹⁰ aims at three key factors in the field of sustainable development: sustainable economic development, economy and technology; sustainable development of society on the basis of social balance and environmental protection, taking into account the rational use of natural resources;
- **The Strategy for Agriculture and Rural Development of the Republic of Serbia for the period 2014-2024**¹¹ is an overarching document in this area setting long-term goals and priorities for political and institutional reforms in the field of agriculture and rural development;
- **The National Strategy for Sustainable Use of Natural Resources and Goods**¹² together with the Spatial Plan of the Republic of Serbia represents a framework for strategic planning of sustainable use of natural resources and goods;

⁸ “Official Gazette of RS”, No. 03/2017

⁹ “Official Gazette of RS”, No. 88/2010

¹⁰ “Official Gazette of RS”, No. 57/2008

¹¹ “Official Gazette of RS”, No. 85/2014

¹² “Official Gazette of RS”, No. 33/2012

- **Regulation on Determining the Water Management Basis of the Republic of Serbia**¹³ aims to maintain and develop the water regime which provides the most appropriate technical, economic and ecological solutions for unified water management, protection against the harmful effects of water, water protection and water use.

3. Other Laws

In addition to the Law on Waters, as the basic legal act in the field of water, by-Laws and strategic acts adopted on the basis of it and in connection with it, other Laws regulating this area are in force, as follows:

- **Law on Environmental Protection**¹⁴, **Law on Environmental Impact Assessment**¹⁵, **Law on Integrated Prevention and Control of the Environmental Pollution**¹⁶ and **Law on Strategic Environmental Assessment**¹⁷, which regulate the system of environmental protection, including water as its essential element.
- **Law on Nature Protection**¹⁸, which regulates the protection and preservation of nature, biological, geological and landscape diversity, as parts of the environment.
- **Law on Mining and Geological Research**¹⁹, which regulates the manner of classification of resources and reserves of mineral raw materials and groundwater and geothermal resources.
- **Law on Communal Activities**²⁰ which determines communal activities and regulates the general conditions and manner of performing these activities, including: supply of drinking water and purification and drainage of atmospheric and wastewater.
- **Law on Public Property**²¹ which regulates the forms and holders of public property rights, which includes water resources (water and water land) and water facilities.
- **Law on Navigation and Ports on Inland Waterways**²² which regulates the conditions and manner of safe navigation on the inland waters of the Republic of Serbia, waterways and

¹³ “Official Gazette of RS”, No. 11/2002

¹⁴ “Official Gazette of RS”, No 135/2004, 36/2009, 36/2009 – the other law, 72/2009 – the other law, 43/2011 - decision of the Constitutional Court, 14/2016, 76/2018, 95/2018 – the other law and 95/2018 – the other law

¹⁵ “Official Gazette of RS”, No. 135/2004 and 36/2009

¹⁶ “Official Gazette of RS”, No 135/2004 and 25/2015

¹⁷ “Official Gazette of RS”, No 135/2004 and 88/2010

¹⁸ “Official Gazette of RS”, No. 36/2009, 88/2010, 91/2010 - correction, 14/2016 и 95/2018 – the other law

¹⁹ “Official Gazette of RS”, No. 101/2015 и 95/2018 – the other law

²⁰ “Official Gazette of RS”, No. 88/2011, 104/2016 and 95/2018

²¹ “Official Gazette of RS”, No. 72/2011, 88/2013, 105/2014, 104/2016 – the other law, 108/2016, 113/2017 and 95/2018

navigation, vessels and their ability to navigate, crew, search and rescue, ports, supervision and other issues related to navigation on inland waters.

- **Law on Local Self-Government**²³ which regulates local self-government units, criteria for their establishment, competencies of bodies, supervision over their acts and work, protection of local self-government and other issues.
- **Law on Financing of Local Self-Government**²⁴ which regulates the provision of funds to local self-government units for the performance of original and entrusted tasks.
- **Law on Establishing the Competences of the Autonomous Province of Vojvodina**²⁵ determines the competencies of the Autonomous Province of Vojvodina and regulates other issues of importance for the position of AP Vojvodina. AP Vojvodina, on its territory, through its bodies, in the field of water management as entrusted tasks: adopts, implements and supervises regular and extraordinary defenses against external and internal waters, manages water resources and artificial and natural watercourses, adopts the water management basis, establishes a public company for water management, performs inspection supervision in the field of water management.
- **Law on Emergency Situations**²⁶ regulates the operation, declaration and management of emergency situations, the system of protection and rescue of people, material and cultural goods and the environment from natural disasters (such as: floods, torrents, storms, heavy rains, atmospheric discharges, hail, ice accumulation on the watercourse), competencies, rights and duties of other entities in connection with emergency situations and other issues of importance for the organization and functioning of the protection and rescue system. This Law establishes, among other things, that the Republic Water Directorate, as a body within the Ministry of Agriculture, Forestry and Water Management, is one of the competent bodies in the rescue protection system and thus has a significant role in the system established by Law (participates in the work of Crisis Staffs, as well as in the Commission for flood damage assessment).
- **Law on Disaster Risk Reduction and Emergency Management**²⁷ regulates disaster risk reduction, as well as emergency management, where disaster risk reduction implies and monitoring climate change and adapting the community to the expected consequences.

²² “Official Gazette of RS”, No. 73/2010, 121/2012, 18/2015, 96/2015 – the other law, 92/2016, 104/2016 the other law, 113/2017 – the other law, 41/2018

²³ “Official Gazette of RS”, No. 129/2007, 83/2014 – the other law, 101/2016 – the other law, and 47/2018

²⁴ “Official Gazette of RS”, No. 62/2006, 47/2011, 93/2012, 99/2013, 125/2014, 95/2015, 83/2016, 91/2016, 104/2016 – the other law, 96/2017, 89/2018, 95/2018 - the other law and 86/2019

²⁵ “Official Gazette of RS”, No. 99/2009 and 67/2012 - decision of the Constitutional Court

²⁶ “Official Gazette of RS”, No. 111/2009, 92/2011 and 93/2012

²⁷ “Official Gazette of RS”, No. 87/2018

- **Law on the Capital City**²⁸ regulates the position, competencies and bodies of the City of Belgrade, on its territory, and establishes its supervision in the field of water management.
- **Law on Planning and Construction**²⁹ regulates the conditions and manner of arranging the space, arranging and using of construction land, construction of facilities, supervising the application of the provisions of that Law and inspection supervision, as well as other issues of importance for landscaping, use of construction land as well as for the construction of facilities (including water facilities).
- **Law on Public Enterprises**³⁰ regulates the legal status of public companies and other forms of organization that perform activities of general interest (utilities and water management).
- **Law on Public Health**³¹ regulates the areas of public health, competencies, planning, conducting conservation activities and improving the health of the population, where the implementation of public health in the field of environment and population health includes: monitoring and analysis of the state of the environment, among other things, analysis of water (surface and groundwater, as well as monitoring and control of the quality and health safety of drinking water and assessment of the impact of its pollution on the health of the population).
- **Law on Public-Private Partnerships and Concessions**³² regulates issues of importance for public-private partnership, with or without elements of concession, ie, for concession, where a public-private partnership is a long-term cooperation between a public and a private partner to provide financing, construction, reconstruction, management or maintenance of infrastructure and other facilities of public importance and the provision of services of public importance.

Other Laws dealing with water, that is, which have an impact on water management are: Law on Forests³³, Law on Agricultural Land³⁴, Energy Law³⁵, The Law on Protection and Sustainable Use of Fish Fund³⁶, etc.

²⁸ "Official Gazette of RS", No. 129/2007, 83/2014 – the other law, 101/2016 – the other law and 37/2019

²⁹ "Official Gazette of RS", No. 72/2009, 81/2009 - correction., 64/2010 - decision of the Constitutional Court, 24/2011, 121/2012, 42/2013 - decision of the Constitutional Court, 50/2013 - decision of the Constitutional Court, 98/2013 - decision of the Constitutional Court, 132/2014, 145/2014, 83/2018, 31/2019, 37/2019 – the other law and 9/2020

³⁰ "Official Gazette of RS", No. 15/2016 and 88/2019

³¹ "Official Gazette of RS", No. 15/2016

³² "Official Gazette of RS", No. 88/2011, 15/2016 and 104/2016

³³ "Official Gazette of RS", No. 30/2010, 93/2012, 89/2015 and 95/2018 – the other law

³⁴ "Official Gazette of RS", No. 30/2010, 93/2012, 89/2015 and 95/2018 – the other law

³⁵ "Official Gazette of RS", No. 145/2014 and 95/2018 – the other law

³⁶ Official Gazette of RS", No. 128/2014 and 95/2018 - other law

III. LEGAL FRAMEWORK FOR INVESTMENTS IN IRRIGATION IN THE REPUBLIC OF SERBIA

The legal framework that regulates investment in irrigation systems in the Republic of Serbia consists of numerous Laws and by-Laws within the competence of various ministries and other state bodies.

1. General framework for water and water land

As already mentioned above, the basic legal act regulating the water sector in the Republic of Serbia is the Law on Waters (hereinafter: the Law). In addition to the aforementioned Law, many other Laws and by-Laws are in force, which regulate various requirements, procedures and standards relating to investment in irrigation systems, such as regulations in the field of: construction, planning and construction, environmental protection, etc.

Certain terms (concepts) that are the most important for this area are prescribed by Article 3 of the Law, primarily:

- **water system** consists of all waters, water lands and water objects in a certain area;
- **hydro-amelioration system** consists of watercourses and water facilities that regulate the water regime in order to protect against the harmful effects of inland waters (drainage) or irrigation of land and can be for drainage, irrigation and dual use.

Water resources, in terms of the Law, are waters and water land and they are used in the manner and under the conditions determined by the Law. Article 5 of the Law stipulates that **water and water land in public ownership represent public water-resources, and are therefore inalienable.**

On the public water resource (water and publically owned water land) it is possible only to acquire the right of use under the conditions determined by the Law, and on the water land in public ownership also the right of lease.

All owners and users of water land and water facilities must respect the prohibitions, restrictions on rights and obligations provided by law (Articles 133 to 139). Water as a good of general interest must be used rationally and economically, and the right to use, except for certain purposes, is acquired by a water permit or in accordance with the contract governing the concession.

When it comes to **water land**, the Law defines it as land on which there is water permanently or occasionally, due to which special hydrological, geomorphological and biological relations are formed which are reflected on the aquatic and coastal ecosystem.

Water land includes an abandoned riverbed and sand and gravel reefs that are occasionally flooded by water and land that is flooded by water due to works (partitioning of running water, exploitation of mineral raw materials, etc.).

Management of water land in public ownership encompasses the maintenance of water land required for regular use of water facilities in public ownership and determining the manner of use of water land.

Water land which is publicly owned is managed by a public water management company established to perform water activities in a certain territory (hereinafter: public water management company).

Public companies and other legal entities that have a license issued by the Ministry in accordance with the Law operationally carry out water activities, including the maintenance and management of water facilities and systems and, must comply with the Rulebook on Conditions in Terms of Technical and Technological Equipment and Organizational and Personnel Capacity to Perform Activities in the Field of Water Management, as well as the Manner of Keeping Records and Issued and Revoked Licenses³⁷.

The following activities are subject to license for a public company or other legal entity:

- managing of the functioning of water facilities and systems;
- maintenance of control and protective facilities and accompanying devices on them;
- maintenance of hydro amelioration systems for drainage and irrigation;
- performing rehabilitation works and emergency interventions on protective and regulatory facilities;
- monitoring the condition of water bodies, etc. in accordance with Article 112 of the Law.

It should be noted that a large number of water management companies have undergone an ownership transformation that does not affect the reduction of the potential for successful performance of the water sector, among which the most important is operational management of water facilities and systems. The license is issued for a period of five years by a decision of the Minister of Agriculture, based on the submitted request and obtained opinion of the public water management company.

All the above activities and activities must be performed in accordance with the Water Management Strategy on the Territory of the Republic of Serbia until 2034 (hereinafter: the Strategy) adopted by the Government.

2. Integrated water management

Water management is the responsibility of the Republic of Serbia, whose territory represents a single area for integrated water management and is realized through the Ministry and other competent ministries, authorities of the autonomous province, bodies of local self-government units and public water management companies.

Water management is based on:

- 1) the principle of sustainable development - water management must be conducted so that the needs of current generations are met in a way that does not jeopardize the ability of future generations to meet their needs, or must ensure water use based on long-term protection of available water resources, quantity and quality;
- 2) the principle of integrity - processes in nature, whose significant component is water, as well as the connection and interdependence of aquatic and coastal ecosystems, must be respected;
- 3) the principle of unity of the water system - water management within the single water area must be carried out in accordance with the development of the Republic of Serbia, in order to achieve maximum economic and social effects in a fair manner and with respect for international agreements;
- 4) the principle of providing protection against the harmful effects of water - the population and its property must be protected from water, taking into account the legality of natural processes and protection of natural values, as well as the economic justification of this protection;

³⁷ "Official Gazette of RS", No 23/12 and 57/13

- 5) the "user pays" principle - everyone who uses a water resource and a water facility, ie water system, as a good of general interest, is obliged to pay a real price for its use;
- 6) the "polluter pays" principle - everyone who causes water pollution by his activities is obliged to bear the costs of measures for the elimination of pollution;
- 7) the principle of public participation - the public has the right to information on the state of water and the work of competent authorities in the field of water, as well as to be involved in the processes of preparation and adoption of water management plans and control of their implementation;
- 8) the principle of respecting the best available techniques - in water management, the best known and available techniques must be applied, which represent the most advanced achievements in certain areas.

Integrated water management in accordance with the Law is a set of measures and activities aimed at maintaining and improving the water regime, providing the required quantities of water of the required quality for various purposes, protection of water from pollution and protection from the harmful effects of water.

One of the types of management is through hydro amelioration systems for drainage and irrigation, which regulate the water regime of the land and improve the conditions for its use, which is performed on melioration area which is part of the water area. The Melioration area includes, among other things, agricultural, forest and other land for which irrigation systems are supplied with irrigation water.

The melioration area is determined by the Ministry, which was done by adopting the Rulebook on Melioration Areas and their Borders.³⁸

3. Water management financing

Activities of general interest that are financed in accordance with the Law are prescribed by Article 150 of the Law and they are:

- watercourse management works and protection from the harmful effects of water;
- water management and use activities which includes the maintenance and management of water irrigation facilities in public ownership;
- water protection activities against pollution;
- works related to drainage and irrigation systems, encompassing: maintenance and management of water facilities and drainage and irrigation systems in public ownership;
- activities related to regional and multi-purpose hydro systems, encompassing: construction, reconstruction, rehabilitation, maintenance and management of regional and multi-purpose hydro system in public ownership;
- other jobs of general interest;

Financing of works of general interest related to water management is also regulated by the Law on Waters. Sources of financing of these works are:

- budget of the Republic of Serbia
- the budget of the autonomous provinces

³⁸ "Official Gazette of RS", No 90/18

- water fees (irrigation and drainage fees)
- concession fees
- other sources of financing (investors' own funds, prevention funds allocated from insurance premiums, loans, public loans, donations, etc.)

These funds are public revenues and can be used only for the purposes specified by Law.

4. Conditions regarding use of water and water land

(i) *Water management and usage*

Water management is a set of measures and works on conservation and regulation of water quantities in accordance with Article 66 of the Law. **Water usage can be: general and special.**

The use of water includes the use of water for irrigation which belongs to the special use of water.

The right to special use of water, which includes irrigation of agricultural crops or other land, is acquired by a water permit and if the special use is performed on the basis of a concession and in accordance with the contract governing the concession on the basis of the Law on Public-Private Partnership and Concessions.

Every user is obliged to use water in a way that does not deny the right to use water to other persons and does not jeopardise the achievement of environmental protection goals.

Groundwater can be used to irrigate agricultural land if the following conditions are met:

- that such use does not deny the right to use water for priority purposes from Article 71, paragraph 5 of the Law;
- there is no possibility of catching from surface waters; and
- there is a good availability of groundwater resources.

The water used to irrigate crops must meet the requirements in terms of quality, taking into account the type of land and crop, as well as method of irrigation, as is prescribed by the Rulebook on the List of the Hazardous and Harmful Substances and their amounts and Criteria in Soil and Irrigation Water and Methods for their Testing.³⁹

(ii) *Water land*

Water land is intended for maintenance and improvement of the water regime in accordance with the Law. Specific regulations have been adopted on its basis, in particular for:

- construction, reconstruction and rehabilitation of water facilities;
- maintenance of river bed and water facilities;

The Ministry, and in the territory of the Autonomous Province, the competent authority of the Autonomous Province, shall determine geographical (and hydrological?) borders of water land, as well

³⁹ “Official Gazette of RS”, No 23/94

as all rights pertaining to these, which are registered in the public records as well as in urban and spatial plans. For that reason, the Rulebook on Determining Water Units and their Borders⁴⁰ was adopted.

When it comes to water land, it is important to point out the existence of special rules that refer to the existence of the right of pre-emption of the Republic of Serbia, as well as a special regime and procedure when leasing water land that is in public ownership.

1.1.1 The right of pre-emption of the Republic of Serbia

The Republic of Serbia has the right to pre-emptive purchase of water land. The Autonomous Province has the right of pre-emption over water land on artificial watercourses (canals) on which it has the right of public ownership.

The owner who intends to sell water land is obliged to first offer that land to the competent authority of the Republic of Serbia, ie. the autonomous province.

The offer must contain data on water land (cadastral parcel number, area, crop planted, etc.), price and other conditions of sale.

If the competent authority does not accept the offer, the owner can sell the water land to another, but not under more favorable conditions for the buyer.

If the competent authority does not decide on the offer within 30 days, it is considered that it has declined the offer.

1.1.2 Lease/Rent

Publicly-owned water land can be leased in accordance with the Law, as well as on the basis of the Law on Public-Private Partnerships and Concessions.

Publicly owned water land can be leased to legal entities, entrepreneurs and individuals for the purposes of Article 10 of the Law, as well as for construction, reconstruction and rehabilitation of water facilities, the maintenance of watercourses (river bed) and water facilities in accordance with the Law and regulations adopted on the basis thereof.

The decision on leasing and the contract on the lease of water land in public ownership is made, ie concluded, by the public water management company.

Leasing of water land in public ownership is regulated by an act of the Government, so the Government passed the Decree on Leasing of Water Land in Public Ownership⁴¹, which prescribes in more detail the manner and procedure of leasing that land.

1.1.3 Publicly owned water land may be leased through an open competitive bidding procedure and the collection of written bids through public advertising.

The procedure of leasing water land is initiated by a decision of the director of the public water management company but can be proposed by any interested person through submitting a letter of intent.

Water land is leased under market conditions, for the purposes determined by the Law.

⁴⁰ "Official Gazette of RS", No 8/18

⁴¹ „Official Gazette of RS ", No. 50/19

Water land is leased free of charge to: state bodies, ie institutions, public agencies and other organizations founded by the Republic of Serbia, the Autonomous Province, ie the City of Belgrade, as well as public companies or other companies founded or the majority owner of the Republic of Serbia, the Autonomous Province, ie the City of Belgrade.

Water land cannot be subleased, in accordance with the Law.

The initial amount of the lease of publicly owned water land cannot be below the market amount of the rent in the area where the land is located.

The Government has determined the initial amount of the lease, by passing the Decision on Determining the Initial Amount of the Lease, According to which Water Land in Public Ownership can be Leased⁴².

The selection of the most favorable bidder in the procedure of leasing water land is done by applying the criteria of the highest amount of the offered rent.

Revenues realized from leasing water land on the territory of Republic of Serbia, are revenues of a public water management company established to perform water activities in a certain territory.

The term for which the water land is leased cannot be longer than 15 years, except for construction of a water facility, in which case the term cannot be longer than 50 years.

Upon termination of the lease agreement, the lessee is obliged to remove the facility from the water land at his own expense, within three months.

It should be noted that the provisions of the Law on leasing water land do not exclude establishing the right of usage of the water land under special regulations on public-private partnerships and concessions.

5. Water facilities– irrigation facilities

As defined in the Law, water facilities are construction and other facilities, which together with the devices belonging to them form a technical or technological unit and serve to perform water activities (hereinafter: water facilities) and are goods of general interest, except for facilities constructed by private legal entities or individuals for their own needs.

Water facilities include irrigation facilities, namely: water intake from watercourses, canals, lakes, groundwater and dams with reservoirs, main canals and secondary network and facilities and devices belonging to them (Article 18 item 2. of the Law).

Management of publicly-owned water facilities is considered to encompass: construction, reconstruction, rehabilitation and maintenance (regular and investment) of water facilities on water land, exercising the rights of investors on behalf of the Republic of Serbia, or the autonomous province: improving, preserving and taking care of their intended use.

⁴² „Official Gazette of RS ”, No. 40/19

The public water management companies also manage irrigation systems, among others, which are in public ownership, and rely upon the funds provided by the annual management program adopted by the Government in accordance with Article 42 of the Law.

A private legal entity, or individual who has built water facilities for their own needs is obliged to manage and maintain them in accordance with the Law, and applicable special laws.

The manner of maintenance of water facilities is prescribed by an act issued by the Minister.

For the construction of new facilities, reconstruction of existing facilities, upgrading of existing facilities for irrigation, besides the usual procedure of obtaining construction permit in accordance with the Law on Planning and Construction, water ordinances are issued, namely: water conditions and water permit.

6. Water ordinances

Water ordinances are issued either by the Ministry, the Autonomous Province, a local authority or a public water management company. They contain conditions relating to the use of water resources as well as conditions relating to use permits.

The content and form of the request for issuing water ordinances are prescribed by the Rulebook on the Content and Form of Requests for Issuing Water Acts, Content of the Opinions in the Procedure of Issuing Water Conditions, and the Content of Reports in the Procedure of Issuing Water Permits⁴³.

This means that the aforementioned Rulebook also prescribes the content of the opinion issued by:

- republic authority responsible for hydrometeorological conditions;
- administrative authority responsible for state monitoring of water quality; and
- public water management company in the procedure of issuing water conditions, as well as the content of the report issued by the public water management company in the procedure of issuing a water permit.

1.1.4 (i) Water conditions

Water conditions determine the technical and other requirements that must be met during the construction, extension, and reconstruction or upgrading of facilities, or for the performance of other works, including:

- multipurpose hydraulic system;
- hydro melioration system for irrigation over 50 ha;
- regulation of watercourses and construction of protective water facilities on waters of the first order⁴⁴;

⁴³ „Official Gazette of RS ”, no. 72/17, 44/18-dr. the law

⁴⁴ Surface waters on the territory of the Republic of Serbia, according to their importance for water management, are divided into waters of I order and waters of II order on the basis of established criteria, namely: position of watercourses in relation to the state border, size and characteristics of

- construction or backfilling of boreholes and structures with horizontal water intake structures below ground level;
- hydro melioration system for irrigation up to 50 ha;
- regulation of watercourses and construction of protective water facilities on waters of the second order;

Water conditions for these facilities are issued in a unified procedure conducted by the competent authorities in accordance with the law governing planning and construction and are an integral part of the location conditions⁴⁵.

Article 118 of the Law prescribes that authorities, when issuing water conditions, must ex officio obtain the consent of central government organizations in charge of hydrometeorological affairs, of the administrative authority responsible for conducting state monitoring of water quality and of the public water management company. If necessary, the opinion of the ministry in charge of the environment, and specialized professional-scientific institutions (institutes, institutes, etc.) should be obtained.

The authorities, special organizations, and public water management companies are obliged to provide the requested opinion within 10 days from the day of receipt of the request. The content of the opinion is prescribed by Rulebook on the Content and Form of Requests for Issuing Water Acts, Content of the Opinions in the Procedure of Issuing Water Conditions, and the Content of Reports in the Procedure of Issuing Water Permits.

Requests for issuance of location conditions are submitted in accordance with Article 6 of the Rulebook on the Procedure of Conducting the Unified Procedure Electronically⁴⁶ to the authorities, with proof of payment of applicable fees. The authority (ies) competent for issuing location conditions is determined by the type of facility, more precisely the territory on which the facility is being built in accordance with Art. 133 and 134 of the Law on Planning and Construction.

Location conditions are obtained in order to identify all urban, technical, and other conditions for the preparation of technical documentation and they define the possibilities and limitations on the subject location, for the construction, more precisely the extension of the facility or the execution of works given in the conceptual design (Articles 53a-57 of the Law on Planning and Construction). So, the issuance of location conditions is necessary for the preparation of technical documentation on the basis of which the construction of the facility is performed.

basins, regimes and characteristics of watercourses from the aspect of water use, water protection and protection against harmful effects of water.

Government determines the list of waters of the first order.

⁴⁵ Location conditions are a public document which contains data on the possibilities and limitations of construction on a certain construction plot. Location conditions encompass all urban, technical and other conditions and data necessary for the development of the conceptual design, project for building permit and project for construction of an object.

The conceptual design of a water facility is to be made in accordance with Article 117a. of the Law on Planning and Construction, Article 15 and Art. 35-41. of the Rulebook on the Content, Manner and Procedure of Preparation and Manner of Performing Control of Technical Documentation According to the Class and Purpose of the Facility⁴⁷. The design shall also include a presentation of the planned concept of the facility, with a display and indication of all data necessary for determining the location conditions.

Information necessary for issuing location conditions may be obtained either from the planning documents or from relevant competent authorities.

Planning documents in accordance with Article 10 of the Law on Planning and Construction are appropriate spatial and urban plans.

In accordance with Article 10 of the Rulebook on the Procedure of Conducting the Unified Procedure Electronically, if the location conditions can be determined by inspecting the planning document, ie separate, ⁴⁸, the authorities are obliged to issue them within five working days from the receipt of the request and to inform the applicant thereof.

If the location conditions cannot be issued by inspecting the planning document, i.e. separate, the authorities are obliged, in accordance with Article 11 of the Rulebook, and within five working days from the receipt of the request for their issuance, to:

- inform the applicant about the actual costs for obtaining the conditions from the holders of public authorizations, with an order to pay these costs before taking over the location conditions;
- forward to holders of public authorization, whose conditions for design and connection should be obtained depending on the class and purpose of the facility, a request for the issuance of these conditions and an electronic copy of the relevant documentation.

Water conditions are not issued in the case of construction of a hydromelioration system with an area below 1 ha, more precisely with the consumption of water for irrigation below 2500 m² in the vegetation period in accordance with Article 117, paragraph 4 of the Law, exceptionally.

1.1.5 (ii) Water permit

The water permit determines the manner, conditions and scope of water use, as well as conditions for other works that affect the water regime.

⁴⁷Official Gazette of RS ", No. 73/19

⁴⁸ Separate study of technical conditions for construction (separate) is a document issued by a holder of public authority within its competence in cases where a planning document does not contain the conditions and information for the preparation of technical documentation, which contains these appropriate conditions and information for the preparation of technical documentation, and in particular the capacities and the connection point to utility and other infrastructure according to classes of facilities and parts of the area for which such study is made

The investor obtains a water permit when this is necessary according to the water conditions. . A water permit cannot be issued without the obtained water conditions.

A water permit can exceptionally be issued without water conditions for constructed facilities and systems that have a use permit and do not adversely affect the water regime.

Cases in which it is necessary to obtain a water permit are prescribed by the Rulebook on Determining Cases in which it is Necessary to Obtain a Water Permit⁴⁹, and these are cases that include facilities for:

- multipurpose hydraulic system;
- hydro melioration system for irrigation over 50 ha;
- regulation of watercourses and construction of protective water facilities on waters of the first order;
- construction or backfilling of boreholes and structures with horizontal water intake structures below ground level;
- hydro melioration system for irrigation up to 50 ha; and
- regulation of watercourses and construction of protective water facilities on waters of the second order.

The issuance of a water permit is performed outside the unified procedure. The water permit is issued for a specified time, and for a maximum period of 15 years.

A water permit for the use of groundwater cannot be issued without the ordinance of the ministry in charge of geological research on established and classified groundwater reserves.

The water permit is issued by the authority or public water management company responsible for issuing water conditions.

Before being issued with a water permit for facilities and works by the Ministry or by the authorities of the autonomous province, the applicant is obliged to obtain a report from the public water company on fulfillment of water conditions.

Contents of the report on fulfillment of water conditions is prescribed by the Rulebook on the Content and Form of the Request for Issuing Water Acts, the Content of the Opinion in the Process of Issuing Water Conditions and the Content of the Report in the Procedure of Issuing a Water Permit⁵⁰.

The right acquired on the basis of a water permit cannot be transferred to another person without the consent of the authority and the public water management company that issued the water permit.

A water permit is also an administrative act that is passed in accordance with the Law on General Administrative Procedure⁵¹.

An appeal may be lodged with the Minister within 15 days against a decision regarding a water permit application. Decisions taken by the Ministry may also be appealed administratively.

⁴⁹ „Official Gazette of RS ”, No.30/17

⁵⁰ „Official Gazette of RS ”, No. 72 / 17,44 / 18-other law

⁵¹ Official Gazette of RS ”, No. 18/2016 and 95/2018 - authentic interpretation)

The water permit expires in accordance with Article 126 of the Law:

- if the holder of the water permit waives its use in writing;
- if, without justified reasons, it is not used for more than two years from its receipt;
- if the conditions of the water permit are not respected.

The decision to terminate a water permit is made by the body and the public water management company that issued the water permit.

A water permit is not a condition for issuing a use permit.

1.1.6 (iii) Water Consent

A Water consent is issued (outside the usual unified procedure) for facilities and works subject to a construction permit issued by the Ministry of Construction in accordance with the Law on Planning and Construction, ie the competent authority of the autonomous province..

The Ministry of Construction issues a building permit, among other things, for the construction of facilities:

- high dams and reservoirs filled with water;
- hydro-construction facilities on waterways;
- facilities that are being built on the territory of two or more local self-government units.

The water consent can be issued only if the technical documentation for facilities, works and planning documents has been prepared in accordance with the issued water conditions.

Water consent is not a condition for issuing a building permit and a use permit.

The water consent is issued by the body, ie the public water management company that issued the water conditions.

2 IV. PREPARATION AND PROCEDURE FOR ADOPTING THE IRRIGATION PROGRAM

The planning system of the Republic of Serbia, more precisely the management of the system of public policies, types and contents of planning documents, mutual harmonization of planning documents, the procedure of determining, and implementing public policies and reporting obligations on the implementation of planning documents, etc., is regulated by the Law on Planning System of the Republic of Serbia⁵².

Under the said Law, the Ministry of Agriculture, as the competent authority in charge of water within its legal scope to draft a public policy document has formed a Working Group to draft the Irrigation Strategy of the Republic of Serbia for the period 2022 - 2031, the Draft Irrigation Action Plan for the period 2022 - 2026 and the Investment Plan.

It should be noted that under Article 10. of the Law on Planning System the the types of public policy documents are: strategy, program, policy concept and action plan.

The form of the policy document primarily provides:

- its correct positioning concerning the legal system of the Republic of Serbia and compliance with other valid planning documents;
- properly identifying the aims to be achieved;
- identifying problems to be solved;
- selection of optimal measures for achieving these aims and activities that are an integral part of them as mechanisms for the implementation of these measures and
- analysis and evaluation of their effects.

The strategy is the basic document of public policy, which comprehensively determines the strategic direction of action and public policy in the specific area of planning and implementation of public policies determined by government regulations. The regulation in question is the Regulation on the Methodology of Public Policy Management, Analysis of the Effects of Public Policies and Regulations and the Content of Individual Public Policy Documents⁵³ (hereinafter: the Decree) defining the concept and types of public policy documents, and Annex 11 lists 18 areas of planning and implementation public policies where the 15th area is - agriculture and rural development.

Government, based on the proposal from the Ministry of Agriculture, adopted Water Management Strategy on the Territory of the Republic of Serbia until 2034 which sets long-term policies as well as strategic goals for the implementation of reforms in the water sector, bearing in mind the social and economic power of the state, and in accordance with the standards of the European Union.

This Strategy sets certain goals related to irrigation, formostly:

- Provision of sufficient quantities of water for irrigation of 250,000 to 350,000 ha of agricultural areas from I and II development groups until the end of the planning period (about 100,000 ha under existing systems and between 150,000 and 250,000 ha under new systems)
- Rational use of water and ensuring the quality and quantity of irrigation.

⁵² „Official Gazette of RS ”, No. 30/18

⁵³ „Official Gazette of RS ”, No. 8/19

In order to set in place institutional mechanism for implementation of these goals, program, as a public policy document needs to be adopted.

The program, in terms of the Law on Planning System, is a public policy document, narrower in scope than the strategy, which, as a rule, elaborates a specific goal of the strategy or some other planning document in accordance with which it is adopted (Development Plan, Government Program, Local Government Development Plan, Policy Concept).

The program is a group of independent but closely related measures and / or related (compatible) projects, which are managed and coordinated in order to achieve goals that cannot be achieved by managing each of the elements of the program individually or independently.

As a rule, the program is adopted for a period of up to three years, and the achievement of program goals is planned and monitored through an action plan for the implementation of the program.

If the program elaborates the activities carried out within the envisaged measures, as a rule, no action plan is adopted with such a program, as a separate document.

The program ceases to apply upon the expiration of the period for which it was adopted or by making a decision to terminate its implementation.

1. Mandatory content of the Program

Article 15 of the Law on the Planning System of the Republic of Serbia stipulates mandatory content of the programme as the type of planning document and foresees that the programme must contain the following elements:

- 1) **vision**, ie the desired state to the achievement of which the general and special goals of the document contribute;
- 2) **review and analysis of the current situation**, including an assessment of the level of achievement of public policy implementation objectives in a specific area of planning, as well as of the implementation of public policies on the basis of performance indicators in that area;
- 3) **general and specific goals of the public policy that are to be achieved**, determined by that program or other planning document in accordance with which it is adopted (Development Plan, policy concept, etc.);
- 4) **measures for achieving general and special goals**, cause-and-effect relationship between general and special goals and measures that contribute to the achievement of those goals and analysis of the effects of those measures on natural and legal persons and the budget;
- 5) **key performance indicators at the level of general and specific objectives and measures**, which measure the efficiency and effectiveness of the implementation of public policies set out in this document;
- 6) **institutional framework and plan for monitoring implementation**, evaluation of effects and reporting on implemented measures, achieved goals and effects of public policies determined or elaborated by the program, indicating the institution responsible for monitoring the implementation of the program;
- 7) other elements prescribed by the Government by -law.

It can be observed that the program contains the same elements as the strategy, and especially elaborated measures for achieving a specific goal, ie goals that are defined or taken from the strategy or some other planning document in accordance with which it is adopted.

As a rule, the program has up to three specific goals that directly contribute to the achievement of the general goal.

In accordance with the Article 13 of the Law, Government adopted the following by-law which further elaborates mandatory content of the Program: Regulation on the Methodology of Public Policy Management, Analysis of the Effects of Public Policies and Regulations and the Content of Individual Public Policy Documents.

Article 56 of the Regulation defines in more detail the mandatory form and content of the program.

Namely, the Programme must contain:

1) Introduction;

2) Data on public policy documents and the legal framework relevant to the program, ie. an explanation of the connection of that program with the public policy document in accordance with which it is adopted, as well as the relationship with other relevant valid public policy documents and the legal framework;

3) Description of the existing situation;

4) Defining the desired change;

5) Defining public policy goals, which includes:

- taking over a specific goal from the strategy or policy concept, if the program elaborates these documents, or defining a general goal if the program is developed independently;
- defining specific objectives, as a rule up to three specific objectives;
- taking over performance indicators at the level of general objectives (impact indicators), if the program elaborates these documents, and defining performance indicators at the level of up to three specific objectives (outcome indicators);

6) Identification of public policy measures for achieving a specific goal, ie special goals;

7) Report on the analysis of measures;

8) Identification of mechanisms for implementation of measures;

9) Determining the manner of evaluation of the achieved results;

10) Determining the manner of reporting the results;

11) Information on the results of the conducted consultations;

12) Assessment of financial resources required for the implementation of each of the measures and identification of sources from which these funds are provided;

13) Assessment of the financial effects of the implementation of each of the measures on the budget, in accordance with the law governing the budget system. If the implementation of measures financed from the budget is planned for the current budget year, it is stated on what basis these funds have already been provided in the budget;

14) Information on regulations that should be adopted, ie amended in order to implement public policy measures;

15) Action plan.

If the program has more than three specific objectives, the need for that derogation shall be justified.

The action plan is adopted for the entire period of validity of the program it is developing.

If the Action Plan is not an integral part of the program, the program must contain a deadline for the adoption of the Action Plan, which may not be longer than 90 days from the date of adoption of the document. Bearing in mind that the program develops a strategy or concept document or that public policy document is adopted in order to solve a specific problem, the program must elaborate in detail all measures to achieve specific goals, including activities through which these measures are implemented. of special importance to explain in detail the analysis of the effects.

If the program elaborates the activities carried out within the envisaged measures, as a rule, no action plan is adopted with such a program, as a separate document.

2. Public debate

The Ministry is obliged to conduct a public debate before submitting the Program for consideration and adoption, and to prepare a report on the conducted public debate.

The procedure of public debate on the proposed program is conducted by the Rules of Procedure of the Government⁵⁴.

The decision on conducting a public debate, the program of the public debate, and the deadline in which it is conducted are determined by the competent committee of the Government, in this case, the Committee on Economy and Finance, at the proposal of the Ministry, in the form of a conclusion.

The procedure begins with the publication of a public invitation to participate in the public debate with the program of the public debate on the website of the Ministry and the e-government portal. The public invitation also contains information on the education and composition of the working group that prepared the draft, more precisely the proposal that is the subject of public discussion.

The program of the public debate must contain a draft, more precisely a proposal, which is the subject of the public debate with an explanation and annexes determined by the rules of procedure.

In this case they are:

- Program proposal with action plan,
- Proposal of conclusion on conducting a public debate on which the opinion of the Republic Secretariat for Legislation and the Ministry of Finance was obtained,
- deadline for conducting a public debate,
- important information on the activities planned within the public debate (holding of round tables, tribunes, address and time of their holding, etc.)

54 "Official Gazette of RS", No. 61/2006 - consolidated text, 69/2008, 88/2009, 33/2010, 69/2010, 20/2011, 37/2011, 30/2013, 76/2014 and 8 /2019 - other regulation

- the manner of submitting proposals, suggestions, initiatives, and comments, as well as other information relevant to its implementation.

The deadline for submission of proposals, suggestions, initiatives, and comments in written or electronic form is at least 15 days from the date of publication of the public invitation.

The public hearing lasts at least 20 days.

The Ministry is obliged to publish the report on the conducted public debate on its website and e-government portal no later than the seventh working day before submitting it to the competent committee for consideration and adoption.

The report contains in particular data on:

- the time and place of the public debate;
- participation of public authorities, and civil society organizations of economic entities in the public debate;
- the given suggestions regarding the definition of specific aims and measures for achieving those aims, as well as the selection of institutions responsible for their implementation and the formulation of public policy performance indicators, more precisely the measures;
- the ways in which the suggestions were incorporated into the draft policy document and, if not, for what reasons this was not done.

3. Adoption procedure

Before submitting the Draft Program to the Government for consideration and adoption, the Ministry is obliged to obtain an opinion in advance of the:

- Public Policy Secretariat of the Republic of Serbia (PPS)
- Republic Secretariat for Legislation of the Republic of Serbia,
- The Ministry of Finance of the Republic of Serbia,
- The Ministry of European Integration of the Republic of Serbia ,
- The The Ministry of Public Administration and Local Self-Government of the Republic of Serbia,
- The Ministry of Construction, Transport and Infrastructure of the Republic of Serbia,
- The Ministry of Environmental Protection of the Republic of Serbia,
- The Ministry of Mining and Energy of the Republic of Serbia,
- The Ministry of Economy of the Republic of Serbia,
- more precisely, all state administration bodies whose scope is related to the issue to which the program refers.

The deadline for submitting opinions is 10 working days, but given the volume and importance of such documents, the deadlines are generally extended.

The Ministry is obliged to submit to the Government for consideration and adoption the following: A draft program that is harmonized with the remarks from the obtained opinions that it assessed as acceptable, the opinions that it obtained, and the report on the public debate. Also, the Ministry is obliged to state in a cover letter to the Government all the objections that it did not accept.

The submitted material must be linguistically and stylistically arranged.

After the adoption of the program, it is published on the e-Government portal as well as on the website of the Ministry within seven working days from the day of adoption, as well as in the Official Gazette of the Republic of Serbia.

