

Serbia mining exclusive report: New Amendments to the Law on Geological Exploration and Mining

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The Minister of Mining and Energy Aleksandar Antić has announced that the new Law on Geological Exploration and Mining will be adopted by the end of year. The law is in the draft stage and, according to expectations, it should be presented in October, after which it will be sent to the competent ministries for their opinion. After obtaining a positive opinion of the Government, the draft law will enter the regular parliamentary procedure. The adoption of this law is a condition for adopting the Mineral Resources Management Strategy.

As a reminder, the current Law on Mining and Geological Exploration was adopted in 2011, only for the preparations of the new law to be started as early as 2012. The presentation of the Law and its quick adoption were announced in January 2013. However, after three rounds of public debate and a large number of objections and suggestions made by investors and experts, it became clear that the text will have to undergo certain modifications. The latest Draft Law was published in January this year, immediately before the announcement of early elections, which resulted in another postponement.

“Our objective was not to adopt the law hastily, but we took care to protect the state interest, but also to provide security for investors. The representatives of interested companies, such as NIS and the Canadian companies involved in the explorations in Serbia, but also the professors from the Faculty of Mining and Geology, the experts from “Kolubara”, “Kostolac”, The Mining Institute and many others took part in the public debate”, – says Tomislav Šubaranović, a member of the working group for drafting the Law and the former State Secretary in the Ministry of Natural Resources, Mining and Spatial Planning.

An important innovation is the introduction of licences for companies, in addition to the licences for individuals. This means that a company will not be able to be engaged in a business related to mining and geology unless it has been licenced, which, in the opinion of Dr. Vladimir Pavlović, a professor of the Faculty of Mining and Geology and a member of the working group for drafting the Law, will raise the level of the mining profession.

“By the draft law, raw materials of state interest have been defined, which is important from the aspect of solving administrative issues in the exploration and exploitation phases. The law should accelerate the obtaining of permits for exploiting building materials, considering that the procedure and preparation of project analysis last even up to two years now. Mining investments are financially highly demanding and they hardly pay back, in addition, the final product is relatively cheap. Therefore, speed is a significant factor for an investor making the decision on investing. I believe that, by the new legal provisions, we will introduce more precise solutions and a faster decision making, which will be to the advantage of investors, and thus also of the state” – says professor Pavlović.

The name of the law has been changed into the Law on Geological Exploration and Mining, which is adequate from the aspect of technological processes, because, chronologically, geological exploration comes first, then the designing and, finally, the exploitation of deposit, professor Pavlović explains.

The first draft version of the new Law envisaged an obligatory strategic partnership between the investor and the state in the exploration and exploitation of mineral resources which had been identified as strategic, in which the state would be the majority partner with 51 percent. This is, at the same time, the provision to which most objections were made by investors, but also by experts. Šubaranović explains that the aim of this provision was to force the investors to get into the process of ore processing and the creation of a final product after exploration and exploitation, which would contribute to the creation of new jobs, higher profits and infrastructural investments.

In the new version of the Law, this provision has been changed so that the strategic partnership with the state is not obligatory, but it can be realized at the investor's request, if he sees his interest in it. Quite certainly, the state would not have enough money to enter all projects related to strategic raw materials as the majority partner anyway, and these are all energy and metallic raw materials, except for the construction raw materials – coal, oil, gas, oil shale, gold, silver, nickel, etc.

The determination of the amount of mining leasing rates was one of the most problematic points of the original draft of the new law. Namely, investor objections referred to the envisaged increase in fees, primarily the mining leasing rates, as well as to the fact that the manner of determining them had not been specified.

“The determination of mining leasing rates was transferred to the jurisdiction of the Ministry of Finance back in the previous stage, and this sphere will be regulated by a separate Law on Fees for Using Public Resources. We have given a proposal of the fees amount in which the maximum values which may not be exceeded are set forth. Thus, the amount of mining leasing rates depends on the level of investment, the current market value of the product, and we have also taken into account the prices within the region. The fees will be determined on annual basis, the same as the Regulation concerning building materials is adopted once a year – says Šubaranović.

Professor Pavlović says that the solution to determining the maximum amount of mining leasing rates is optimal, because, in this way, the investor knows in advance what to expect. The amount of a mining leasing rate primarily depends on the level of investment, so that, the deeper they go into the technological process and towards a more finished product, the better for the state, and consequently, the mining leasing rate will also be lower.

Mr. Šubaranović and professor Pavlović emphasize the defining of raw materials of strategic importance as a good side of the new law. In this manner, it is easier for the state to declare its interest, which is important from the aspect of a faster obtaining of necessary permits. One of the most important innovations refers to this issue precisely, because permits will be obtained at the Ministry of Mining and Energy in the future. After the verification of the project analysis and the payment of fee, the investor will refer to the competent ministry,

which will collect all requests and contact other ministries and local self-governments with the aim of gathering the necessary documentation.

At the suggestion of the private sector, the bank guarantee has been lowered to five percent of the exploration value. In the original Draft, a bank guarantee amounting to 10 percent of the exploration value had been envisaged as the condition for obtaining a permit, and the full amount of the guarantee was to be returned to the companies who had fulfilled the envisaged deadlines. The aim of this provision is to prevent the occupation of an exploration area which it is not possible to explore within the legal deadline of three years, to which certain companies have resorted so as to disable the competition from exploration.

According to the current Law, local self-governments have the authority to carry out inspection and issue decisions when it comes to the construction mineral resources and geothermal resources for personal use. Šubaranović emphasizes that the idea of the legislator was to employ as many people as possible, but that poor results have been achieved in practice. Of 123 municipalities, only 9 local self-governments have accepted this obligation. Therefore, in the new Draft Law, it has been envisaged that inspection activities should be carried out exclusively by the competent Ministry, which has also been prescribed for metallic raw materials.

Major Projects

Since 2003, foreign companies have invested more than 300 million euros in the exploration of mineral deposits in Serbia. Investments would rise significantly by the opening of mines, and then we could talk about billions of dollars.

The biggest investor in this field, the Canadian company *Avala Resources*, has invested 117 million euros in the exploration of gold and copper at various locations (Bigar, Kraku Pešter, Korkan) since 2005. Another Canadian company, *Dunav Resources* is involved in the exploration of gold, copper and molybdenum (Mačkatica, Kiseljak etc.) and they have invested 45 million dollars. In July, these two companies announced merger, which will contribute to the integration of their exploration activities in Serbia and the lowering of management costs. *Rakita Exploration*, a branch of the American company *Freeport McMoran*, is also involved in the exploration of gold and copper and they have invested 15 million dollars in the Brestovac explorations since 2010.

So far, 70 million dollars have been invested in the project “Jadar” implemented by the Australian giant *Рио Тинто* and which is involved in the exploration of one of the biggest lithium deposits in the world. Jadarite is a unique mineral which simultaneously contains the ores of boron and lithium, the wide application of which is possible in information technologies, construction industries and agriculture.

Explorations have shown that the reserves in the valley of Jadar could satisfy a significant portion of the global needs for lithium. The demand for lithium could double within the period until 2017, in large part owing to the expected increase in the production of rechargeable batteries. The assumption is that the demand for other lithium-based products, such as ceramics, glass, lubricants, aluminium, pharmaceutical and chemical products and polymers

will remain stable.