

Joint Submission to the Human Rights Council

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Republic of Serbia

Non-compliance with the human right to a clean, healthy and sustainable environment in the Context of Coal Power Plants in Serbia

October, 2022



Renewables and Environmental Regulatory Institute (RERI)

RERI (<https://www.eri.org.rs/en/home>) is a nongovernmental and non for profit organization, founded with the aim to achieve objectives related to the promotion and improvement of rights to a healthy and preserved environment, sustainable management of natural and renewable energy resources. RERI uses law, legal actions and arguments as tools to achieve its objectives and promotes access to justice in the field of environmental protection, as a basic human right. RERI unites lawyers, legal experts, activists and experts in the field of environmental and energy policy, as people who believe that the rule of law and accountable public government are preconditions for protection and preservation of the environment.



FIAN International (www.fian.org) is an international human rights organization for the human right to adequate food and nutrition. FIAN has a consultative status to the United Nations Economic and Social Council (ECOSOC).

I. Introduction

1. This is a joint NGO submission by Renewables and Environmental Regulatory Institute (RERI) and FIAN International for the 43rd Session of the UN Universal Periodic Review on the Republic of Serbia.
2. Of the 175 recommendations accepted by Serbia covering a range of human rights concerns during its third Universal Periodic Review, no single recommendation addresses the urgent need for the Republic of Serbia to take immediate measures to combat health and environmental damages caused by the country's coal-fired thermal power plants and their detrimental impact on the enjoyment of an array of human rights, most prominently the human right to a clean, healthy and sustainable environment.

II. Serbia's Constitutional and International Obligations and Commitments regarding the Human Right to a Clean, Healthy and Sustainable Environment and Related Rights

3. The right to a healthy environment is explicitly guaranteed and recognized as a human right by the Constitution of the Republic of Serbia, which prescribes that everyone has the right to a healthy environment and to timely and complete notification of its condition, as well as that everyone, especially the Republic of Serbia and the Autonomous Province, is responsible for the protection of the environment.¹ In addition, the right to life² and the right to peaceful enjoyment of property and other property rights acquired on the basis of the law,³ are recognized by the Constitution of the Republic of Serbia. Furthermore, the Constitution of the Republic of Serbia guarantees, and as such, directly applies human and minority rights guaranteed by generally accepted rules of international law, confirmed by international treaties and laws.⁴
4. The Republic of Serbia is obliged to respect, protect and fulfill the right to a clean, healthy and sustainable environment, as recognized by the resolution (A/76/L.75) of the UN General Assembly, that is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water, housing, enshrined in the International Covenant on Economic, Social, and Cultural Rights (ICESCR), and the International Covenant on Civil and Political Rights (ICCPR) to which the

¹ Constitution of the Republic of Serbia ("*Official Herald of RS*", nos. 98/06 and 115/21), Article 74 (1) and (2).

² Constitution of the Republic of Serbia, Article 24.

³ Constitution of the Republic of Serbia, Article 58 (1).

⁴ Constitution of the Republic of Serbia, Article 18 (2).

Republic of Serbia is a State Party.

5. The Republic of Serbia is also a State Party to the Convention on the Rights of the Child which obliges states to take measures to address the dangers and risks that environmental pollution poses to children's health⁵ and to regulate and monitor the environmental impact of business activities that may compromise children's right to health, food security and access to safe drinking water and sanitation.⁶
6. The UN Declaration for the Rights of Peasants and People Working in Rural Areas, which was voted for by the Republic of Serbia, requires States to take appropriate measures to ensure that peasants and other people working in rural areas enjoy, without discrimination, a safe, clean and healthy environment.⁷
7. In addition to the aforementioned human rights laws, the Republic of Serbia is a party and signatory to the following: European Convention on Human Rights,⁸ Paris Agreement,⁹ Treaty Establishing Energy Community¹⁰ and, Sofia Declaration on the Green Agenda for the Western Balkan.¹¹
8. Serbia is obliged to apply and enforce the Law on Environmental Protection,¹² Law on Air Protection,¹³ Law on Climate Change,¹⁴ Law on the Use of Renewable Energy

⁵ United Nations Convention on the Rights of the Child, Article 24 (c).

⁶ United Nations Convention on the Rights of the Child, Article 24 (e).

⁷ United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, Article 18, para 2.

⁸ The Law on Ratification of European Convention for Human Rights (with accompanying protocols) ("Official Herald of SCG - International agreements", nos. 9/03, 95/05 and 7/05, "Official Herald of RS - International agreements", nos. 12/10 and 10/15) in Article 8 prescribes that everyone has the right to respect for his private and family life, his home and his correspondence.

⁹ Paris Agreement, <https://unfccc.int/node/61183>.

¹⁰ Treaty Establishing Energy Community, <https://www.energy-community.org/legal/treaty.html>.

¹¹ Sofia Declaration on the Green Agenda for the Western Balkan, <https://www.rcc.int/docs/546/sofia-declaration-on-the-green-agenda-for-the-western-balkans-rn>

¹² The Law on Environmental Protection ("Official Herald of RS", nos. 135/04, 36/09, 72/09, 43/11, 14/16, 76/18, 95/18 and 95/18) regulates an integral system of environmental protection, which ensures the enjoyment of the human right to life and development in a healthy environment and a balanced relationship between economic development and the environment in the Republic of Serbia. The Article 39 of the Law on Environmental Protection prescribes that *the unique norms are determined for the purpose of: control of air, water, and soil quality, treatment of waste and chemicals, wastewater treatment, industrial pollution and risk management, noise and vibration levels, etc.* The unique norms are further regulated by the by-laws.

¹³ Law on Air Protection ("Official Herald of RS", nos. 36/09, 10/13 and 26/21) in Article 1 (1) prescribes that the law regulates the air quality management and determines the measures, way of organizing and controlling the implementation of protection and improvement of air quality as a natural value of general interest that enjoys special protection. According to the Article 4 (1) of the Law on Air Protection, *protection and improvement of air quality are ensured, within their powers, by the Republic of Serbia, autonomous provinces, local self-government units, business companies, entrepreneurs, as well as other legal and natural persons.*

¹⁴ Law on Climate Change ("Official Herald of RS", no. 26/21) in Article 4 prescribes that in order to reduce GHG emissions and adapt to changed climate conditions state authorities and organizations should adopt appropriate sector policies and measures within the scope of their competence.

Sources,¹⁵ Family Law¹⁶, and Gender Equality Strategy for the 2021 to 2030 period.¹⁷ Per the Paris Agreement Serbia submitted a revised Nationally Determined Contribution.¹⁸ Under the Treaty Establishing Energy Community, and the Decision of the Ministerial Council of the Energy Community (D/2013/05/MC-EnC) from 24 October 2013, Serbia is required to reduce emissions of pollutants (dust, sulfur dioxide, and nitrogen oxides) from large combustion plants.

III. Serbia's Coal-fired Thermal Power Plants and Their Impact on Human Rights and Environment

9. Serbia's two coal-fired power plants¹⁹ that are emitting high amounts of sulfur dioxide are owned by Elektroprivreda Srbije (EPS) - Power Industry of Serbia, a 100% state-owned enterprise, and generate more than 60% of the electricity power production from poor quality lignite. These thermal power plants (TPPs) are very old and technically unable to meet environmental protection requirements.²⁰ Serbian TPPs are among Europe's largest emitters of sulfur dioxide (SO₂) - on average, Serbia's two most polluting plants, Kostolac and Nikola Tesla emit 35 times more SO₂ and 14 times more particulate matter (PM_{2.5} and PM₁₀)²¹ per installed megawatt than the average power plant in the European Union. In fact, in 2020, the SO₂ emissions from Serbia's coal power plants covered by the NERP overtook those from all 221 plants in the entire European Union.²²

¹⁵ The Law on the Use of Renewable Energy Sources ("Official Herald of RS", no. 40/21) in Article 2 prescribes that *the use of energy from renewable sources is in the public interest and is of particular importance for the Republic of Serbia*, as well as that *in order to achieve the public interest, the Republic of Serbia, the Autonomous Province and local self-government units may adopt strategic and other documents, programs and plans for the achievement of the goals established by this law.*

¹⁶ The provisions of Article 6 (1) and (3) of the Family Law ("Official Herald of RS", nos. 18/05, 72/11 and 6/15), stipulate that everyone is obliged to be guided by the best interests of the child in all activities concerning the child, and that the state has an obligation to respect, protect and promote the rights of the child.

¹⁷ Gender Equality Strategy for the 2021 to 2030 period ("Official Gazette of RS", no. 103/21) in point 5.1.1.5. envisages the mainstreaming of the gender perspective in the field of environmental protection, circular and green economy and information technologies.

¹⁸ Serbia only recently, in August 2022, submitted an unambitious NDC to the Secretariat of the Paris Agreement, <https://unfccc.int/NDCREG>. Namely, the reduction of GHG emissions of 33.3% compared to 1990 practically represents a reduction of GHG emissions of 8.3% compared to 2019. According to the official data obtained from the Serbian Environmental Protection Agency.

¹⁹ TPP Nikola Tesla (A and B) and TPP Kostolac (A and B).

²⁰ Kostolac A was constructed in 1967, Kostolac B in 1987, Nikola Tesla A in 1970 and Nikola Tesla B in 1983. Negotiation position for the Chapter 27 of the Republic of Serbia, Annex 10 - Specific Implementation Plan for Directive 2010/75/EU on Industrial Emissions, <https://www.mei.gov.rs/srl/dokumenta/eu-dokumenta/pristupni-pregovori-sa-eu/pregovaracke-pozicije/pregovaracke-pozicije-za-poglavlje-27/>.

²¹ Particulate matter consists of a complex mixture of solid and liquid particles of organic and inorganic substances suspended in the air. While particles with a diameter of 10 microns or less, (\leq PM₁₀) can penetrate and lodge deep inside the lungs, the even more health-damaging particles are those with a diameter of 2.5 microns or less, (\leq PM_{2.5}). PM_{2.5} can penetrate the lung barrier and enter the blood system. WHO, Ambient (outdoor) air pollution, [https://www.who.int/news-room/fact-sheets/detail/ambient-\(outdoor\)-air-quality-and-health](https://www.who.int/news-room/fact-sheets/detail/ambient-(outdoor)-air-quality-and-health)

²² Comply or Close, How Western Balkan coal plants breach air pollution laws and cause deaths and what governments must do about it, September 2021, CREA and Bankwatch Network, pp. 7, 15.

10. Sulfur dioxide (SO₂) is a toxic gas released when burning the coal, which contributes to the formation of acid rain.²³ Furthermore, sulfur dioxide contributes to the production of secondary particulate matter, creating a significant threat to human health and the environment, and is a major cause for the decrease of biodiversity. Emission of health-harming pollutants causes a wide range of health effects including respiratory illness and infections, heart disease, stroke, lung cancer and adverse negative birth outcomes (e.g. preterm birth and low birth weight).²⁴ A growing body of evidence links air pollution to other health problems including cataracts, ear infections, the onset of asthma in children, chronic deficits in lung function, stunting, diabetes, childhood obesity, developmental delays, reduced intelligence and neurological disorders affecting both children and adults.²⁵ By inhaling sulfate compounds found in particulate matter produced by coal combustion, the risk of miscarriage increases by 13%,²⁶ while a 10µg/m³ increase in the 1 year average PM2.5 exposure was associated with a 11% reduction in fecundity.²⁷
11. The link between air pollution with SO₂ and respiratory and cardiovascular diseases has been proven, with significant consequences of, *i.e.* increased daily and annual mortality (total, but also specific - from respiratory and cardiovascular diseases), the need for urgent hospital admissions is more frequent due to all respiratory causes, especially due to chronic obstructive pulmonary disease (COPD), which affected about 10% of the entire Serbian population.²⁸
12. According to the Health and Environment Alliance (HEAL) which closely collaborates with the Serbian Ministry of Health, there are 2,000 premature deaths caused till date by the inhalation of coal fumes.²⁹ The World Health Organisation reported an estimated 6 592 deaths and 131 183 years of life lost (YLL) due to air pollution in 2016.³⁰ HEAL also estimates that health costs due to the diseases caused by the gasses emanating from coal-fired plants amount to 1,8 to 4,9 billion Euros

²³ Acid rain is a rain containing dissolved acidifying compounds, resulting from chemical pollution of the atmosphere by sulfur and nitrogen compounds. When deposited, these increase the acidity of the soil and water causing agricultural and ecological damage. European Environmental Agency, Glossary, <https://www.eea.europa.eu/help/glossary/eper-pollution-register-glossary/acid-rain>

²⁴ Clean air and human rights A/HRC/40/55 - Executive summary Special Rapporteur on human rights and the environment, David Boyd, p. 2, <https://www.ohchr.org/sites/default/files/2022-02/CleanAirSummary.pdf>

²⁵ *Ibid.*

²⁶ Thalia R. Segal, Linda C. Giudice, "Before the beginning: environmental exposures and reproductive and obstetrical outcomes", *Fertil Steril*, 2019, p.6.

²⁷ Li Q, Zheng et al. "Association between exposure to airborne particulate matter less than 2.5 µm and human fecundity in China", *Environment International*, 2021, p.1.

²⁸ Dragana Jovanović, expert opinion in court case RERI vs. Public Electricity Company of Serbia: Analysis of the hazardous health consequences of exposure to sulfur dioxide, January 2021, p.12.

²⁹ <https://serbia-energy.eu/serbia-hidden-and-environment-costs-of-electricity-from-coal-fired-tpps/>

³⁰ World Health Organization. Health impact of ambient air pollution in Serbia A CALL TO ACTION, 2019. P. vii.

annually, equivalent to 680 Euros per capita.³¹

13. According to a study³² published by the Institute of Public Health of Serbia, the areas of Kostolac and Kolubara are considered contaminated due to the high concentrations of pollutants caused by surface lignite mines and extraction of underground water for exploitation (2 Mm³ of water per Mt of lignite) has resulted in supply problems for local communities. The study further confirms the alleged problems of particles, phenols, etc. in wastewater from coal drying plants, problems with ash dumps, abandoned mines, non-vegetated areas, etc., in the Kolubara as well as in the Kostolac surface lignite mines area.

Case Example - Nikola Tesla and Kostolac Power Plants

In January 2021, RERI took legal action against Serbia's state-owned electricity company (EPS) for exposing Serbians to toxic gasses six times above the legal limit – a breach of both national and international law. The challenge brought before the Higher Court in Belgrade aims to force EPS to ensure its thermal power plants do not pollute above the legal limits and requested from the court to order Public Electricity Company of Serbia to comply with emission ceilings for the following years until 01 January 2028.

According to the HEAL report, air pollution caused by Nikola Tesla and Kostolac thermal power plants has caused 1,940 premature deaths, 4,000 cases of bronchitis in children, 1,000 cases of bronchitis in adults, 1,500 hospital admissions of patients due to respiratory or cardiovascular symptoms and annual health costs of up to 4.4 billion EUR in the Western Balkans, EU, and in other countries.³³ As air pollution has no borders and air pollution by emitting alarmingly high levels of pollutants travels long distances, impacts are found in Serbia's neighboring countries such as Romania, Italy, Hungary, and Bulgaria, Greece and Croatia, but also in distant countries such as Poland, Germany, Czech Republic, and Austria.³⁴ According to the CEE Bankwatch Network and the Center for Research on Energy and Clean Air, the breach of coal power plants exceeding its pollution limits had caused the loss of lives of 3700 persons in the Western Balkans and 7000 in the EU between 2018 and 2020.³⁵

³¹ HEAL, The unpaid health bill, How coal power plants make us sick, March 2013, p. 25,35.

³² Ministry of Health, Ministry of Environmental Protection, Institute of Public Health of Serbia "Dr. Milan Jovanović Batut", "Strengthening Serbian national capacities and inter-sectoral synergies of safe management of contaminated sites and related hazardous substances to prevent negative impact on human health and the environment", 2018, p.8.

³³ HEAL, Chronic Coal Pollution Serbia, Making the case for health promoting investments for zero pollution in Serbia, June 2020, p.3.

³⁴ HEAL, Chronic Coal Pollution - EU action on the Western Balkans will improve health and economies across Europe. HEAL, CAN Europe, Sandbag, CEE Bankwatch Network and Europe Beyond Coal. 2019. p. 5.

³⁵ CEE Bankwatch Network and the Centre for Research on Energy and Clean Air, Comply or Close, How Western Balkan coal plants breach air pollution laws and cause deaths and what we governments must do about it, September 2021, p. 6, 17, 41.

The findings were confirmed in a court case by the expert opinion, a highly reputed pulmonologist, indicating how the exceedance of SO₂ emission ceilings from the Public Electricity Company's large combustion plants in 2018 and 2019 caused the risk of damage to an unspecified number of persons.³⁶

The challenge to remove the source of environmental damage came following repeated requests for extraordinary inspection surveillance over EPS's plants covered by the Serbian National Emission Reduction Plan (NERP) and refusal of the inspection to enforce national and international obligation.

The case is still pending before the Higher Court in Belgrade.

IV. Omissions by the Republic of Serbia to respond to health and environmental crisis caused by the coal-fired thermal power plants

14. Despite serious health and environmental concerns caused by the nation's two coal power plants, the Government of the Republic of Serbia has been inactive and fails to ensure the realization of an array of human rights.
15. Subsequent governments in Serbia have failed to take any adequate measures in collecting and analyzing data on the impact of coal TPPs on health and making such data transparent and accessible to the Serbian population.
16. The absence of an Air Protection Strategy in the legal system of the Republic of Serbia is considered as a serious shortcoming. The aim of the strategy is preserving and improving air quality and avoiding, preventing, or reducing harmful consequences to human health and/or the environment.³⁷ The deadline for adoption of the public policy document which sets the ground for further development of the

³⁶ Dragana Jovanović is the retired Professor of Internal Medicine and Palliative Medicine at the Faculty of Medicine, University of Belgrade, doctor of medical sciences, pneumo phthisiology specialist, pulmonology and (pulmo) oncology specialist, founder of the Palliative Medicine specialization program and head of the Department of Palliative Medicine 2012-2019. From 1979 until her retirement in 2019, she worked at the Institute for Lung Diseases and Tuberculosis of the Clinical Centre of Serbia, *i.e.* at the Clinic for Pulmonology Clinical Centre of Serbia, and from 1996 until her retirement she was the head of the clinical department. She was also the director of the Institute for Lung Diseases and the founder of the Center for Interventional Pulmonology at the Institute for Lung Diseases Clinical Centre of Serbia, as well as the founder of the Palliative Care Unit and Cancer Pain Clinic at the Institute for Lung Diseases Clinical Centre of Serbia. She is the founder of the Association of Pulmonologists of Serbia and the founder and the first President of the Respiratory Association of Serbia. Expert witness opinion will be provided upon request.

³⁷ Law on Air Protection, Article 28 (1).

documents in the field of air quality protection has expired more than 10 years ago.³⁸ The Ministry of Environmental Protection is currently preparing the draft Programme of Air Protection of the Republic of Serbia with an Action Plan which shall define air quality goals and measures for their achievement.³⁹ According to the draft programme, NERP is considered one of the most important policy documents whose implementation will have a significant effect in the reduction of national emissions or air pollutants.⁴⁰ Several public consultations were held early 2022 but the Programme of Air Protection of the Republic of Serbia with an Action Plan is yet to be adopted.

17. Although the efforts to put the issue of possible health impacts caused by these exceedances of the limit values by TPPs covered by the NERP on the public agenda were mainly initiated by civil society organizations, the Government ignored the exceedances claiming that the operation of the TPPs is in accordance with the law.⁴¹
18. As a party to the Treaty Establishing Energy Community, Serbia is legally obliged to reduce emissions of SO₂, nitrogen oxides (NO_x) and particulate matter (PM) by applying the NERP as from 1 January 2018. However, during 2018 - 2021, EPS had failed to adhere to the prescribed obligations, and greatly exceeded the emission ceilings for sulfur dioxide.⁴² Instead of significantly reducing sulfur dioxide emissions, EPS's TPPs covered by the NERP emitted 333.603 tons in 2020, which is around 24,022 tons of more sulfur dioxide than in 2019. The emissions of sulfur dioxide for 2021 were reduced to 249,868 tons, but the TPPs continue to greatly exceed legally binding limits (four times than allowed), thereby endangering the health of an unspecified number of persons in Serbia and the neighboring countries. It should be noted that the maximum sulfur dioxide emission from all TPPs covered

³⁸ Law on Air Protection (*"Official Herald RS"*, no. 36/09) within Article 84 stipulated that the Air Protection Strategy will be adopted within two years from the date of entry into force of the law, while the amendments to the law from 2013. postponed this deadline to 1 January 2015. According to the independent Article 10 (s1)(1) of the Law on Air Protection the Ministry of Environmental Protection was obliged to prepare, and the Government of the Republic of Serbia to adopt the Air Protection Strategy.

³⁹ EU for you, Calendar, Public debate on the draft Programme of Air Protection of the Republic of Serbia for the period from 2022 to 2030 with the Action Plan, <https://www.euzatebe.rs/en/calendar/public-debate-on-the-draft-programme-of-air-protection-of-the-republic-of-serbia-for-the-period-from-2022-to-2030-with-the-action-plan>.

⁴⁰ Ministry of Environmental Protection, Information of public importance, Public debates, Public call for participation in the public debate on the Proposal for the Air Protection Program in the Republic of Serbia for the period from 2022 to 2030 with an Action Plan, <https://www.ekologija.gov.rs/informacije-od-javnog-znacaja/javne-rasprave/javni-poziv-za-ucescu-u-javnoj-raspravi-o-predlogu-programa-zastite-vazduha-u-republici-srbiji-za-period-od-2022-do-2030-godine-sa-akcionim-planom>.

⁴¹ <https://www.mre.gov.rs/aktuelnosti/saopstenja/emisije-sumpordioksida-u-te-kostolac-b-u-okviru-propisanih-vrednosti-i-nize-nego-u-eu>. Only recently the Minister of Mining and Energy modestly provided information that 18 coal-fired thermal power plants in our region are responsible for emissions that are close to three times more than the emissions of 221 TE in the European Union. Обраћање потпредседнице Владе и министарке рударства и енергетике проф. др Зоране Михајловић на уводном делу другог Форума Енергетске заједнице о праведној транзицији у Сарајеву | Министарство рударства и енергетике ([mre.gov.rs](https://www.mre.gov.rs)).

⁴² Reported information on large combustion plants under the Energy Community Treaty, <https://www.eea.europa.eu/data-and-maps/data/reported-information-on-large-combustion-2>.

by the NERP is 54.575 tons per year.⁴³ Due to the non-compliance with the emission ceilings established under the NERP Energy Community Secretariat initiated the procedure against the Republic of Serbia.⁴⁴ The Secretariat preliminarily concluded that the large combustion plants operating in Serbia under the NERP have failed to meet one or more of the emission ceilings established for sulfur dioxide (SO₂), nitrogen oxides (NO_x) and dust.⁴⁵

19. By providing extensive subsidies to the fossil fuel industry, the Government of the Republic of Serbia actively encourages coal power plant operation. Between 2015 and 2019, the state allocated more than 380 million EUR in subsidies for the production of electricity from coal.⁴⁶ Also, Serbia is refusing to enforce the penalties applicable to breaches of the national provisions related to the high emissions of sulfur dioxide coming from TPPs.⁴⁷

20. Serbia failed to adopt adequate laws and develop important strategic documents that will effectively decrease the emissions coming from TPPs. Namely, instead of enforcing the obligation to obtain Integrated Pollution Prevention and Control (IPPC) permits,⁴⁸ to ensure that large polluters operate in accordance with high standards of environmental protection and do not cause harm to human health and the environment, the Serbian Government, once again, delayed the implementation of the IPPC Law until 31 December 2024.⁴⁹ None of the TPPs operated by Public Electricity Company of Serbia has IPPC permit up to date.

43 Ministry of Environmental Protection, Announcements, Call for participation in the public debate on the strategic environmental assessment for the National Emission Reduction Plan, Annex 2 Plant contribution to maximum emissions of sulfur dioxide (SO₂) p. 11,

https://www.ekologija.gov.rs/sites/default/files/javne_rasprave/kona%C4%8Dni_NERP_EPS_i_NIS.pdf

44 Case ECS 10/21, <https://www.energy-community.org/legal/cases/2021/case1021RS.html>.

45 *Ibid.*

46 Damir Miljević, Investments into the past, An analysis of Direct Subsidies to Coal and Lignite Electricity Production in the Energy Community Contracting Parties 2018–2019, December 2020, p. 6.

47 The Republic of Serbia has adopted the Regulation on Emission Limit Values of Pollutants into the Air from Combustion Plants („*Official Herald of RS*”, No. 6/16) (“Regulation”). Within Article 8 of the Regulation NERP has been regulated, providing that NERP shall be applied from 01 January 2018 until 31 December 2027 at the latest, (Paragraph 9). Due to the exceeding emissions, in August 2019, RERI filed a request for extraordinary inspection surveillance over the TPPs operated by EPS (Nikola Tesla and Kostolac). However, inspection within the Ministry for Environmental Protection in its response from 26 August 2019, register no. 353-03-1751/2019-07, replied that “there are no sanctions envisaged under the Law on Air Protection for non-compliance with the National Emission Reduction Plan”. RERI requested clarification, and the inspection within the Ministry of the Environmental Protection in its response from 10 December 2019, register no. 353-03-2594/2019-07, has determined that there are no conditions for initiation of extraordinary inspection surveillance and also “there is no penalty in the event that the operator fails to comply with the provisions from national plan”.

48 IPPC permits provide for comprehensive protection of air, water and soil from pollution, prevention of pollution and the application of the best and most environmentally friendly technical solutions.

49 Law on the Amendments to the IPPC Law (“*Official Herald RS*”, no. 109/21), <https://www.reri.org.rs/en/government-of-republic-of-serbia-once-again-proposed-delay-in-application-of-the-law-on-the-integrated-prevention-and-pollution-control/>

21. The Law on Climate Change does not transpose key provisions from EU legislation related to climate neutrality, does not introduce a carbon tax or any other charging mechanism for GHG emissions. In addition, Serbia did not yet adopt the Low Carbon Development Strategy, although the Ministry of Environmental Protection conducted a public consultation on the Proposal for the Low Carbon Development Strategy with the Action Plan of the Republic of Serbia in December 2019 and January 2020. The reasons why this strategy was not adopted or whether a new one is being drafted are unknown. Serbia also lacks a National Environmental Protection Programme, which shall define national emission values for polluting materials, having in mind that the old programme has expired. Finally, Serbia did not adopt the National Energy and Climate Plan up to date, a key EU policy instrument for tackling the issue of GHG emissions.

22. Serbia is currently in the process of drafting the Spatial Plan of the Republic of Serbia, for the period from 2021 to 2035. It is the highest spatial planning document, the content of which, among others, will have a great impact on the future development of the country's energy sector. The document, however, foresees the construction of additional thermal energy capacities with an installed capacity of up to 3.3 GW, contrary to the applicable national and international commitments.⁵⁰ In addition, Serbia is planning to put into operation the new TPP Kostolac B3 (350 MW) into the grid in 2023, as well as to retrofit its old capacities.⁵¹ Such an attempt will further jeopardize the health and environmental risks already faced by the Serbian population.

V. Recommendations

23. In order to comply with its international obligations under the human right to a clean, healthy and sustainable environment, RERI and FIAN International call on the Serbian government to:

- Cease to plan the introduction of new coal capacities and establish ambitious coal phase out goals and develop a strategic framework and road map for exiting

⁵⁰Draft Spatial Plan of the Republic of Serbia for the period 2021-2035 ("Draft Spatial Plan") <https://www.mgsi.gov.rs/lat/dokumenti/javni-uvod-u-nacrtno-prostornog-plana-republike-srbije-od-2021-do-2035-godine-i-izvestaj-o>. A considerable number of citizens and civil society organizations expressed in their comments dissatisfaction with the proposed introduction of new coal capacities, during public consultations on the Draft Spatial Plan. Report on public consultations on the Draft Spatial Plan and report on the strategic environmental assessment of the Draft Spatial Plan.

<https://www.mgsi.gov.rs/sites/default/files/Izvestaj%20o%20obavljenom%20javnom%20uvodu%20PPRS%201%2010.pdf>

⁵¹<https://balkangreenenergynews.com/rs/lazovic-termoelektrana-kostolac-b3-ce-biti-na-mrezi-u-septembru-2023-godine/>

lignite based electricity production, in line with the Paris Agreement;

- Cease to subsidize coal-fired power plants, and use these resources for the environmental transition as well as for the compensation and rehabilitation of those whose health has been damaged;
- Ensure compliance of TPPs with the National Emission Reduction Plan;
- Create a favorable legal framework to protect human rights related to environmental harm coming from TPPs, especially through the adoption of the Air Quality Strategy, Low Carbon Development Strategy and National Environmental Protection Programme;
- Raise awareness among the citizens of the Republic of Serbia on the negative effects of pollution coming from TPPs as well as create disaggregated data and provide for information on the true costs of coal production;
- Establish mechanisms and tools for affected people to assess and record their losses and damages to create evidence and establish proper remedy mechanisms;
- Ensure that Serbia's relevant international obligations and commitments, e.g. under the CESCR (especially the right to health), the CCPR (the right to life), the Paris Agreement on climate change, the 2030 SDGs, and the UNDROP are prioritized and implemented;
- Invite, as a matter of priority, the UN Special Rapporteur on Human Rights and the Environment to Serbia in order to gather first-hand information on the current human rights situation in Serbia.