THE EFFECT OF THE RIVER BASIN MANAGEMENT PLANS ON INVESTMENT PROPOSALS WITH VALID PERMIT UNDER THE WATER ACT

The common framework for sustainable and integrated water management in the member states has been established in the Water Framework Directive (WFD), in force since 2000. It was transposed into Bulgarian Water Act. (WA). WFD determines the River Basin Management Plans (RBMP) and for Flood Risk Management Plans (FRMP) as essential tools in achieving the objective of sustainable water management.

In 2010 the first RBMPs for the period 2010 – 2016 for the four regions of the four basin management regions in Bulgaria were adopted. During the current 2016 a procedure for updating the current plans, adopted in 2010 is in motion. The revised plans will be in force for the period 2016-2022.

The legal definition designates the RBMP as documents with planning nature, an essential tool for water management at basin level, mandatory for implementation by the central and local governments, the public and businesses.

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The procedure for updating the RBMP aims to establish the water bodies' status (independent and significant parts of the surface water or groundwater) and the related ecosystems at the time of the update. Part of the analysis includes assessment of the human activity pressure on watersheds, as an assessment of the impact on the ecological status of the waters is carried out. Based on this analysis the goals for environmental protection are formed. To achieve the goals for water bodies set in RBMP, a program of measures is made and, at each update the programs of measures shall be reviewed and updated.

With an amendment of the Water Act (WA) from 2015 an opportunity is provided for the issued permits to use water resources to an economic purpose to be reviewed on their compliance with the goals of the environmental protection in terms of water quantity and quality set out in the RBMP.

In the WA a possibility is provided for the Director of the Basin Directorate to plan measures to amend the existing permit or for its termination where it is established that the exercise of rights under the same represents pressure on water status, contributing to the deterioration of water status or failure to accomplish the objectives for their protection.

In order the above measures amending or terminating the permit to be implemented, they should be included in the program of measures in the relevant RBMP.

At the same time the legislator have expressly regulated the cases in which ex officio amend permits. It is permissible when:

1. it is determined that the water body cannot achieve the objectives of good status or good potential in the existing at the time of valuation pressure on the water of the activities and it is necessary the conditions to justify the exclusions provided in WA to be met;

2. for a water body, which in the previous RBMP there has been reasoned exclusion of the goals to achieve good status or potential and the new assessment shows a need to further reduce the pressure, in order to meet the conditions to justify exclusions provided in the WA;

3. regardless of the compliance with permit conditions conflicts with the public interest arise.

Under the law, the issued permits that have been found to fall under the provisions of the above items 1 and. 2, be amended by the date of adoption of the RBMPs. The announcement of the change in permits is carried out with the announcement of the RBMP draft, as the Director of the Basin Directorate issued a decision amending the permit within one month of the adoption of the plan

Besides amending existing water abstraction permit, updating of RBMP may lead to termination of its action if the Director of the Basin Directorate establishes that the exercise of the authorized permit for human activity leads to deterioration of the ecological status of the particular water body and the amendment of the permit will not be enough to improve its condition. In this case, the permit shall be deemed terminated from the date of adoption of the plan as a decision to end the permit shall be issued within one month of the RBMPs adoption.

The program of measures set out in the adopted RBMP may affect the realization of investment projects related to the use of water resources, for electricity production, either for the extraction of water for drinking, domestic and/or industrial uses and so on. Without an existing active permit for the use of water resources necessary for the conduct of the business, the realization of investment intentions related to the utilization of water resources is impossible. The permits themselves are issued with a relatively long duration, which depends on the activity that will be carried out and that can be repeatedly extended.

Periodic updating of the RBMP is a mechanism to control the delayed realization of investment plans and the issued to them permits under the WA. In this context, it should be borne in mind that the nature of the administrative acts issued under the Water Act, namely fixed and contingent permits operation, validation and extension of which depends on the performance of their underlying conditions and dynamically changing assessments in the RBMP.

For successful implementation of the investment plan related to the use of water resources, it is necessary to strictly observe the conditions of the permit issued and to endeavour to improve the waters ecological status, which in turn limits the possibility administrative authority to include measures, which in the updating of RBMP to lead to altering the parameters of the issued permit, or even its termination.

RBMP for the period 2016 - 2022, shall be adopted by the end of 2016 and as of the beginning of 2017 will be applicable to all within the scope of the programming document. The deadline for public discussion of the presented areas RBMP has been extended to September 30, 2016.

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