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Briefing

The Jadar Project, Serbia:

history, context and concerns

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1. History of the Project

The start of the Project

In 2001, the British-Australian mining corporation Rio Tinto established a subsidiary company in Serbia, Rio Sava Exploration Ltd., which was licensed to conduct geological research and mining activities. Rio Tinto geologists discovered in 2004 a new mineral containing lithium and boron, which was named jadarite after the Jadar River that is located near the city of Loznica in Western Serbia, an area where the new mineral is now planned for extraction.^[1]

After a relatively long period in which the Project was not in the focus of the public and in which the company continued with its exploration activities and permit-granting process, a significant pro-lithium campaign was revived in 2017, mostly generated by the Serbian President and consequently by the Government of Serbia.

While the Project of jadarite extraction was strongly and openly backed by the ruling majority on the one hand,^[2] strong opposition grew among concerned citizens, the scientific community, opposition politicians, civil society, and environmental activists on the other.^[3]

The main reasons for concern are the poor reputation of the Rio Tinto corporation,^[4] adverse environmental effects, the experimental nature of the intended lithium mining (from the technical perspective), the erosion of democracy and the rule of law in Serbia, and weak environmental standards. These issues are described in more detail below.

- 1 «About the company» (Rio Tinto website), <https://riotintoserbia.com/en/about-the-company>, accessed on 29 November 2024; <https://riotintoserbia.com/en/jadar-project>.
- 2 «Memorandum of Understanding between the Government of Serbia and Rio Tinto on Jadar Project», Rio Tinto website, 24 July 2017, <https://www.riotinto.com/en/news/releases/2017/jadar-mou-serbia-signed>, accessed on 29 November 2024.
- 3 «Voices of discontent over Rio Tinto's jadarite mine investment in Serbia grow louder», Balkan Green Energy News, 6 November 2020, <https://balkangreenenergynews.com/voices-of-discontent-over-rio-tintos-jadarite-mine-investment-in-serbia-grow-louder>.
- 4 «After 150 years of damage to people and planet, Rio Tinto «must be held to account» (commentary)», Mongabay, 5 April 2023, <https://news.mongabay.com/2023/04/after-150-years-of-damage-to-people-and-planet-rio-tinto-must-be-held-to-account-commentary>, accessed on 17 December 2024.

First Protests and Suspension of the Project

As local citizens were concerned about the possible negative impact on health^[5] and the environment, Rio Tinto's announcement that the mine was planned to begin operations in 2022 led to a first massive protest in April 2021, where people demanded that the state protect the environment and public health; discontent and concern spread among citizens of all of Serbia. In September, more protests followed.^[6]

At that time, without proper public discussion, the Government of Serbia proposed amendments to the Law on Expropriation to facilitate land expropriation not solely in the public, but also in the private interest, which would essentially benefit private companies. The Government also proposed amendments to the Law on Referenda and People's Initiatives, restricting the conditions for referenda.^[7] The proposed amendments were backed by the President of Serbia^[8] and perceived by the protesters as a way to ease the path for the lithium mine.^[9] The disputed amendments were ultimately withdrawn from the legislative procedure due to public pressure; however, the protests continued,^[10] as the citizens were completely excluded from the decision-making process and, at the same time, those opposing the Project were stigmatised by the Government's officials and the media close to them. In January of 2022, the citizens of Serbia blocked central cross roads for the fifth time, which finally resulted in the decision of the Government of Serbia to halt the Project and to suspend the legal and spatial planning basis for this Project. It will be shown that in this way the Serbian Government deceived the public and only postponed the continuation of the Project to the post-elections period.

On 20 January 2022 the Government of Serbia adopted a decree on the termination of the validity of the decree on the establishment of the Spatial Plan of the Special Purpose Area

- 5** «Activists gather at Ecological Uprising in front of Serbian parliament», Balkan Green Energy News, 12 April 2021, <https://balkangreenenergynews.com/activists-gather-at-ecological-uprising-in-front-of-serbian-parliament>.
- 6** Thousands demand revoking Serbia's commitments to Rio Tinto, Balkan Green Energy News, 12 September 2021, <https://balkangreenenergynews.com/thousands-demand-revoking-serbias-commitments-to-rio-tinto>.
- 7** <https://www.slobodnaevropa.org/a/srbija-protesti-zakon/31599642.html>.
- 8** <https://www.slobodnaevropa.org/a/vucic-rio-tinto-nedeljice/31593898.html>.
- 9** «Thousands Rally In Serbia Against Expropriation Law, Lithium Mine», Radio Free Europe, 25 November 2021, <https://www.rferl.org/a/serbia-minining-lithium-expropriation-/31577972.html>, «Rio Tinto lithium mine: thousands of protesters block roads across Serbia», The Guardian 5 December 2021, <https://www.theguardian.com/world/2021/dec/05/rio-tinto-lithium-mine-thousands-of-protesters-block-roads-across-serbia>.
- 10** «Serbia Eco Protests to Continue Despite Backdown Over Disputed Laws», BalkanInsight, 10 December 2021, <https://balkaninsight.com/2021/12/10/serbia-eco-protests-to-continue-despite-backdown-over-disputed-laws>.

for the implementation of the Project.^[11] In accordance with the decree all legal and planning frameworks for continuation of the Project were annulled and the legal grounds for any permit-granting procedure were cancelled.

The Serbian Prime Minister, Ana Brnabić, publicly announced that there was an «absolute end» to lithium and boron exploration in connection with the Rio Tinto company and that no one else had requested exploration rights for that area. Brnabić also told journalists in Belgrade that the Government of Serbia «does not intend» to give «investigative rights» to any other company.^[12] Public dialogue about the Project was completely halted until July 2024, after national (December 2023) and local elections (June 2024) were concluded.

First Environmental Impact Assessment Scoping Request for the Project

In July 2021, Rio Sava Exploration Ltd. submitted a request for determination of the scope and content of the environmental impact assessment study for the Project to the Ministry of Environmental Protection. Exercising its rights guaranteed by the national laws and the Aarhus Convention, RERI participated in the procedure until its termination, by submitting an opinion on the request and subsequently an appeal to the scoping decision made by the Ministry.

According to the RERI opinion, the request was premature (procedures for amendments of the Spatial Plan of the Special Purpose Area for the implementation of the Project were initiated^[13]), incomplete (the water supply system was not covered by the request) and the request was not prepared in accordance with relevant environmental assessment regulations. On 18 August 2021 the Ministry of Environmental Protection approved the Rio Tinto Scoping Request. Because of the deficiencies of the request, and considering the approval illegal, on 10 September 2021, RERI (as well as many other civil society organisations and individuals) submitted a complaint to the Government of Serbia, requesting annulment of the approval of the scoping request.

In accordance with the Law on Administrative Procedures the complaint has a suspensive effect, and an administrative act may not be considered legally binding until the second

11 Official Gazette of the Republic of Serbia no. 8/22.

12 Brnabić: Apsolutno stavljena tačka na Rio Tinto, niko drugi nema istražna prava, N1, <https://n1info.rs/vesti/brnabic-apsolutno-stavljena-tacka-na-rio-tinto-niko-drugi-nema-istrazna-prava>, accessed on 22 January 2025.

13 The initiated procedure for amendments to the Spatial Plan and strategic environmental impact assessment was never concluded. It was just stopped without any decision or clarification by the responsible authorities.

instance authority has issued a decision on the submitted complaint. The second instance authority (in this particular case the Government of the Republic of Serbia) is required to issue a decision on the complaint within the time period of 30 days (Article 15 of the Law on Environmental Impact Assessment, 2009). On 25 January 2022, the Administrative Commission of the Government of Serbia annulled the approval of the scoping request issued by the Ministry of Environmental Protection on 18 August 2021. The Administrative Commission referred to the Decree on the termination of the Project as a legal ground for annulment of the scoping approval, and it did not take into consideration arguments presented by the complainants. The annulment decision was issued five months after the scoping approval. Therefore, between 18 August 2021 and 25 January 2022, the approval of the Rio Tinto scoping request was not legally binding and could not be used within any administrative or permit-granting procedure for this reason.^[14]

Illegal Extension of Deadlines for the Approval of the Jadar Mine Exploitation Field

Although the Project was officially halted in January 2022, RERI found out, by requesting access to publicly available information, about the repeated attempts of Rio Tinto to obtain an approval for an exploitation field, a document that is necessary for the commencement of lithium mining, despite the fact that the company did not provide the necessary documentation for the request. When RERI asked the Ministry of Environmental Protection for all of the documentation to be provided (as public information and documents), it became apparent that most of these requests for approval were in oral and not written form. Most of the documents were missing, but the explanation was that all existing requests were provided.^[15]

The documents that were missing and therefore preventing the company from obtaining an approval for an exploitation field were the Decision on determining the scope and content of the Environmental Impact Assessment study, which was annulled in January 2022, after the Government of Serbia passed the Decree on the Termination of the Spatial Plan of the Special Purpose Area for the Project (see more regarding Spatial Plan below).

Despite the fact that the company did not have proper documentation and that the Ministry should have rejected the request, according to Serbian Law on Administrative

14 Moreover, it is important to highlight that neither the scoping approval issued in August 2021 nor the one issued in November 2024 were ever legally binding documents.

15 <https://reri.org.rs/en/ministry-of-mining-and-energy-without-justification-continues-to-extend-the-deadline-for-rio-tinto-to-obtain-license-for-lithium-exploitation-in-serbia>.

procedure,^[16] because there were no legal conditions for the administrative proceedings to be conducted. The Ministry extended the deadline for its submission 18 times (the last one known to RERI was valid until July 2024, with no information on further extensions), as the company failed to revise and supplement the request following an initial warning from the Ministry. Instead, the Ministry kept postponing the deadline for an indefinite period of time.

People's Initiative Lost After Submission to the National Assembly

Pursuant to the Law on Referenda and People's Initiatives,^[17] activists and organisations submitted a people's initiative proposing the ban of lithium and boron mining, which was signed by 38,191 citizens and certified before the Public Notary. The initiative was submitted to the Serbian Parliament on 18 May 2022. The National Assembly was obliged to schedule a debate on the proposal that is the subject of people's initiative within six months at the latest.^[18] However, this has not been done to date,^[19] which is a direct breach of the relevant law.

Moreover, the applicants of the initiative were informed by the competent authority that the initiative, along with all the certified signatures, was lost after submission to the National Assembly of Serbia and could not be found. Meanwhile, the current president of the National Assembly has informed the public that she is actively involved in finding out what happened with the submission.^[20] Criminal charges were submitted by the applicants to the Higher Prosecutor's Office in Belgrade; however, no information on the progress of investigation or the outcome was ever revealed.

16 Official Gazette of the Republic of Serbia, nos. 18/2016, 95/2018 and 2/2023, Article 92.

17 Official Gazette of the Republic of Serbia, nos. 111/21 and 119/21, Article 56.

18 Official Gazette of the Republic of Serbia, nos. 111/21 and 119/21, Article 69.

19 <https://insajder.net teme/slucaj-nestanka-inicijative-sa-38-000-potpisa-gradana-rokovi-prosli-zakon-prekrsen-nadlezni-ne-reaguju>.

20 <https://www.insajder.net teme/slucaj-nestanka-inicijative-sa-38-000-potpisa-gradana-rokovi-prosli-zakon-prekrsen-nadlezni-ne-reaguju>.

Controversial Decision of the Constitutional Court and Revival of the Project

The year 2024 saw a full revival of the Project. It commenced with the decision of the Constitutional Court on 11 July 2024 in which the Court founded that the Government's earlier cancellation of the Spatial Plan was unconstitutional.^[21]

The decision of the Constitutional Court may be considered highly controversial as its legal and technical substance is rather questionable. More specifically, the wording and writing style in the decision are quite informal and inconsistent; the judges did not differentiate between the two laws – the Law on Environmental Impact Assessment and the Law on Strategic Environmental Impact Assessment; the decision was not rendered unanimously as there were two separate opinions issued by two judges, one of them dissenting, and these opinions were still very vague and unclear.

The timing of the decision was obviously not coincidental. National and local elections had been concluded and the ruling majority had avoided the politically risky situation of discussing unpopular lithium mining issues during the election campaign. Pro-regime media launched a pro-lithium mining campaign introducing the revival of the Project, practically announcing the decision of the Constitutional Court, and putting additional pressure on the supreme judicial authority. Once again, the most active stakeholder in this process was the President of Serbia,^[22] claiming he would personally request the strong guarantees related to environmental and health standards – despite the fact he has no competences of any kind related to the Project according to the Constitution of Serbia and the applicable laws.

Following this Constitutional Court decision, the Government officially reinstated the Spatial Plan^[23] by adopting a Decree on the implementation of the Regulation on establishing the Spatial Plan of the Special Purpose Area for the implementation of the Project for the exploitation and processing of a jadarite mineral.^[24] From the legal perspective, the major part of the expert community considers this decision unconstitutional, and the interested public and the opposition representatives in the National Assembly of Serbia submitted a claim to the Constitutional Court of Serbia claiming the same.^[25]

21 <https://ustavni.sud.rs/sudska-praksa/baza-sudske-prakse/pregled-dokumenta?PredmetId=20836>.

22 <https://n1info.rs/vesti/vucic-litijum-se-nece-iskopavati-bar-jos-cetiri-godine-trazim-garancije-za-ljude-u-radjevini/>.

23 <https://www.slobodnaevropa.org/a/rio-tinto-litijum-vlada-srbije/33038609.html>.

24 Official Gazette of the Republic of Serbia, no. 60/24.

25 <https://www.slobodnaevropa.org/a/jadar-litijum-srbija-opozicija/33181882.html>.

Shortly after the Constitutional Court's decision, the Summit on Critical Raw Materials was held in Belgrade, where a Memorandum of Understanding («MoU») was signed between Serbia and the European Union on strategic partnership in the field of sustainable raw materials, battery value chains, and electric vehicles. The memorandum was signed in the presence of Serbian President Vučić and German Chancellor Olaf Scholz.^[26]

We learned from the MoU that in September 2023, during the time the Project was officially suspended by the Government of Serbia, the European Commission and the Government of Serbia signed a Letter of Intent concerning closer cooperation in the field of critical raw materials and electric vehicles.

New Citizen Protests, Repression

The developments described above led to numerous protests in roughly 48 cities and towns across the country in the period from 23 July 2024 until 10 August 2024. The largest protest took place in Belgrade, the capital city of Serbia, on 10 August 2024, where tens of thousands of citizens rallied against lithium mining, emphasising health and environmental risks and calling for a ban of the research and exploitation of lithium and boron in Serbia. Following this mass protest, arrests and criminal charges ensued against dozens of activists who are advocating for a ban on lithium mining. The tension in the country increased and polarisation grew between those advocating for the Project and those opposing it. Once again, an even stronger media campaign against the activists described them as «terrorists» and «enemies of the state».^[27]

On 28 August 2024, a movement/online platform «Kopaćemo» (in English: «We will dig») was created; however, the persons behind it remained anonymous. The movement published a «registry of environmental terrorists» on their website, which currently includes 23 people, among them representatives of the local population, environmental activists, and public figures who publicly expressed their opposition to the opening of the Project. The register contains «dossiers» of persons, including allegations of overthrowing the constitutional order, causing civil war, intimidation of employees in public and private services, death threats due to lithium, etc. Two of the activists called «environmental terrorists» on the Kopaćemo website submitted criminal charges against an unknown responsible person (owner of this website) before the Higher Prosecutor Office in Belgrade – Department for High-Tech Crimes. However, the Prosecutor rejected the submission promptly, claiming

26 «Memorandum of Understanding between Serbia and the EU regarding mineral resources signed», B92, 19 July 2024, <https://www.b92.net/english/business-economy/41404/memorandum-of-understanding-between-serbia-and-the-eu-regarding-mineral-resources-signed/vest>.

27 <https://nuns.rs/nacionalne-televizije-u-sluzbi-propagande-svakodnevno-slavljenje-iskopavanja-litijuma-protivnici-predstavljeni-kao-teroristi-i-neprijatelji-drzave>.

that the elements of the criminal act of endangering security are not determined from the allegations of the criminal charges, given that it was not determined that any threats related to their life and body were addressed to the applicants. Therefore, the prosecution stated that merely the feeling of being threatened is not sufficient for the existence of the criminal offense of endangering the security of an individual.

Not only is the portal «Kopaćemo» still active, but it has also recently published a new register – the register of «student mercenaries» and of so called «party professors», as a reaction to massive ongoing student protests and a blockade of universities in Serbia. These are in response to the Novi Sad train station roof collapsing on 1 November 2024, which killed 15 people. The collapse, linked to corruption in the ruling Progressive Party, highlights the regime's disregard for safety and democracy. The station was part of China's Belt and Road Initiative, and minimum technical and legal standards were ignored. What began as student protests in November has now turned into widespread, intergenerational demonstrations across Serbia. The government of President Aleksandar Vucic is under immense pressure from the students' demands for rule-of-law-based state institutions.

Second Environmental Impact Assessment Scoping Request for the Project

Meanwhile, in September 2024, the company Rio Tinto submitted an environmental impact assessment scoping request for the Project to the Ministry of Environmental Protection. Once again, RERI participated in the process as a member of the public concerned (under the Law on Environmental Impact Assessment) and therefore submitted to the Ministry its comments on the Request for determining the scope and content of the Environmental Impact Assessment Study of the Project.

On 15 November 2024, the Ministry of Environmental Protection issued an approval for the scope and content of the environmental impact assessment study. On 6 December 2024, RERI, as well as a significant number of civil society organisations, environmental activists and individuals, submitted a complaint to the Government of Serbia, as a second instance in administrative proceedings, requesting annulment of the decision as illegal. In its complaint RERI pointed out the breaching of the administrative procedures, splitting of the Project (only the underground lithium mine and connected objects are covered by the request while the ore processing facility and mining waste disposal, according to the explanation of Rio Tinto, will be the subject of other new requests).

In its approval decision the Ministry of Environmental Protection claimed that the underground mine, the ore processing facility, and mining waste disposal may have separate functions and are therefore separate projects, although it is obvious that these facilities are technically and functionally interconnected as a single project and that the activities and

technical processes in these facilities will be executed simultaneously. At the same time the Ministry of Environmental Protection did not take into account the condition issued by the Serbian Nature Protection Bureau (clear condition that the environmental impact assessment study should cover the whole Project, not just the underground mine) and conditions issued by the Water Management Authority of Serbia.^[28]

Considering the importance of the Project, the number and potential adverse consequences of the Project, and the fact that the international community has limited access to information about the adverse effects of the Project, RERI published its comments to the scoping request in English.^[29]

So far the Government has not issued a decision concerning the complaints; therefore, the scoping request approval is not yet a final and binding document.

28 <https://reri.org.rs/wp-content/uploads/2024/10/RERI-Opinion-on-scoping-request-EIA-RioTinto-Jadar-project.pdf>

29 <https://reri.org.rs/en/rio-tinto-salami-slicing-in-accordance-with-the-highest-european-standards-of-environmental-protection>.

2. Concerns Regarding Implementation of the Project

Lack of Trust Due to Rio Tinto's Record

As mentioned above, one of the main reason for concerns was and is the negative track record of the Rio Tinto corporation.^[30] The controversies include environmental damage, human rights violations, corruption and ethical concerns and the experimental nature of the intended lithium mining (from the technical perspective), which promote the ongoing erosion of democracy and the rule of law in Serbia and weak environmental standards on the ground.

Rio Tinto has been involved in several cases of bribery and corruption that were litigated in court,^[31] according to publicly available information. The UN Special Rapporteur on human rights and the environment report «Additional Sacrificed Zones» documents forest damages and water contamination in Madagascar caused by a Rio Tinto ilmenite mine.^[32] An independent impact assessment report about the Rio Tinto Panguna Mine (Bougainville, Papua New Guinea) on the local environment and people documents harmful impacts of mining operations to the local community and the environment, including risks of landslides and high levels of chemicals in the soil and water that may pose risks to human health.^[33]

Environmental Concerns

Experts argue that only two mines in the world, use a similar lithium extraction process that is being planned for jadarite extraction in Serbia, and that those mines are located in a desert region as opposed to a populated area with fertile soil whose population heavily

30 «After 150 years of damage to people and planet, Rio Tinto «must be held to account» (commentary)», Mongabay, 5 April 2023, <https://news.mongabay.com/2023/04/after-150-years-of-damage-to-people-and-planet-rio-tinto-must-be-held-to-account-commentary>, accessed on 17 December 2024.

31 «Rio Tinto to pay \$28 million fine to settle US SEC fraud case», Reuters, 18 November 2023, <https://www.reuters.com/business/energy/rio-tinto-pay-28-mln-fine-us-sec-settlement-2023-11-17>; «Rio Tinto Mining Company Pays \$15 Million to Settle US Bribery Accusations», Organized Crime and Corruption Reporting Project, <https://www.occrp.org/en/news/rio-tinto-mining-company-pays-15-million-to-settle-us-bribery-accusations>, accessed on 21 January 2025.

32 UN Special Rapporteur on human rights and the environment, Additional sacrifice zones, Annex 1 to A/HRC/49/53, 2 March 2022.

33 Panguana Mine Environmental and Human Rights Impact Assessment, Panguana Mine Legacy Impact Assessemnt Secretariat, <http://tanorama.com/pangunasecretariat.html>, accessed on 21 January 2025.

relies on agriculture, as is the case with the area where the Project is planned to be executed.^[34] Biodiversity experts from the Faculty of Biology, University of Belgrade, concluded that the Project would have significant consequences for the ecosystem of the affected region.

In its report, the Faculty of Biology concluded that «the degree and scope of the impact of the opening of the mine on the overall biodiversity of the area is extremely significant and has a key impact on its degradation. In relation to that, both irreversible and reversible consequences on the qualitative and quantitative structure of biodiversity were identified». Regarding mitigation of the negative impacts, the experts expressed concerns that «the proposed mitigation and remediation measures for the biodiversity are extremely limited in capacity and insufficiently defined in terms of time. The optimal and basic measure to prevent negative consequences on the state of biodiversity in this area is to abandon the planned exploitation and processing of jadarite minerals».^[35]

Hydrogeology experts expressed concerns about the impact of jadarite extraction and ore processing on underground water resources. According to experts, the Project may have adverse impacts on the groundwater source in the Drina River alluvion and the Mačva region, which is considered to be of key importance for supplying the Sava-Belgrade as well as the Mačva regional water-supply systems.^[36]

An investigation by the Centre for Investigative Journalism of Serbia has also uncovered irregularities in the issuing of conditions to Rio Tinto for the Jadar project. Conditions must be issued to a company before it can submit its application for a scoping study. Leaked emails show that the expert service of the Serbian Institute for Nature Conservation raised serious concerns about the project, and that these concerns were

34 «Why a lithium mine project in Serbia worries the European Union», by Tatjana Dordevic, Aspenia online, 21 October 2024, <https://aspeniaonline.it/why-a-lithium-mine-project-in-serbia-worries-the-european-union>, accessed on 17 December 2024.

35 The Faculty of Biology, together with four other scientific institutions, was engaged by the Rio Tinto company in preparation of the Final report on the review of the impact of the jadarite mineral exploitation and processing project on the state of biodiversity. Field research was performed in June and July 2020, and the results were presented to the company in the final report. Fifteen biodiversity experts published a public statement and expressed their concerns about the biodiversity impacts of the Jadar project due to misinterpretations of the report outcomes. The final report developed by the Faculty of Biology is not publicly available since it is not a public document but property of Rio Tinto Company. Biološki fakultet odbacio odgovornost za zaključke u „Nacrtima studije uticaja« koju je objavio Rio Tinto, Danas, 6 September 2024, <https://www.danas.rs/vesti/drustvo/bioloski-fakultet-odbacio-odgovornost-rio-tinto>, accessed on 21 January 2025.

36 Renewables and Environmental Regulatory Institute, Opinion on the Request for Establishing the Scope and Contents of the Environmental Impact Assessment Study of the Project for the Underground Exploitation of Lithium and Boron Deposits «Jadar», 1 October 2024, <https://reri.org.rs/wp-content/uploads/2024/10/RERI-Opinion-on-scoping-request-EIA-RioTinto-Jadar-project.pdf>.

sidelined and not taken up by the head of the Serbian Institute for Nature Conservation. Several department heads have distanced themselves from the conditions set by the Head of the Institute of Nature Conservation of Serbia to Rio Tinto, which form the basis of the scoping request for the EIA.

In addition, illegal practices related to the EIA process (see details below) do not alleviate environmental concerns.

Weak Governance

Further concerns lie in weak environmental governance, poor administrative capacities of the public administration in Serbia, and generally high levels of corruption within public institutions and beyond.

Relevant reports and analyses document the weakness of democracy and high corruption risks in Serbia. According to the latest Freedom House Nations in Transit 2024 report, Serbia has downgraded from a semi-consolidated democracy to a transitional/hybrid regime.^[37] When it comes to the state of political rights and civil liberties, Serbia is classified as a partly free country, with high corruption risks, lack of government openness and transparency, dominance of executive powers, and decline in media freedom.^[38] Growing corruption risks are among the major concerns. Since 2016, Serbia has seen a steep decline on the Corruption Perception Index, scoring its historically lowest rank in 2023 (104 out of 180 countries).^[39] Since the collapse of the roof of the Novi Sad train station and the beginning of the student protests, the basic deficits have become visible again: in light of the lack of political representation, of democratic publicity, of professional, political, and legal accountability in society, and the lack of a basic infrastructure for monitoring the state of the environment in the absence of a legally binding development plan and a spatial plan, Serbian society lacks all prerequisites to protect human security and enable development.

³⁷ Freedom House, Nations in Transit 2024: A Region Reordered by Autocracy and Democracy, April 2024, https://freedomhouse.org/sites/default/files/2024-04/NIT_2024_Digital_Booklet.pdf.

³⁸ Freedom House, Freedom in the World 2024: The Mounting Damage of Flawed Elections and Armed Conflict, February 2024. Available at: https://freedomhouse.org/sites/default/files/2024-02/FIW_2024_DigitalBooklet.pdf.

³⁹ <https://www.transparency.org/en/countries/serbia>.

Spatial Planning

The Serbian authorities have not established a proper strategic and policy framework for implementation of the Project. The Serbian National Spatial Plan was expired in 2020 and the new Spatial Plan was not adopted. The National Development Plan, the key long-term document of developmental planning, was not adopted in accordance with the Law on the Planning System. The deadline for adoption of the National Development Plan was not met in 2020.^[40] The Management Strategy for Mineral and Other Geological Resources has not been adopted in accordance with the Law on Mining and Geological Research.^[41] In accordance with Article 11 of the Law on Mining and Geological Research, the mineral policy and development plan for geological research and mining is implemented through the implementation of the management strategy for mineral and other geological resources of the Republic of Serbia. It is clear that planning of the Project in the absence of a key strategic document is not in accordance with the law.

Despite the above-mentioned facts, in 2020 the Government of Serbia adopted a Regulation on establishing the Spatial Plan of the Special Purpose Area for the implementation of the «Jadar» project for the exploitation and processing of a jadarite mineral,^[42] as a spatial and legal basis for establishing the mine. Soon after, the media recorded the first great dissatisfaction of citizens by the proposed mine, more precisely, by the local population of the Jadar valley, who were worried about insufficient information about the Project from the Rio Tinto company.^[43]

Benefits for the Serbian Economy and Citizens Questionable

There have been various statements from the Government's representatives on the extent to which Serbia and local citizens will profit from the Project and how many people would be employed for the purpose of implementing the Project. However, there have been no credible economic analyses nor the explanation of how these calculations were done.

In October 2024, a group of credible economic experts, consisting of professors of economics and individuals from the business sector with a particular interest and experience in

⁴⁰ The Law on Planning System, Official Gazette of the Republic of Serbia, no. 30/2018.

⁴¹ Official Gazette of the Republic of Serbia, nos. 95/2018 and 40/2021.

⁴² Official Gazette of the Republic of Serbia, no. 26/20.

⁴³ «Voices of discontent over Rio Tinto's jadarite mine investment in Serbia grow louder», Balkan Green Energy News, 6 November 2020, <https://balkangreenenergynews.com/voices-of-discontent-over-rio-tintos-jadarite-mine-investment-in-serbia-grow-louder>.

mining, conducted and publicised an analysis with the title «How Much Would Serbia Gain From the Jadar Project?». ^[44] Its key findings are as follows:

- According to Rio Tinto's projections, Serbia would have negligible total revenues from the Project: €17.4 million annually, which equates to €2.60 per capita annually;
- Serbia would also finance, for the benefit of Rio Tinto, the entire infrastructure for the Project, valued at several hundred million euros (roads, railways, water supply, gas pipeline, electricity infrastructure, etc.);
- Serbia would have no ownership share in the Project, and Rio Tinto would fully control the extracted lithium and jadarite. Even if Serbia were to receive 20% of the capital of the Project, it would still have negligible revenues: €27 million annually, which equates to €4.10 per capita annually;
- In the event of an environmental disaster (floods, tailings spills, etc.), Serbia would bear the enormous costs for remediation, potentially amounting to hundreds of millions of euros;
- The government plans to grant €419 million in subsidies, non-transparently and without guarantees, for the construction of an electric battery factory to a little-known Slovak company, InoBat, in which Rio Tinto is a shareholder, even though InoBat has no experience in large-scale battery production.

Therefore, based on the economic and financial analyses, and due to the enormous risks associated with its implementation, the conclusion of the authors of this submission is that the Project is not justified and should be halted.

44 <https://kreni-promeni.org/wp-content/uploads/2024/10/20241010-HOW-MUCH-WOULD-SERBIA-GAIN-FROM-THE-JADAR-PROJECT-FINAL-1.pdf>

3. Contextualisation and Conclusions

Due to the above mentioned context, shortcomings and irregularities, including illegal actions by the responsible authorities in Serbia, the lack of procedural standards after the initial phase of the Project, and the harassment and intimidation of representatives of the local community, civil society organisations and environmental defenders, the authors of this briefing are highly concerned that the project is and can be executed in a responsible manner in this current context nor does it meet the basic criteria set out in the CRMA as mandatory (Article 6) for obtaining the status of «strategic project». Among other things, we do not see that the Project can meet the sustainability requirements of a «strategic project» according to the requirements for

- 1) monitoring, prevention and minimisation of environmental impacts
- 2) prevention and minimisation of adverse social impacts through the use of socially responsible practices, including respect for human rights, indigenous peoples' rights and labour rights, particularly in the case of involuntary resettlement, the potential for creating quality jobs, and meaningful engagement with local communities and relevant social partners; and
- 3) the use of transparent business practices with appropriate compliance policies to prevent and minimise the risk of adverse impacts on the proper functioning of public administration, including corruption and bribery.

Illegal Environmental Impact Assessment Procedure

Before the commencement of the environmental impact procedure (as described above), in June 2024, Rio Tinto announced an «unofficial» draft of an environmental study and invited the interested public to a debate on this draft.^[45] The fact that the study was not an official document and that it contained a disclaimer that the data presented in it should not be taken as accurate, adequate, complete, or reliable, led to public participation being smaller than expected. Moreover, the authors of the document remained unknown as they did not want to draw negative publicity, as later explained by the company. Finally, the Serbian and English versions of the document were not compatible, as the English version was summarized and and it was missing some significant parts and details.

Publication of these draft studies was followed by harsh pro-regime media campaigns that promoted the Project and stigmatised and harassed Project opponents. This harassment campaign ran together with unprecedented support of the highest political figures for the

⁴⁵ <https://riotintoserbia.com/zivotna-sredina/radni-nacrti-studija-o-proceni-uticaja-na-zivotnu-sredinu>.

Project so, in such circumstances there were no opportunities for frank and unbiased public debate about its benefits and adverse effects. Each Project opponent was declared as an «enemy of the state» as mentioned above, as if it were not a project of a private company, but a matter of utmost importance to the state.^[46]

Once the official procedure commenced (see above), serious irregularities were identified by the interested and competent public, among others that the company is using «salami slicing», splitting the integral Project into several smaller pieces in order to make the environmental impacts of the entire Project appear less serious.^[47] Project splitting as demonstrated by the Rio Tinto company is not an isolated case, but rather a widespread practice in Serbia, and is heavily supported by public authorities. Chinese companies in particular use this illicit strategy in Serbia,^[48] but European companies do so as well.^[49] The Government of Serbia does not sanction this illegal practice but provides support to investors and promotes illegal actions, particularly when it comes to «projects of interest» for the Republic of Serbia.

In its response^[50] to RERI, the company practically confirmed that its intention is to split the Project into three separate projects: i) the underground mine; ii) the ore processing facility, and iii) the industrial waste landfill, which is illegal according to both national laws of Serbia and the EU policy which is transposed to the domestic legal framework.

In particular, the Law on Environmental Impact Assessment from 2009 does not provide opportunities for project splitting. Moreover, the new law adopted in November 2024 explicitly stipulates that the environmental impact assessment study pertains to the entire Project, which includes all phases and parts of its development. This led to the conclusion that the main piece of legislation was directly breached because the scoping study was not prepared for the entire Project.^[51] Rio Tinto submitted its scoping request shortly before the new law was adopted.

46 One of many examples: <https://informer.rs/politika/vesti/936128/zlatko-kokanovic-pretnje-vucic>, accessed on 27.02.25

47 <https://reri.org.rs/en/rio-tinto-salami-slicing-in-accordance-with-the-highest-european-standards-of-environmental-protection>.

48 O tempora, o mores! Case study on the construction of the tire factory in Zrenjanin, Renewables and Environmental Regulatory Institute, June 2021, <https://reri.org.rs/wp-content/uploads/2023/05/case-study-on-the-construction-of-the-tire-factory-in-Zrenjanin-2.pdf>.

49 Project splitting practice in Serbia is in details explained in RERI analyses of the Law on Environmental Impact Assessment 2004-2024, p. 29, <https://reri.org.rs/wp-content/uploads/2024/07/Implementation-of-the-Law-on-Environmental-Impact-Assessment-in-the-Republic-of-Serbia.pdf>.

50 <https://nova.rs/vesti/drustvo/reagovanje-kompanije-rio-tinto-na-navode-regulatornog-instituta-za-obnovljivu-energiju-i-zivotnu-sredinu>.

51 Official Gazette of the Republic of Serbia, no. 94/2024, Article 3.

Breaching of EU Environmental Impact Assessment Regulation

According to Recital 16 of the CRMA «both Strategic Projects in the Union and Strategic Projects in third countries or in OCTs should comply with the same level of social and environmental sustainability». In accordance with Recital 17 of the CRMA new critical raw materials projects should be planned and implemented sustainably, covering all aspects of the EU principles for sustainable raw materials, including, among others, human rights, sound governance, and sound environmental management practices.

The Serbian environmental regulatory framework, relevant for monitoring, prevention, and minimisation of environmental impacts of the Project, is not compatible with the applicable EU laws and procedures. In particular, the Law on Environmental Impact Assessment is not in compliance with Directive 2011/92/EU and Directive 2014/52/EU. The Environmental Impact Assessment scoping procedure for the Project, which was applied in 2021 and 2024, was performed in accordance with the Law on Environmental Impact Assessment adopted in 2009, which was not compatible with Directive 2011/92/EU. Even the new law adopted in November 2024 is not in line with Directive 2014/52/EU. Illegal practices in environmental impact assessment in Serbia are widely identified and described in detail in the RERI analysis on the implementation of the Law on Environmental Impact Assessment.

Article 12 of the CRMA stipulates that «Where an environmental impact assessment is required for a Strategic Project in accordance with Articles 5 to 9 of Directive 2011/92/EU, the relevant project promoter shall request, no later than 30 days after the notification of the recognition as a Strategic Project and before submitting the application, an opinion from the single point of contact concerned on the scope and level of detail of the information to be included in the environmental impact assessment report under Article 5(1) of that Directive».

It is important to emphasise that the Decision on Establishing the Scope and Contents of the Environmental Impact Assessment Study of the Project for the Underground Exploitation of Lithium and Boron Deposits «Jadar», issued by the Ministry of Environmental Protection of the Republic of Serbia on 18 August 2021, was annulled by the decision of the Government of Serbia of 25 January 2022. The company submitted the second request for determination of the scope and contents of the environmental impact assessment study in September 2024. The Decision Establishing the Scope and Contents of the Environmental Impact Assessment Study of the Project for the Underground Exploitation of Lithium and Boron Deposits «Jadar», issued by the Ministry of Environmental Protection of the Republic of Serbia on 15 November 2024, is not a final and binding decision. Several civil society organisations, including RERI, and a significant number of individuals submitted complaints to the Ministry of Environmental Protection, and the complaints procedures have not been finalised yet. Article 12 of

the CRMA requires that a scoping decision is issued within a period of time not exceeding 45 days from the date on which the project promoter submitted its request for an opinion. This deadline was not met in this particular case, which is evidence that responsible authorities in Serbia lack capacities to cope with the requirements of the CRMA. Both scoping requests, in 2021 and in 2024, were submitted and processed in accordance with the Law on Environmental Impact Assessment from 2009, which is incompatible with the Directive 2011/92/EU.

In its scoping requests, Rio Tinto used the «salami slicing» strategy, i.e. splitting the Project into various «slices» in an attempt to make each «slice» appears less harmful than the Project as a whole. Both scoping requests were related to underground mining only, and did not cover the ore processing facility, mining waste disposal, the water supply system, or the infrastructure necessary for implementation of the Project.

With reference to Article 12 paragraph 2, of the CRMA it is relevant to emphasise that Directive 92/43/EEC (Habitat Directive) and Directive 2009/147/EC (Birds Directive), both require performance of the appropriate assessment of the impacts of plans and projects on the conservation objectives and integrity of environmentally important areas (Natura 2000). However, the Serbian legal framework does not provide applicable instruments for this. Several Natura 2000 sites (mountain Cer, Lower Drina region and Drina River as designated ecological corridor) are located within the scope of the Spatial Plan of the Special Purpose Area for the implementation of the «Jadar» project for the exploitation and processing of a jadarite mineral (2020).

Breaching of Human Rights Through the Actions of the Police, the Judicial System, and the Media

During the organised protests on 10 August 2024, 14 people were arrested due to the suspicion that they had committed criminal acts and three more for the suspicion of having committed misdemeanours, while two foreign citizens were retained due to their presence close to important state institutions. This was revealed by the Ministry of Police on the next day.^[52]

It is particularly significant that three activists were arrested and imprisoned because of the suspicion of having committed misdemeanours (and not criminal acts), which is rather rare in the practice of the Serbian judicial system; one of them was sentenced to 40 days and the other two to 30 days. They were expressly accused and sentenced based on the Law

52 <https://www.slobodnaevropa.org/a/privedeni-aktivisti-beograd-protest-litijum/33074431.html>.

on Public Order and Peace^[53] for «rude, insolent and reckless behaviour» committed in a group.

According to statements of all the arrested activists, only two of them were present at the place where the alleged misdemeanour was committed. The third activist was not physically present there at all; nonetheless, he was arrested and sentenced to imprisonment too. The reason why he was added to the «group» may lie in the fact that in case the act in question is committed by one or two persons, the mandatory sentence is a penalty of 10,000-150,000 RSD or 80-360 hours of work in the public interest. However, if the same act was committed in a group (at least three persons), the mandatory sentence may amount to 240-360 hours of work in the public interest or imprisonment for 30 to 60 days. At the same time, the tabloids and portals immediately initiated a media campaign in which these activists were marked as «hooligans» and «thugs»,^[54] which was supported by President Vučić who called them «Marxists and anarchists behaving like imbeciles».^[55]

There is a strong indication therefore that this decision was rendered due to high political pressure, and the fact it was annulled three days later by the Court of Appeal and the activists were released confirms that it was illegal.

The acting judge has been well-known for his reputation for years and from previous protests, as he previously sent people to prison merely for verbal insults, as the independent media reported at that time.^[56]

In this same period, and after the protests of 10 August 2024, a strong harassment campaign against the NGOs, the activists, and the expert community was initiated in pro-regime media and tabloids. The media campaign against civil society is framed around the recently introduced narrative of «the Collective West»^[57] engaging in internal affairs and conducting ideological infiltration to incite political instability in Serbia and social conflicts under the pretext of promoting democracy.

Civil society organisations, their partners and donors, as well as EU countries and the US, are identified as participants in a joint venture aiming to destabilise Serbia, prevent economic development, and even endanger the life of the Serbian President himself. On the

53 Official Gazette of the Republic of Serbia, nos. 6/2016 and 24/2018, Article 8.

54 <https://informer.rs/politika/vesti/933607/dilasovi-i-solakovi-huligani-napali-ekipu-informera-nasrnuli-na-novinarku-i-kamermana-besna-rulja-ih-opkolila-i-polivala-pivom-video>.

55 <https://informer.rs/politika/vesti/933702/vucic-o-napadu-na-novinarku-informera>.

56 <https://n1info.rs/vesti/ko-je-goran-milutinovic-sudija-koji-je-aktiviste-osudio-na-zatvor>.

57 The phrase «Collective West» was introduced in Russian political narrative, particularly after 2021, aiming to describe Western countries (EU, US, Great Britain, etc.) as the other, hostile entity that Russia is really fighting against. Since 2021 it has also been used frequently by Serbian pro-Russian politicians.

other end of the spectrum, the continual public harassment is specifically directed against the organisations dealing with environmental issues and perceived as interfering with the government's plans. Among those RERI is particularly highlighted and repeatedly singled out, including an online article authorised by a member of the Board of Directors of the oil company NIS a.d. Serbia and explicitly targeting members of the RERI team.^[58] In the following, we provide a list of releases where special attention has been given to RERI, including listing the individuals in the management and supervisory board, and even a few employees. The entire analysis of the report on media harassment on NGOs, prepared by RERI, is available here.

It seems that the Government used its significant practical influence over the media and the judicial system to discredit and repress all stakeholders who oppose the Project or even merely express their concerns and doubts over it. At the same time, illegal pressure and interference by the government in the work of the judicial authorities led to illegal decisions, rendered to the detriment of the accused, with evident violations of their human rights. In a country where «political pressure on the judiciary and the prosecution service remains high»^[59] and the «political and economic influence on the media remains a source of concern»^[60] such influence is rather high and worrying and breaches not only EU regulations, but also good practices and minimum standards.

Exclusion of the Local Community and its Firm Opposition to the Project

The fact that the Company changed its strategy and started communication, mostly via announcements on its website, media statements, and by denials sent as responses to the statements of scientists and organisations about the Project, does not diminish the fact that the entire preparatory phase of this project phase was conducted through direct negotiation with State officials, while the local community and interested public were completely excluded from the decision-making process and all relevant information concerning the Project remained concealed from the public.

In particular, before the Project was officially suspended by the Constitutional Court of Serbia, it was practically impossible to get any information concerning the Project details. Local citizens who expressed their justifiable concerns were excluded from any communication and the only information they received came from the President of Serbia and occasionally representatives of the Government (mostly former Prime minister Ana

58 <https://informer.rs/politika/kolumne/940255/dragutin-matanovic-kolumna>.

59 *2024 Rule of Law Report Country Chapter on the rule of law situation in Serbia*.

60 *2024 Communication on EU enlargement policy - Serbia 2024 Report*, p. 39.

Brnabić). This information was not based on any concrete research, analyses, or any justifiable sources, but rather represented political statements and practically corresponded to the lobbyist agenda.

At the same time, the members of the local community were practically unanimously against the Project and for that reason, they were subject to a strong campaign of repression from the media close to the Government and President of Serbia, as already mentioned within this Submission.

The communication strategy changed upon temporary suspension of the Project and the decision of the Constitutional Court. Since the beginning of August 2022, Rio Tinto started a strong media campaign and commenced with regular communication with the public, which is easily to ascertain since the first announcement on its website in the section «communications/press releases» is dated 2 August 2022.^[61] From then until 17 December 2024, when the last of them was released, 44 announcements were published.

Excessive Involvement of the Government and High Corruption Risk

Keeping in mind all that has been said above on the track record of the investing company and its previous experiences worldwide, and in particular the state of administration and administrative capacities in Serbia, the general level of corruption and the level of involvement of the highest political figures in Serbia in this private Project, it may be concluded that this Project is subject to high corruption risk. Illicit behaviour of the Ministry of Environmental Protection and the Ministry of Mining and Energy obviously indicate that the state administration is providing support the Project beyond its responsibility and is expressing readiness to breach regulations and procedures in order to help Rio Tinto to obtain the necessary documents.

The fact that the people's initiative, properly submitted to the National Parliament, was allegedly lost is a direct attack on citizens' sovereignty and a denial of access to the instruments of direct democracy guaranteed by the Constitution. For any democratic country in the world, this is a scandal.

The controversial decision of the Constitutional Court in July 2024, which was issued just two days before the Summit on Critical Raw Materials and the signing of the Memorandum of Understanding with the EU, unquestionably indicates political influence on the judiciary.

61 <https://riotintoserbia.com/en/communications/press-releases>.

The cancellation of the Project in January 2022 and its revival after the elections in 2024 indicate institutional instability and the manipulative nature of the Government.

Finally, the President of Serbia and key political figures acting like lobbyists in favour of the Project and the harassment of opponents of the Project suggest that the ruling majority is pursuing interests in favour of the Project which are far beyond their official competencies and against the public interest.

The above-mentioned arguments strongly indicate high corruption risks related to the Project and weak institutional and social barriers to corruption, particularly if the previous corruptive history of the Rio Tinto company is considered.

In line with the national laws and ratified international treaties, it is a duty of national authorities in third countries to prevent corruption. In accordance with CRMA and international instruments enlisted in Annex III, point 5, it is a duty of the project promoter to perform due diligence, to assess corruption risks, and to prepare effective anti-corruption measures. To the best of our knowledge, neither the Government of Serbia nor the company informed the public about their plans and actions to prevent and counter potential corruption risks. It is a duty of responsible bodies within the EU Commission to consider the compatibility of potential strategic projects with international instruments listed in Annex III, point 5.

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