

05. NATURE PROTECTION

OVERVIEW

The problems of nature protection in Serbia are numerous and occur in all aspects of this area, some of which include stagnation of areas under protection, non-compliance of sectoral policies, lack of active protection measures, lack of funds, management problems, problems of implementation of management documents, insufficiently consistent implementation of laws, insufficient control and monitoring, inefficient identification and inadequate processing of offenders in the field of nature protection amongst others. Solving these problems must be systematically addressed, with co-operation between different sectors and increased investment in this area.

There have been intensive activities on capacity building, transposition of the Birds Directive and the Habitats Directive, as well as preparations for the establishment of the Ecological Network and NATURA 2000 for almost ten years. These activities have been carried out through programs and projects of Ministry and CSOs. Still, very little progress has been made, and nature protection remains a marginalised area.

Having established the new Ministry of Environmental Protection, an opportunity arose to organise and intensify the work on the protection of species and habitats. However, judging by the organisational structure of the Ministry, that is, the number of employees in the sector for nature protection, the financial resources allocated to this area and the activities planned and implemented, nature protection will continue to face numerous problems.

Cooperation between institutions; the negotiating group for Chapter 27 and CSOs in the field of nature protection should be improved, with particular emphasis on the need to continue the exchange of information on the preparation of the negotiating position for the field of nature protection.

LEGISLATIVE FRAMEWORK

Consultations for the drafting of the Strategy for Nature Protection of the Republic of Serbia for the period 2016 to 2026 were carried out in 2014, but this process was stalled by mid-November 2016 when the Ministry of Agriculture and Environmental Protection announced a public consultation into the draft document, with the public having the right to comment during a 10 day period. Although the Ministry undertook to publish the Public Insight Report on the website, it has not been published to date, nor is the public aware of the current status of this Strategy.⁷¹

The Nature Protection Law of the Republic of Serbia has introduced a new instrument for nature protection – Appropriate Assessment, as the basic mechanism for the protection of the European ecological network Natura 2000. The Regulation on

Appropriate Assessment is one of the key regulations for transposing and implementing Article 6 of the EU Habitats Directive. The process of developing the Regulation on Appropriate Assessment, in which representatives of civil society organisations participated, was completed by the relevant Ministry, but the Regulation, although announced and planned for 2017, has not yet been adopted by the Government of the Republic of Serbia. According to the new plan, the adoption of this document is expected in June 2018.⁷²

In December 2016, Serbia took a step backwards in the process of joining the European Union and respecting international agreements when the Minister responsible for environmental protection amended the Rulebook on the declaration and protection of protected and strictly protected species of plants, animals and fungi (“Official Gazette of Republic of Serbia”, No 98/2016)⁷³. The amendment consisted of the return of the L code (hunting species) to four types of birds (Northern Goshawk, Grey Heron, Hooded Crow and Great Cormorant)⁷⁴, which is contrary to the provisions of the EU Birds Directive the Berne Convention. Regardless of the intent of the legislator to indicate the species to be subject to derogation, it is essential that the general regulation allows setting of quotas and hunting throughout the year for species not listed in Annex II of the Birds Directive (the species for which hunting is allowed in the EU, that is, in the Member States.) This fact, as well as the fact that the current practice does not recognise the minimum procedures necessary for derogation, **shows that still, after many years, the Republic of Serbia has not succeeded in completely aligning its legislation (articles 7 and 9) with the provisions of the Birds Directive.**

The City of Belgrade Development Strategy until 2021⁷⁵ was adopted in June 2017. The drafting of the Strategy was carried out without public participation, and no public insight was provided prior to the adoption of the Strategy. The strategy envisages, among other things, a new port on the Danube in an Important Bird Area (IBA)⁷⁶ and a potential Natura 2000 area.

It is expected that improvements in the protection of wildlife species and their habitats will be achieved through the adoption of the Law on the Confirmation of the Agreement on the Conservation of Populations of European Bats, derived from the international Convention on the Conservation of Migratory Species of Wild Animals⁷⁷. The procedure for passing this law is currently in progress, and it is not indicated whether the public will be involved in this process.

⁷² The complete Government Work Plan available at: <http://www.civilnodrustvo.gov.rs/upload/documents/zakoni/Plan%20Rada%20Vlade%202018.PDF>

⁷³ The Rulebook available at: http://www.paragraf.rs/izmene_i_dopune/081216-pravilnik_o_dopunama_pravilnika_o_proglasenju_i_zastiti_strogo_zasticenih_i_zasticenih_divljih_vrsta_biljaka_zivotinja_i_gljiva.html

⁷⁴ The Rulebook available at: http://www.paragraf.rs/izmene_i_dopune/080916-pravilnik_o_izmenama_i_dopuni_pravilnika_o_proglasavanju_lovostajem_zasticenih_vrsta_divljaci.html

⁷⁵ The complete strategy available at: http://www.beograd.rs/images/file/8482b593767213b8926a3fc6988e-ca50_1021365819.pdf

⁷⁶ Puzović, S., Sekulić, G., Stojnić, N., Grubač, B., Tucakov, M. (2009). *Important Bird Areas in Serbia*. Ministry of Environment and Spatial Planning, Institute for Nature Protection of Serbia, Provincial Secretariat for Environmental Protection and Sustainable Development, pp. 88-91.

⁷⁷ Information available at: <http://www.ekologija.gov.rs/odrzan-22-sastanak-savetodavnog-odbora-sporazuma-o-ocuvanju-populacija-slepih-miseva-u-evropi-unepeurobats/>

⁷¹ Data available at: <http://www.ekologija.gov.rs/javni-uid-o-predlogu-strategije-o-zastiti-prirode/> i <http://www.ekologija.gov.rs/saopstenja/saopstenja-sektora-za-prirodne-resurse/>

Some progress has been achieved in the process of organising and networking the relevant authorities in charge of responding to cases of destruction of nature, through the development of a Draft Protocol on proceedings and cooperation of institutions and organisations in combating illegal killing, trapping and trade of wild animals. In order to intensify the process of adoption of the Protocol, a meeting was held between the Ministry of Agriculture and Environmental Protection and the Ministry of Internal Affairs. CSOs were involved and invited to provide expert opinions on the document during the process of drafting the Protocol. However, it is not yet known whether the drafting of the Protocol has been completed or whether the procedure for its adoption has been initiated.

According to information on the initiation of the protection procedure published on the website of the Ministry, in 2017, the procedure of protection for a total of 31 areas was initiated. 15 of these passed the protection audit, and, a protection procedure was initiated for the protection of one protected habitat in December 2016. During the first two months of 2018, four other protected areas were proposed. The total area proposed for protection has been increased by about 69 thousand hectares (69,118.49 ha).⁷⁸ There is no information from the Ministry about the further process of initiated protection procedures, so the proposed areas are still under possible negative impacts without clear mechanisms for their protection.

At the beginning of 2018, progress was made in preparations of the negotiating position for Chapter 27 in the field of nature protection. For this purpose, the Proposal for Technical Adaptation (amendments and modifications) of the Habitats Directive and the Birds Directive has been drafted, with the professional community being actively involved in the process of drafting this document through online consultations that lasted a number of days and a one-day public consultation.

At the beginning of 2018, the Ministry of Finance of the Republic of Serbia organised a public consultation on the Draft Law on Fees⁷⁹. The Draft Law on Fees for the Use of Public Goods confirms the abolition of the dedicated character of the funds collected from the collection of environmental protection fees, which would prevent sustainable, efficient and effective financing in the field of environmental protection. In addition, it directly violates the basic principle on which the EU environmental protection policy is based – the “polluter pays” principle. It is necessary to adopt appropriate bylaws which will make the Green Fund operational and the funds collected as environment protection fees available to the Fund. According to the same Draft Law, funds collected from fees for the use of protected areas remain available to managers of public goods. Fees are a significant source of funding for protected areas, and a ‘Polluter Pays’ solution allows the direct use of these assets in the protection of nature.

78 <http://www.ekologija.gov.rs/obavestjenja/zastita-prirode/>

79 Information available at: http://www.mfin.gov.rs/pages/article.php?&id=13522&change_lang=Is

IMPLEMENTATION OF LEGISLATION

Implementation of laws and regulations of the Republic of Serbia remains the weakest link of its executive power. The main reason is the lack of capacity of civil servants, local governments, police and inspection services, as well as strong political influence.

According to the information obtained from the Ministry of Environmental Protection upon a request for access to information of public importance, the establishment of the Ecological Network and Natura 2000, although planned, did not take place during 2017. According to the Ministry, the reason for this was the complicated financial model for payment of these services, which is implemented through the Institute for Nature Conservation as a coordinator. It is planned to implement a new IPA project to deal with the establishment of Natura 2000, and civil society organisations were consulted in the drafting of the ToR.

When it comes to the implementation of laws related to the protection of nature and functioning of protected areas, what has been observed is the destruction of habitats by the illegal construction of tourism related and other facilities in protected areas. In addition, during field visits of experts from civil society organisations, intensive logging was observed in some areas, but the data on the reasons for logging and its volume are inaccessible to the public. For nature, the most dangerous threat comes from ‘clearcutting’ which is conducted in protected areas, sometimes in the most strictly protected areas. Protected areas managers, which are mainly public companies, do not have sufficient capacity to implement protection measures nor the adequate financial resources to support for their effective functioning. Neither is there adequate control of the work undertaken by relevant authorities, and they often carry out illegal activities for their own benefit.

Illegal hunting of wildlife species, especially birds, has been recognised as a major problem in Serbia, one which has been continuing year after year⁸⁰. The reason for this is ignorance and disregard of the law, inadequate control of hunting by the relevant institutions, lack of police capacity and inspection services, as well as the absence of penalties for crimes committed.

In light of the meeting of the representatives of the signatory countries of the Berne Convention⁸¹ held in Malta in June 2017⁸² and the charges filed by several associations of citizens against the Republic of Serbia for violation of the provisions of this agreement, in early 2018, the Ministry of Environmental Protection initiated a meeting of parties involved, with the aim to consider possible solutions to this problem. Although this act of the representatives of the relevant institution can be considered as showing

80 The report on illegal shooting, poisoning, trapping, possessing and trade of wild birds in the Republic of Serbia for the period 2000-2017 can be seen at: <http://pticesrbije.rs/wp-content/uploads/2017/10/Serbia-bird-crime-report.pdf>

81 The text of the Berne Convention available at: <http://www.vojvodinasume.rs/wp-content/uploads/2012/04/sertifikacija/Zakon%20o%20potvrdivanju%20Konvencije%20o%20ocuvanju%20evropske%20divlje%20flore%20i%20faune%20i%20prirodnih%20stanista%20-%20Berna.pdf>

82 More information available at: <https://www.coe.int/en/web/berne-convention/-/select-group-of-experts-on-illegal-killing-of-birds-and-group-of-experts-on-the-conservation-of-birds>

an interest in overcoming the problem, it has been shown in practice that agreements and advice brought up at conferences of this type are generally not applied. Due to the insufficient initiative of the relevant authorities for solving the problems in protecting European flora, fauna and habitats, violation of the mentioned international convention is a common occurrence in the Republic of Serbia.

One of the major challenges in nature protection is the non-transparent and inadequate planning of small hydropower projects in protected areas, as well as a number of problems that arise during the implementation of the Environmental Impact Assessment. A particular hazard to nature is the cumulative impact of small hydropower plants, but also other projects the assessment of which is not implemented to the required extent.

As an example, we refer to specific projects in the Stara Planina Nature Park that have provoked protests by both citizens and the professional community. After a number of local initiatives, negative opinions received from the managers of the Nature Park Stara Planina and professional institutions, and based on the report on the expert supervision of the Institute for Nature Conservation of Serbia, the Ministry of Environmental Protection issued their Decision; once again granting consent to the Environmental Impact Assessment Study of the project for the construction of a small hydropower plant (SHPP) "Pakleštica", on the river Visočica.^{83 84}

The improvement of the Law on Environmental Impact Assessment, the amendments and modifications of which are underway, can contribute to the solution of this problem. The inclusion of the representatives of CSOs in the working group for amendments and modifications to this law is encouraging.

FINANCING ^{85, 86}

According to the Law on the Budget of the Republic of Serbia for 2017, 19.5 million dinars were allocated for activities on establishing the Ecological Network and 11.3 million for the establishment of Natura 2000. However, these funds were not spent for the allocated purpose. In the budget for 2018, only 5 million dinars were allocated for the establishment of Natura 2000, and the financing of the Ecological Network was completely overlooked. According to the Ministry, this activity should be financed

83 The letter of the Dean of the Faculty of Forestry available at: <https://temska.wordpress.com/>

84 The text of the Decision available at: http://www.ekologija.gov.rs/wp-content/uploads/procena_uticaja/Resenje_o_ponavljanju_postupka_Paklestica.pdf

85 All the data on funds allocation for 2017 were taken from the Law on the Budget of the Republic of Serbia for 2017 http://www.paragraf.rs/propisi/zakon_o_budzetu_republike_srbije_za_2017_godinu-5.html

86 All the data on funds allocation for 2018 were taken from the Law on the Budget of the Republic of Serbia for 2018 <http://www.mfin.gov.rs/UserFiles/File/zakoni/2017/Zakon%20o%20budzetu%202018.pdf>

through subsidies to the Institute for Nature Conservation, but it cannot be clearly concluded from the budget whether, and how much, funds have been allocated.

The 2017 budget envisaged 214.5 million dinars for subsidies for managers of protected natural assets of national interest, which is an alarmingly small allocation of funds for the conservation of nature in Serbia. 230 million dinars were also allocated to the same purpose in 2018, however, most of these funds are spent on employee salaries, maintenance of facilities, purchase of equipment and the like, while only a small part of the funds is spent on practical protection and improvement of the state of nature in protected areas such as; the revitalisation and maintenance of habitats and recovery of species.

No information is available as to whether the portion of the funds outlined for the functioning of the Green Fund for 2017 was spent for nature protection activities and in what manner.

In line with the Ministry's strategic goals, 70 million dinars were allocated in the budget for 2018 for forestation in order to protect and preserve landscape diversity.

Non-transparent allocation of funds in the budget and reporting on their spending are still among the most significant problems affecting the success of nature protection in Serbia. For example, funds have been allocated for the activity "Protection and conservation of strictly protected species of polecat populations and migratory species" for years (2017 – 7.3 million, 2018 – 6.6 million), while there have been no reports on the implementation of this activity.

RECOMMENDATIONS

Legislative framework

- Complete the Protocol on procedures and cooperation between institutions and organisations in combating illegal killing, trapping and trade of wild animals – by the Ministry of Environmental Protection with final consultations with experts and scientists as well as the adoption of the Protocol by the government of the Republic of Serbia by mid-2018.
- Revise the Law on National Parks, adopt announced amendments to the Law on Nature Protection, complete the Strategy for Nature Protection of Serbia with the participation of civil society and adopt all bylaws that have been already completed, but the adoption of which has been delayed (e.g. Regulation on Appropriate Assessment).
- Mutually harmonise laws in areas dealing with the protection of nature, particularly regarding laws ratifying international agreements.
- Fully transpose the provisions of the Habitats Directive and the Birds Directive into national legislation.

- Improve cooperation in the processes of developing strategies, laws and bylaws between nature protection, energy, construction and urban planning sectors, as well as cooperation on legislation enforcement particularly in Environmental Impact Assessment and Strategic Environmental Assessment processes.
- Improve cooperation between authorities and civil society organisations in the field of nature protection during the process of preparing new strategic documents, laws, during data collection and nature protection.
- Improve regulatory frameworks on protected areas, especially regulations on management, categorisation, and implementation of protective measures and inclusion of interested parties in the management of protected areas.
- Involve experts in the preparation of the negotiating position for Chapter 27 in the area of nature protection.

Implementation of Legislation

- Strengthen cooperation between all actors to prevent corruption in the nature protection sector (particularly related to illegal use of forests, water resources and hunting).
- Improve cooperation and the capacities of national institutions for nature protection (increase the number and qualifications of staff, as well as technical capacities).
- Ensure regular and adequate implementation of the activities on the establishment of the Ecological Network and Natura 2000 in Serbia.
- In 2018, strengthen inspection supervision in protected areas in order to prevent illegal activities causing habitat destruction (logging, grasslands ploughing, water habitats drainage).
- Ensure more active work of the relevant Ministry in solving problems and preventing violations of the provisions of the international Convention on the Conservation of European Wildlife and Natural Habitats in Serbia.
- Develop the implementation capacities of police, inspectors and judges regarding regulations on species and habitats protection.

Financing

- Allocate public funds for strengthening capacities at both local and national levels for the implementation of legislation.

- Improve planning and spending of the funds from the Budget of the Republic of Serbia for the establishment of the Ecological Network and Natura 2000 and protected areas in 2018 and 2019.
- Ensure the Green Fund provides adequate financing of nature protection in 2018 (identify priorities and criteria for allocating funds).
- Ensure transparent and adequate allocation of funds in the budget and reporting on their spending; allocate more funds for the practical protection of species and habitats.