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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE AND NATURAL HABITATS

Standing Committee

38th meeting Strasbourg, 27-30 November 2018

Other complaints

Possible negative impact of a harbor's construction on the confluence of the Sava into the Danube (Serbia)

- COMPLAINT FORM -

Document prepared by EPAR - OIPA SERBIA

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COMPLAINT FORM

NB: Complaint forms must be submitted in electronic word format, and not exceed 3 pages, including the first administrative page. A maximum 5-page report can be attached. The Secretariat will request additional information on a case-by-case basis.

Please, fill in this form and send it to the attention of:

 Iva OBRETENOVA

 Directorate of Democratic Governance, Culture and Diversity

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On behalf of (if applicable): EPAR - OIPA Serbia / Alliance for Nature Protection, the rights of

.....

animals and people

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Date : 25.01.2016.

Electronic Signature



1. Please state the reason of your complaint (refer also the Contracting Party/es involved and the Articles of the Convention which might be violated).

The reason why we submit the complaint to the Secretariat of the Bern Convention is official plan and intention of the Republic of Serbia, to build the new harbor in Belgrade, which will completely destroy the area which was proposed for a designation as protected area. The designation procedure was undertaken in order to designate this area as a Protected Landscape "Foreland of left Danube Bank". The intention is expressed in a spatial plan which is a basis for the above mentioned investment: "Spatial Plan for the Area of Special Purpose for the New

Harbour in Belgrade with a Free Zone" (http://www.mgsi.gov.rs/sites/default/files/Luka%20RJU_tekst_0.pdf).

By this mean, the Government of the Republic of Serbia intends to breach the Bern Convention, namely its Articles 4 and 6.

We ask the Secretariat of the Bern Convention to undertake all predicted measures and ask the Government of the Republic of Serbia in which way, during the implementation of planned activities, will adher to the Bern Convention, especially measures concerning the conservation of the wild fauna species from Appendix II, including their habitats.

2. Which are the specific specie/s or habitat/s included in one of the Appendices of the Bern Convention potentially affected? (Please include here information about the geographical area and the population of the species concerned, if applicable)

This area is located within the site of ecological network "Confluence of the Sava into the Danube" (according to the Regulation on Ecological Network ("Official Gazette of Republic of Serbia" No.102/2010), as well as the IBA (Important Bird Area) "Confluence of Sava into Danube" (classification code: RS017IBA). Foreland of left Danube Bank is one of the largest floodplain zones in Serbia and the largest alluvial area regularly flooded in Central Serbia. It represents an authentic space of preserved periodic flooding. It is situated within the administrative area of the City of Belgrade, belonging to the Municipalities of Palilula and Zemun. It lies in the area regularly flooded by the Danube, extends in the direction north-southeast at a length of 20 km. It is surrounded by settlements: Vrbovski, Kovilovo, Crvenka, Borča and Krnjača to the north and the Danube on the south. The closest settlement is Kovilovo, some 3800 m from the edge of the area. Margin coordinates of the region are: North 44°57'15.81"N, 20°18'7.75"E; West: 44°57'15.59"N, 20°18'06.95"E, East: 44°50'03.39"N, 20°28'35.52"E, South: 44°50'00.16"N, 20°28'34.87"E.

The region which is the subject of this complaint, within it, treasures rich wetland biodiversity, especially ichtyofauna and ornithofauna, within which particularly emphasize 3 nests of the White-tailed Eagle (*Haliaeetus albicilla*). It is the species on the Appendix II Bern Convention, whose nests, feeding and resting sites in the area will be destroyed by planned activities. Locations of the White-tailed Eagle nests in the area planned for the harbour are:

nest no. 1: 44°54'10.05"N 20°22' 9.34"E; nest no. 2: 44°55'13.04"N 20°21'10.96"E;

nest no. 3: 44°55' 9.03"N; 20°20'35.21"E.

The planned surface for the harbour is 873 ha. By constructing the infrastructure of the harbour, all habitats in this area will be destroyed, and to a great extent, the IBA "Confluence of the Sava into the Danube", to which the "Foreland of the left Danube Bank" belongs. The IBA area "Confluence of the Sava into the Danube" is a spacious riverine and floodplain area which encompasses the confluence of the Sava into the Danube (10 km) and 39 km of the Danube river (from 1184 to 1145 river km), with a total area of 9808 ha and the Danube River with its banks is an ecological corridor of international importance in the Republic of Serbia. Basic characteristics of the Foreland area are numerous ponds and depressions, which will by the planned activities be completely destroyed, including the alluvial forest with an area of 86 ha. With such interventions, habitats will be completely obliterated, with no similar habitats nearby, which could serve as an alternative or refuge.

The White-tailed Eagle will be especially affected. The population of this eagle in Serbia is 120-135 pairs (90% of the nests are in the Autonomous Province of Vojvodina and only 10% in the other areas of Serbia, of which 3 nests are in the are in "Foreland of the left Danube bank"). Indicators of successful nesting of the White-tailed Eagle are very poor. The nesting success is below one fledgling per nesting pair (0.65-0.7 in the area of the Autonomous Province of Vojvodina). The reason for this is the disturbance of nests by forestry activities and other activities during the nesting period, as well as the limited food available (data from report "Monitoring the state of the White tailed Eagle (Haliaeetus albicilla) in the field during 2016", author: Ištvan Ham). Other nesting species in this area are: Black Stork (Ciconia nigra), Buzzard (Buteo buteo), Ferruginous Duck (Aythya nyroca), and potentially Lesser Spotted Eagle (Aquila pomarina) - all these are on the Appendix II of Bern Convention. During the winter months, the Foreland inhabit 10-15 adult White-tailed Eagles as a result of good food availability. Furthermore: of 45 bird species which are on the Amendment II of the Bern Convention and which nest in the Foreland area or feed here, important species are: Goshawk (Accipiter gentilis), Hobby (Falco subbuteo), Whiskered Tern (Chlidonias hybrida), Redshank (Tringa tetanus), Little Ringed Plover (Charadrius dubius), Black-winged Stilt (Himantopus himantopus), Little Grebe (Tachybaptus ruficollis), Little Bitern (Ixobrychus minutus), Robin (Erithacus rubecula), Nightingale (Luscinia megarhynchos), Wren (Troglodytes troglodytes), Blackcap (Sylvia atricapilla) Marsh Warbler (Acrocephalus palustris), Great Reed Warbler (Acrocephalus arundinaceus), Chiffchaff (Phylloscopus collybita), Spotted Flycatcher (Muscicapa striata), Long-tailed Tit (Aegithalos caudatus), Blue Tit (Parus caeruleus), Great Tit (Parus major), Short-toed Treecreeper (Certhia brachydactyla), Hawfinch Nuthatch (Sitta europaea), (Coccothraustes coccothraustes), Cuckoo (Cuculus canorus), Tawny Owl (Strix aluco), Kingfisher (Alcedo atthis), Great Spotted Woodpecker (Dendrocopos major), Middle Spotted Woodpecker (Dendrocopos medius), Lesser spotted Woodpecker (Dendrocopos minor), Eurasian Green Woodpecker (Picus viridis), Grey-headed Woodpecker (Picus canus), Black Woodpecker (Dryocopus martius), Golden Oriole (Oriolus oriolus) and many others. The Foreland region is an important foraging area for all species of herons and many other waterbirds: Curlew (Numenius arguata), Litlle Egret (Egretta garzetta), Great White Egret (Casmerodius albus), Purple Heron (Ardea purpurea), Grey Heron (Ardea cinerea), Night Heron (Nycticorax nycticorax), Squacco Heron (Ardeola ralloides), White Stork (Ciconia ciconia), Black Stork (Ciconia nigra), Pygmy Cormorant (Phalacrocorax pygmaeus) and Lapwing (Vanellus vanellus). Additional 91 species living here are listed on the Annex III of Bern Convention.

Forests in this region are managed by "Srbijašume" Public Company, *via* its Unit "Rit", seated in Belgrade. This Unit has, during years 2014 and 2015, due to its neglegence and unrestricted tree felling, destroyed 3 nests and nesting areas of White-tailed Eagle, thus breaching the Bern Convention, as well as the domestic laws (Article 74. of the Nature Conservation Act, ("Official Gazette of the Republic of Serbia" No. 36/2009, 88/2010, 91/2010, 14/2016), including the Action Plan for the Conservation of the White-Tailed Sea Eagle (*Haliaeetus Albicilla*) along the Danube. The mentioned nests were located: in sector 41/a, at coordinates: 44°55'08.00" N, 20° 20' 36.78" E, in sector 48/c: at coordinates: 44°59'50.32" N, 20°20'15.83" E, in sector 34/g: at coordinates: 45°01'12.07" N, 20°26'39.39" E.

After submitting our complaints, the responsible inspection went into the field and for the nest in the forest sector 48/c submited a criminal and phelony application as well as an application for economic breach against the Srbijašume Public Enterprise. Only 12 trees has remained around the nest. Both the criminal and phelony applications were rejected, complaint was submitted for this rejection, but since then, there has been no answer or feedback information.

In the sector 41/a activities on tree felling were stopped until the conditions for nature protection, habitat protection and nest of White-tailed Eagle are obtained. Although tree felling was executed during the nesting period, habitat damaged and protected area reduced, the Institute for Nature Protection has assessed that this was not the case and no compalint was submitted.

On 4 March 2015 an inspection investigated the Rit Unit, following the submission of our complaint for the White-tailed Eagle nest in sector 34/g. The ornithologist from the Institute for Nature Conservation of Serbia was present during the investigation. After confirming the state in the field and opinion of the Institute for Nature Conservation of Serbia (no. 03-026-413/4 of 6 March 2015), a

request for submitting a phelony application was filed. Since then, there is no information what further happened with this case. There are exceptionally good conditions for breeding of White-tailed Eagle in Foreland region and in the entire forest region managed by Rit Unit, thanks to suitable availability of food and on the destroyed nesting sites, where nesting took place: adults reared mainly 2 chicks, but nests were abandoned in subsequent years. See photos.

We take this opportunity to inform you that the Srbijašume Public Enterprise, *via* its Požarevac Unit, and forestry sector "Severni Kučaj", in the unit »Ostrovo« (located on an alluvial area on the right Danube bank in the vicinity of village Kličevac), destroyed the protected zone around the nest of White-tailed Eagle by tree felling in the forest sector 20A (geographical coordinates: 44°45'16.9" N, 21°13'57.4" E). There is no information about the phelony application submitted, but the nest was abandoned the next year after the destruction of the protective zone.

We hereby also present an example of a drastic habitat destruction of wild species, including the White-tailed Eagle and Black Stork in the Autonomous Province of Vojvodina, where the management company is Vojvodinašume Public Enterprise via its Sremska Mitrovica Unit and governing sector in Klenak. It is the case of a fragile forest habitat with ponds and depressions which is sensitive to all degradations due to slow and weak recovery, habitat of priority to be conserved, lowland forest with English Oak (Quercus robur) along the Sava River (Rule on Criteria for Determination of Habitat Types, Sensitive, Threatened, Rare and Habitat Types for Priority Protection and Measures to be Taken for Their Conservation ("Official Gazette of Republic of Serbia", no. 35/2010). The age of this forest is between 120 and 180 years. The forest sector governor Klenak does perform clear-cutting of the oaks as well as other autochtonous trees on large surfaces. This tree felling lasted until mid January 2016, thus completely uncovering a nest of the White-tailed Eagle (only the sole tree with the nest remained). The nest is located in the forest sector 39/a with geographical coordinates: 44°47'8.50"N, 19°45'21.10"E. Although there were 3 chicks in the nest, one was found dead under the nest, at the beginning of May 2016, after having been ringed and photographed and it is not known whether the remaining 2 chicks succeeded to fledge as near the tree with the nest there were no other trees. After we submitted the complaint, the forestry inspection and inspection for environmental protection made a written report in which they stated that all this was in order. No complaint was submitted and in this case, all domestic law regulations were breached as well as the Bern Convention (see the Google image of the area and method of tree felling through the centre)

Video record of this case: https://www.facebook.com/Zitiste/videos/948384838608634/?hc_ref=PAGES_TIMELINE

3. What might be the negative effects for the specie/s or habitat/s involved?

In case in all planned technical interventions will take place, ie. in the case if the Ministry of Traffic, Building and Infrastructure of the Republic of Serbia will execute its intentions to construct the Belgrade Harbour in the Foreland region, in cooperation with the Republic of China (China Environmental Energy Holdings CO. Ltd.), where currently no infrastructure exists (contract signed 16 April 2015), the entire area of "Foreland of left Danube bank", habitat for the resting, feeding and nesting of birds will be destroyed. It is of significance to point out that the infrastructure for the harbor is planned only 12 km upriver from the current Belgrade harbor. Within the borders of the plan, there are no existing roads and railway infrastructure, while in the case of the currently existing Belgrade harbor, the mentioned infrastructure exists, thus this is the solution for the Belgrade harbor. The plan for the new harbor predicts a navigation depth of 2.5 m, although the recommended depth is 3.5 m ,which ensures safe navigation and maneuver of vessels as well as the length of the operative banks in relation to current and future competent largest dimensions of vessels which sail on the waterway E80 (minimum 110 m). That means that the most valuable part of the Foreland, where the floodplain region is the widest, will be dug to a depth of 2.5 to 3.5 m, thus destroying it.

The exceptional value of these forests reflects in their preservation next to the city and especially in the preservation of quality lowland autochtonous forest communities such as those of White and Almond-like Willows (*Salicetum albo – amygdalinae* Slav. 1952, *Salicetum albae* Issl. 1926), White

and Black Poplar (*Populetum nigro – albae* Slav. 1952), forest community of White Poplar and English Oak (*Populeto albae-Quercetum roboris* Jov.). Realization of the planned new Belgrade harbour with a free zone, will cause the felling of the greater part of this forest.

The plan for the construction of the harbour was officially announced by the decision of the Government of the Republic of Serbia and adopting the change of General Urban Plan, announced in "Decision on the Drawing of the Spatial Plan for the Region of Special Purpose of New Harbour in Belgrade with a Free Zone (Official Gazette of RS, No. 22/16), which is in complete contradiction to the General Urban Plan between 2010 and 2021, ("General Plan of Belgrade 2021"; Official Gazette of RS, No. 27/2003, 25/2005, 34/2007 and 63/2009). Concomitant with this Plan of the Serbian Government, and a new General Urbanistic Plan was brought, (»Official Gazette for Belgrade« No 11/16), by which all steps were anulled in the preparation of recommendation for the protection of this region and anulled the entire Study of the Institute for Nature Conservation of Serbia which was ordered from the City Administration of City of Belgrade (answer from the Secretariat for Eenvironmental Protection of Belgrade No. C-21-031.1-20/2016 of 27th January 2016).

The Belgrade Secretariat for the Protection of Environment signed a contract with the Institute for nature Conservation of Serbia No. 401.1-76/13-V-01 of 18th July 2013, subjecting the elaboration of the Study for the protection of the "Foreland of the left Danube Bank" and Secretariat financed this study. The Institute made this study and delivered it to the Secretariat No. 03 – 021-2238/4, 29.11.2013. Due to mistakes in land survey registration an numbers of land plots, the study was returned to be improved and corrected on 21 April 2015 and accepted completely but consequently withdrawn from further procedure with no explanation.

According to the Strategy of Development of the City of Belgrade (»Official Gazette for Belgrade«, No 21/2011), it was determined that the confluence of Sava into Danube with the Great War Island is to be the "Natural Core" of the city.

4. Do you know if potentially affected species or habitats also fall under the scope of other international Conventions, (for instance: RAMSAR, CMS, ACCOBAMS, Barcelona Convention, etc) or if the area has been identified as a NATURA 2000/Emerald network site?

The White-tailed Eagle is listed on the Appendix I of the Convention for Migratory Species of Wild Animals which was signed by Serbia in 2007. White-tailed Eagle, Black Stork, Lesser Spotted Eagle and Ferruginous Duck are listed on the Annex I of Bird Directive (Directive 2009/147/EC of the European Parliament and of the Council on 30th November 2009 on the conservation of wild birds). The White-tailed Eagle in regions of countries located on the Danube River basin is especially protected by the Action Plan for the Conservation of the White-Tailed Sea Eagle (*Haliaeetus albicilla*) along the Danube (Probst, R. & Gaborik, A. 2011: Action Plan for the conservation of the White-tailed Eagle (*Haliaeetus albicilla*) along the Danube. Nature and environment No. 163 Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention), Strasbourgh). This Action Plan in its aims rules that in the sense of protecting the nests, the following must be achieved by respecting restrictions of following activities :

Objective 22: To ensure strict obedience to nest and habitat protection zones of 100 m radius. Objective 23: To ensure strict obedience to disturbance-free protection zones of 300 m radius during the breeding season.

Related to infrastructure construction, the Action Plan predicts the following prohibitions: Objective 24: To ensure strict obedience to 3,000-m "no-go" zone from nests to harmful infrastructure projects.

Objective 25: To technically improve existing power lines within 3,000 m of nests.

Objective 26: To decrease the density and use of forest roads in White-tailed Sea Eagle habitats. The Action Plan for the protection of the White-tailed Eagle predicts other measures for its protection and one of them is:

Objective 5 : To force governments to implement existing laws, especially to standardize and implement nest protection zones within the Danube countries.

All species which inhabit the region of "Foreland of left Danube Bank" are strictly protected species in Republic of Serbia (Rulebook on Designation and Protection of Strictly Protected and Protected Species of Plants, Animals and Fungi ("Official Gazette of the Republic of Serbia", No. 5/2010, 47/2011, 32/2016, 96/2016). Their protection and destruction of habitats, places for resting, feeding and reproduction is ruled in the Article 74. Law on Nature Protection ("Official Gazette of the Republic of Serbia" No. 36/2009, 88/2010, 91/2010, 14/2016), and all mentioned threatening activities are forbidden.

5. Do you know if there are any pending procedures at the national or international level regarding the object of your complaint?

The proposal for declaring this region as a protected area was in the procedure to be accepted, but this was discontinued just after issuing of the new Spatial Plan for Region of Special Purpose, which on this location predicts a harbor.

On the initiative of the Secretariat for Environmental Protection of the Government of City of Belgrade, the Institute for the protection of Nature evaluated this area "Foreland of left Danube bank" and prepared the Study of protection. 021-2238/4 od 29.11.2013. This Study, according to the Law of Nature Protection serves as a proposal for protecting the area of exceptional characteristics, "Foreland of left Danube bank at Belgrade" The corrected study was delivered to the City Secretariat on 21st April 2015 for further procedures. The proposal for protection was placed on the agenda for acceptance by the parliament of City of Belgrade in mid 2015, but instaed of presenting it at the Parliament session, it was withdrawn from further procedure.

After withdrawl of the document from Parliament procedure, on the Intenet site of the Ministry of Construction, Traffic and Infrastructure of Republic of Serbia, a Spatial Plan for Region of Special Purpose of new Belgrade Harbour and free Zone appeared, which in the plan encompassed the surface of the most valuable part which was to be protected, a surface of 873 ha.

(http://www.mgsi.gov.rs/sites/default/files/Luka%20RJU_tekst_0.pdf).

In chapter 4.6 of the mentioned Spatial Plan, the protection of nature of this region is described. It was stated that data were taken from the Study made by the Institute for Nature Conservation of Serbia: "In the area of the Belgrade foreland, and its narrower surroundings, a total of 216 autochtonous and alochtonous plant species, 136 bird species, 139 insect species (entomofauna), 96 fish and Ciclostomata species, and 62 mammal species were recorded. Among the recorded species of flora and fauna, a large number of species and their habitats (water, moist habitats, clay pits) are strictly protected according to domestic law directives, as well as by international conventions which were ratified by our country (Source: Study), with whom through the further development of the of the said region, plans must be coordinated".

The "Decision of the Plan" was according to our evaluation, forced on Serbian Institute for the Protection of Nature, as it is not possible in the same area construct a large harbour with entire infrastructure and at the same time preserve the region proposed for protection. The Institute for Nature Conservation of Serbia issued conditions for nature protection for the construction of the harbour No. 020-1790/2 from 17. 10. 2016, in which it is stated that "in this region there are no protected areas neither areas under procedures for protection". The cited statement is a notorious lie as just this region was previously in the process of protection for which the study for protection was issued. The intention was opposite, to hide the real natural values of this region so as to more easely justify the ecological damage to result from the construction of the harbour.

At the international level, birds which live in the region of the "Foreland of left Danube bank" are protected by the following international documents (cited from the Study):

partial protection with the possibility of use under strict control (Annex III)

- According to the Convention on the Protection of Migratory Wild Animal Species (Official Gazette RS-International Contracts No 102/2007) on the Foreland region are present two species, (White-tailed Eagle and Ferruginous Duck) from Annex I which list threatened migratory species. Country members are required to secure the protection of these species and their habitats. On Annex II of the Convention are listed 64 species which means that these species are of unfavourable protection status and their protection must be coordinated at the international level.

- One of the most important documents for the protection of birds in Europe is the Directive on Birds (209/147/EC). In the Foreland region live 24 species listed in Annex I of the Directive. For species from Annex I, member country is responsible to secure special regions for their protection (SPA – *Special Protection Areas*). On the basis of the number and state of population of certain species of this group, it may be said that this region is significant for their preservation at the national level. Having also this in view, the area is worth to be potentially be nominated as a special area to be protected in the frame of a future Natura 2000 ecological network in Serbia. The species which probably represets the basis for such a qualification of this area for Natura 2000 ecological network is the White-tailed Eagle.

-In accordance to the European needs of protection (SPEC – *Species of European Concern*) - (Birdlife International, 2004) two species from the SPEC 1 group are present in the Foreland area (White-tailed Eagle and Ferruginous Duck). From the second group (SPEC 2) 12 species have been recorded (White Stork, Black Stork, Spoonbill, Pochard, Lapwing, Ruff, Curlew, Redshank, Green Woodpecker, Woodlark, Twite and Corn Bunting). From the third group (SPEC 3) 37 species were recorded.

Ponds, clay pits and depressions within the Foreland region, represent important fertility areas for many other species of vertebrates. In the Danube by the "Foreland" and inside the "Foreland" 29 species of fish were identified, 8 species of amphibians, 9 reptiles and 136 species of birds, among which are a large number which enjoy domestic and international protection. In the Appendix II of the Bern Convention, the following species are listed whose habitats will be destroyed with the predicted intervention: European Pond Turtle (*Emys orbicularis*), Aesculapian Snake (*Zamenis longissimus*), Danube Newt (*Triturus dobrogicus*), Tessalatted Water Snake (*Natrix tessellata*), European firebellied Toad (*Bombina bombina*) and European Tree Frog (*Hyla arborea*).

According to the General Urban Plan of Belgrade 2021 (»Official Gazette for Belgrade«, No 27/03), Foreland Belgrade is defined as a public surface for parks and public vegetation, type of river islands, its significance reflected in the variety of bird and fish fauna.

6. Any other information (existence of an Environmental Impact Assessment (EIA), size of projects, maps of the area, etc)

- Map of Foreland region
- Map of future harbour Belgrade
- Satellite image with recorded nests of White-tailed Eagle in the Foreland
- Photos of damaged nests
- Satellite image of oak forest Klenak with White-tailed Eagle nest
- Link to video record of White-tailed Eagle nest in forest Klenak



Figure 1. Map of Foreland region (The Institute for Nature Conservation of Serbia)

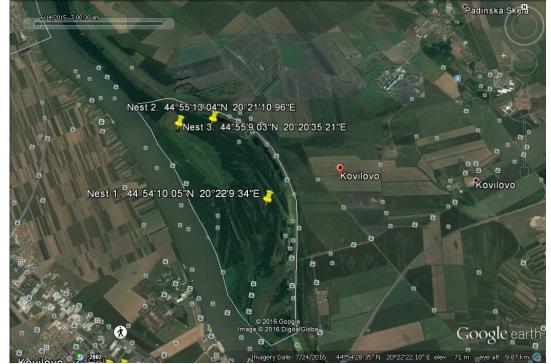
Figure 2. Satellite image of Foreland





Figure 3. Satellite image of future harbour Belgrade ("Spatial Plan for the Area of Special Purpose for the New Harbour in Belgrade with a Free Zone")

Figure 4. Satellite image with recorded nests of White-tailed Eagle in the Foreland









Unit Rit, sector 34/g: at coordinates: 45°01'12.07" N, 20°26'39.39" E.





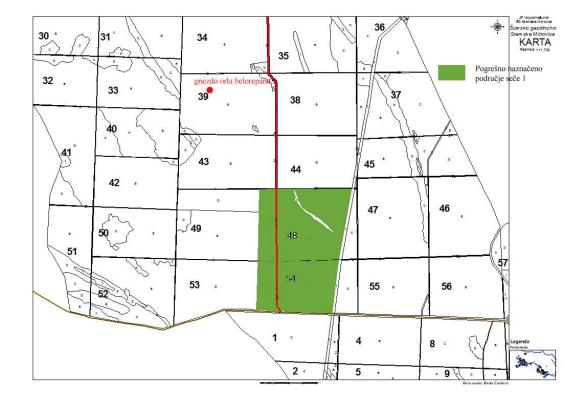
Forestry sector Severni Kučaj, Unit »Ostrovo«, sector 20A : 44°45'16.9" N, 21°13'57.4" E.



6. Satellite image of oak forest, Public Company "Vojvodinašume", Unit Klenak with White-tailed Eagle nests : before deforestation







2016. After cutting trees oak forests

7. Photos from Unit Klenak



















Video record of this case: Author Info Center Žitište, recorded in Public Company «Vojvodinašume Unit Klenak, 27th April 2016.: https://www.facebook.com/Zitiste/videos/948384838608634/?hc_ref=PAGES_TIMELINE

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