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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

43rd meeting

Strasbourg, 27 November - 1 December 2023

Open File: 2020/9

**Possible negative impact of hydro-power plant
development on the Neretva River (Bosnia &
Herzegovina)**

- REPORT OF THE COMPLAINANTS -

*Document prepared by
Center for Environment (FoE Bosnia & Herzegovina), Aarhus Centre in Bosnia and Herzegovina,
RiverWatch, EuroNature, CEE Bankwatch Network, ClientEarth*

- August 2023 -

No: 391/23

Banja Luka, 27 July 2023

**Directorate General of Democracy
Council of Europe
Bern Convention
Avenue de l'Europe
F-67075 Strasbourg Cedex, France**

Attn.:

Mr. Mikaël Poutiers - Secretary of the Bern Convention

Mr. Eoghan Kelly - Project coordinator of the Bern Convention

Mr. Marc Hory - Project Manager - European Diploma for Protected Areas and Emerald Network

Ms. Nadia Saporito - JPO

S U B J E C T : 3rd Update report on Open File: 2020/9, Possible negative impact of hydro-power plant development on the Neretva river (Bosnia and Herzegovina)

Dear Mr. POUTIERS,

Dear Mr. KELLY,

Dear Mr. HORY,

Dear Ms. SAPORITO,

Hereby we are sending you our third update report in regards to the case file No. 2020/9 (Possible negative impact of hydro-power plant development on the Neretva river, Bosnia and Herzegovina). In December 2022, during the 42nd meeting of the Standing Committee of the Bern Convention the case was officially opened and **Recommendation No. 217 (2022)** was adopted.

Below are our short updates on the latest developments relevant to the case:

2. **The construction of the HPP “Ulog” has not been halted** nor was this officially ever requested by the RS authority (Recommendation no. 7). The construction of HPP Ulog is still ongoing. According to the investor, the **expected finalization of HPP “Ulog” is as soon as next year**. Photos from HPP Ulog construction site, in particular the **dam construction site**, taken on 8th July 2023 please find [here](#).

3. On 18th July 2023, the RS authorities re-approved the EIA (originally approved in 2013) for **installation of 2x110kV power-lines** on a stretch of 20.615 m until 2028, needed to connect Ulog HPP with the grid. According to the entity legislation, Environmental permit was mandatory for installation of power-lines of 110kV that stretch over 15 km, but no Environmental permit was ever obtained for these power-lines that are currently **being installed**.

3. **The 7 SHPPs** (total power of 15 MW) in the uppermost stream of the river (HES “Upper Neretva” - Phase I and II), **are still pending**. There is still no physical realization of any of the plants yet, but there is still legal ground for future realization.

4. For Phase I (3 plants) the drafting and **approval of EIA was officially suspended** by the RS Ministry of ecology, due to protection-granting-procedure which was initiated by Center for Environment (CfE), and is still ongoing before RS authorities. However, it is important to emphasize that the ongoing protection-granting-procedure before RS institutions is not the protection which was primarily advised by Recommendation no. 1 - and indeed is mandatory according to the Bern convention (Emerald Network site protection). So, although suspension of EIA procedure is a positive

step, this still might leave the **possibility for future realization despite the ongoing protection procedure** on the entity level.

5. For Phase II (4 plants) the investor still has an approved EIA, but still hasn't applied for construction permits. After District Court in Banja Luka dismissed the Proposal for renewal of the court case against the EIA for Upper Neretva - Phase II, which Proposal was based on new findings according to the Study on protection of Upper Neretva river (October 2022), Center for Environment submitted a **complaint to the Council of District Court in Banja Luka**. On 19th July 2023, **the Court Council ultimately decided to dismiss the Proposal** due to the fact that the Study on protection of Upper Neretva river - and all relevant findings for that matter - do not constitute a valid *new proof* based on which an already resolved court case could be renewed, because the complainant "failed to present the new findings during earlier proceeding". However, to present new results in a timely manner was physically impossible since the findings occurred and were obtained much later, during the Neretva Science Week and were verified in an later initiated protection-granting-procedure. No legal remedy is available on Council's decision, leaving environmental justice very vague in RS.

6. There is still **no official initiation for cancellation of concessions for 7 SHPPs** (Recommendation no. 8).

Upon a request for information on status of implementation of recommendations and status of concessions which are on RS territory, that was submitted specifically to the RS Ministry of Energy and Mining, RS Public Attorney Office and RS Commission for Concession - **no official confirmation of concession cancellation of 7 SHPPs was obtained** (Recommendation no. 8). Namely, all of these authorities, especially the Ministry of energy and mining, replied that they haven't conducted any steps since there was **no official request from the RS Government (the grantor) for such action**.

8. After this, on 4th July 2023, a request for information on the status of implementation of Recommendations 217 (2022), in particular regarding expectation of initiation of concession-cancellation-procedure, was also submitted to the RS Government, as the official grantor of the concerned concession in RS territory. On 26th July 2023, CfE finally received a letter from the **General Secretary of the RS Government** in which CfE was informed that initiation of cancellation of concession for 7 SHPPs is subject to concession agreements that are still in place and have pending deadlines for construction – but also that, for eventual initiation for cancellation, an **official proposal is a legal requirement**, which has to be filed by the Ministry of energy and mining. As the actual party of the agreement, this Ministry needs to assess the basis for cancellation with the investor, and other relevant authorities (see p. 7). However, prior to this, as said in p. 7 (see above), this Ministry actually referred CfE to the RS Government as the only authority that can cancel these concessions, so evidently, **no legal steps were taken to implement Recommendation no. 8**. Also, on 15th June 2023, CfE has sent a letter to the Minister for ecology, proposing to have a consultative meeting on the status of play in regards to ongoing protection procedure of the area - but CfE received no reply from the Minister, which is not in line with the Recommendation no. 11 (cooperation with the NGOs).

9. Also, to the best of our knowledge, in regards to the recommendations for the HPP Bjelimići and Glavatičevo, and the Bjelimići pumped storage plant, all three located in the Federation of Bosnia and Herzegovina (FBiH), so far **no steps have been taken by the Federal authorities as well**. However, these projects remain dormant.

10. Referring to point 13 of Recommendation no. 217 (2022) requesting Bosnia and Herzegovina **to implement a ban on development** of further hydropower plants **in all candidate Emerald sites in the Neretva River basin**, we would like to update you that the construction of the Upper Horizons hydropower scheme is still ongoing. The RS officials declared the **beginning of the main construction works on 160 MW HPP Dabar** on the site in Dabarsko karst field Emerald site (BA0000024) on 23rd June 2023. The construction of the reservoir for this HPP in Nevesinjsko karst field Emerald site (BA0000025) has not started yet. The channel in Fatnicko karst field Emerald site (BA0000023) is already constructed. On 5th June 2023, Aarhus Center in Bosnia and Herzegovina

submitted a **lawsuit against the Environmental permit** for HPP Dabar, which was renewed on 10th October 2022, without requiring any new environmental assessment, despite the fact that the earlier one was drafted in the period up to April 2012 - more than ten years ago. Recent studies (Dušan Jelić pers. comments) have revealed a very strong negative impact of existing hydropower systems on endemic fish of the poljes and rivers of the Neretva basin. This is why Aarhus center, after submission of the lawsuit, also invited the Federal Ministry to **intervene in newly initiated Court proceedings** (after the Federal authorities lost a case against RS back in 2012). The case is pending. Additionally, Aarhus Center tried to obtain a valid copy of Construction permits issued for HPP Dabar (4 permits so far), but the **RS Ministry is refusing to provide these documents** to Aarhus center, referring them to the public list of issued permits for hydro-project in RS, that, however, doesn't constitute a valid document that can be challenged before a Court. This way, the Ministry is directly violating national and international law, especially the right to access to environmental justice.

11. Finally, we are glad to update you on findings obtained at the **2nd Neretva Science Week (NSW)**, held from May 30th to June 7th 2023 in Ulog village, Nevesinjsko polje and the nearby area. This event gathered in total **over 70 scientists**, international and local, with the goal to research the biodiversity and wild habitats of the upper reaches of the Neretva River basin (see photos from NSW 2023 below). In addition to numerous locations in the upper reaches of the Neretva river, that were subject of research in 2022, in 2023 the **research has been extended to tributaries**, as well as to the **nearby karst field** (Nevesinjsko polje), but also the Zalomka river, which is a part of the Neretva river basin. Research was also carried out on the rivers Ljuta and Jezernica, which in their upper reaches are the most important tributaries of the Neretva. NSW 2023 gave the following results:

- a) Over **800 vascular plant species** have been registered (of which 60 species are rare and endangered in BiH, and 25 are endemic to the Balkans;
- b) At least **2 new specimens of bats** were discovered, which raised the final number of this order to at least 17 for now (which is more than half of the total number of all species in BiH);
- c) At least **4 new species of butterflies** of high value have been registered for now, while 4 new specimens have been preliminarily recorded from the Tular family (*Trichoptera*) for BiH.
- d) In April, a species discovered during last year's Neretva Science Week was officially confirmed as **a new species for science**, and it was named like Neretva river - *Baeoura neretvaensis*. It is an insect from the Diptera family.

Certainly, one of the most important species of the Neretva River and this area is the **endemic species of the Adriatic soft-mouth trout** (*Salmo obtusirostris*), which is critically endangered in this area and according to the international IUCN categorization (<https://www.iucnredlist.org/species/19862/9056634>).

By the end of the year, we expect the publication of the verified results of this year's research, and all these numerous existing ones tell us that the area of the upper Neretva is of **extremely high biodiversity value**. Some photos from 2nd NSW please find [here](#).

Therefore, we strongly urge the Bureau to ask the authorities of Bosnia and Herzegovina to follow up on Recommendation 217 (2022) in a more diligent and appropriate way, to involve both entities and the complainants in discussing the most appropriate actions and to report the progress on all points of the Recommendation at the 2023 Standing Committee meeting.

Sincerely,

President



Tihomir Dakić

On behalf of the other Complainants:
Aarhus Center in Bosnia and Herzegovina
EuroNatur
RiverWatch
CEE Bankwatch Network
ClientEarth

- February 2023 -

No: 81/23

Banja Luka, 16 February 2023

**Directorate General of Democracy
Council of Europe
Bern Convention
Avenue de l'Europe
F-67075 Strasbourg Cedex, France**

Attn.:

Ms. Ursula Sticker - Secretary of the Bern Convention

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Mr. Marc Hory - Project Manager - European Diploma for Protected Areas and Emerald Network

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Ms. Helena Orsulic, Project Assistant of the Bern Convention

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S U B J E C T : 2nd Update report on Open File: 2020/9, Possible negative impact of hydro-power plant development on the Neretva river (Bosnia and Herzegovina)

Dear Ms. STICKER,

Dear Mr. KELLY,

Dear Mr. HORY,

Dear Ms. ORSULIC,

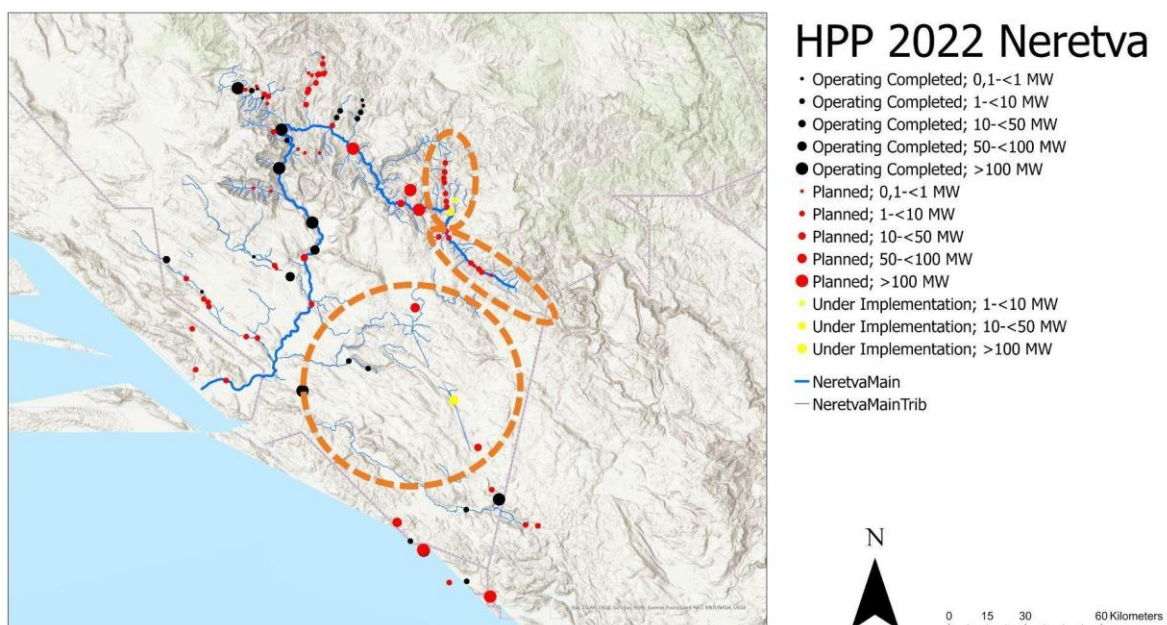
Hereby we are sending you our update report in regards to the open file: 2020/9 (Possible negative impact of hydro-power plant development on the Neretva river, Bosnia and Herzegovina), in particular **after opening the case file and the adoption of Recommendations for Bosnia and Herzegovina, No. 217 (2022)**, on 2nd December 2022 during the 42nd meeting of the Standing Committee of the Bern Convention.

Below are our short updates on the latest developments relevant to the case:

1. The 56th meeting of the **Inter-Entity Body on Environment** (consisting of members from the Ministry of Spatial Planning, Construction and Ecology of Republika Srpska and the Federal Ministry of Tourism and Environment) was held on 23rd February 2023. Upon official communication from the Council of Europe, following the Complainants' request from 19th December 2022, the federal authorities notified us that the *Information on Recommendations no. 217 (2022)* is going to be on the agenda of the meeting. The Complainants (Center for Environment and Aarhus Centre) requested to attend this meeting and CfE was ultimately invited to the meeting, which was held in Banja Luka. At this meeting we were informed about the fact that the **Progress report from BiH was submitted** in a timely manner. This report should specify what steps - if any - were officialy conducted by BiH and/or entity authorities. However, at this moment, some steps that were taken were only orally brought to the attention of the complainant, but, e.g. official decisions or conclusions, were not publicly available to back this up, so the progress remains unclear. Hence, at this time, **we have no official information of implementation of the Recommendation.**

2. To the best of our knowledge, **the construction of the HPP “Ulog” has not been halted** nor was this officially requested by the RS authority. The construction works on HPP “Ulog” are ongoing.
3. On 12 October 2022 the District Court of Banja Luka **dismissed the lawsuit against the renewed environmental permit** issued for the HPP “Ulog”. Given that the identified Emerald locations have not been officially adopted by Republika Srpska, nor by the Federation, and given the fact that the amendments to the Republika Srpska Spatial plan until 2025 envisages the construction of the HPP Ulog on the Neretva River, the Court considered that this will have to be taken into consideration in the process of identifying the future Emerald location. The Court also considers that the arguments regarding the assessment of HPP Ulog’s cumulative impact with all the planned small hydropower plants in the "HES Upper Neretva" project (7 SHPPs) are unfounded as their construction has not yet been initiated. In December 2022, the NGO Zelena Neretva from Konjic submitted a request for an extraordinary review of the District Court decision to the Republika Srpska Supreme Court. The case is pending.
4. **The 7 small hydropower plants** in the uppermost stream of the river (HES “Upper Neretva” - Phase I and II), **are still pending**. There is no physical realization of any of the plants yet. However, it is important to emphasize that for Phase I (3 plants) the investor is currently drafting an EIA, whereas for Phase II (4 plants) the investor still has an approved EIA and also a valid construction permit. So far the complainant has no official information about steps being taken for the cancellation of these concessions.
5. In late 2022, an independent expert (a court expert in environmental matters) was commissioned by the Complainants to draft a **Study on protection of the upper Neretva river**. The draft document was finalized in October 2022 and was sent to the Republic Institute for Cultural and Natural Heritage for verification.
6. After drafting of the Study on protection, on 6th December 2022, the **Republika Srpska Ministry** of Spatial Planning, Construction and Ecology **dismissed the Complainants’ Proposal for renewal of the proceeding** regarding the approval of the EIA for Upper Neretva - Phase II (EIA approved in 2017 with a serious lack of base-line data). The Ministry argued that the new biological findings and the draft Study on protection of upper Neretva river (October 2022) are irrelevant.
7. On 5 January 2023, the District Court in Banja Luka also dismissed the Proposal for renewal of the court case against the EIA for Upper Neretva - Phase II (consisting of 4 plants). A previous court case ended in 2018 by the Court dismissing the Complainants' lawsuit against the EIA as unfounded, so a Proposal with new findings was submitted in a timely manner. But, **the District Court failed to understand the relevance of new findings** and the results that the Complainants obtained during the Neretva Science Week camp held in the Summer of 2022 on the sites. The District Court’s ruling dismissed the renewal although new results and data on biodiversity on the Upper Neretva (confirmed habitats of *Salmo farioides*, *Cottus gobio*, *Phoxinus phoxinus* and *Barbatula barbatula*) have been verified in the *Elaborate on biodiversity on Upper Neretva* (Faculty of Natural Science in Banja Luka, August 2022), and were also used for drafting the *Study on protection of Upper Neretva river (October 2022)*. A complaint was submitted to the Chamber of the District Court to review the court ruling.
8. Following the drafting of the Study on protection of upper Neretva river (October 2022), the Republic Institute for Cultural and Natural Heritage approved the Study in January 2023, and has forwarded it to the Republika Srpska Ministry of Spatial Planning, Construction and Ecology for the purpose of protection of the Upper Neretva area - which is yet to be officially proclaimed by the Republika Srpska Government. Currently **the protection is pending** and there are no new developments in that regard.

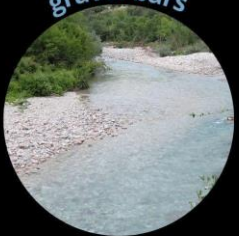
9. Also, to the best of our knowledge, in regards to the recommendations for the “Bjelimići” and “Glavatičevo” hydropower plants and the “Bjelimići” pumped storage plants, so far **no steps have been taken by the Federal authorities.**
10. Referring to point 13 of Recommendation No. 217 (2022) requesting Bosnia and Herzegovina to implement a ban on development of further hydropower plants in **all candidate Emerald sites in the Neretva River basin**, we would like to update you that the construction of the Upper Horizons hydropower scheme is ongoing. On 10 October 2022, the environmental permit for the Dabar hydropower plant (the main part of the scheme) was renewed by the Ministry for Spatial Planning, Construction and Ecology of Republika Srpska, without requiring any new environmental assessment, despite the fact that the existing one was drafted in the period up to April 2012 - more than ten years ago. Recent studies (Dušan Jelić pers. comments) have revealed a very strong negative impact of existing hydropower systems on endemic fish of the poljes from the Neretva basin. The Popovo minnow (*Delminichthys ghetaldii*) has already lost about 90% of its population and the Dalmatian minnow (*Telestes metohiensis*), as well as the recently described Dabar minnow (*Telestes dabar*) would probably become extinct if Upper Horizons is completed.



Hydropower plants in the Neretva basin: operating, planned and under implementation. The yellow points are the Dabar, Ulog and Hotovlje plants. The Upper Horizons scheme will impact terrestrial and subterranean waters in the large orange circle.

11. The **final results of the Neretva Science Week** are to be published in the next few weeks. The summary of the results is as follows:
- 598 species identified
 - 8 species (probably) new to science
 - 39 Balkan endemics (at least)
 - 24 species new to Bosnia and Herzegovina
 - 2 species rediscovered after > 100 years
 - 17 obligate groundwater species (cannot live outside of groundwater)



<p>gravel bars</p>  <p>> 30 species 10 obligate groundwater 5 new to science</p> <p><small>Nematoda, Gastropoda, Bivalvia, Oligochaeta, Diptera, Ephemeroptera, Plecoptera, Trichoptera, Neuroptera - <i>Nevrothrus cf. apatilis</i>, Coleoptera: 4 spp., Copepoda: 14 spp., Ostracoda: 7 spp., <i>Niphargus</i> sp.: 2 spp., <i>Proasellus</i> sp.: 2 spp., <i>Synurella</i> sp.</small></p>	<p>springs</p>  <p>> 50 species 7 obligate groundwater 2 new to science</p> <p><small>Nematoda, Oligochaeta, Turbellaria, Aranea, Bivalvia, Gastropoda, Acarina, Diplopoda, Hirudinea, Collembola, Isopoda, Hemiptera, Diptera, Ephemeroptera, Plecoptera, Trichoptera, Coleoptera: 10 spp., Copepoda: 14 spp., Ostracoda: 7 spp., <i>Proasellus</i> sp.: 2 spp., <i>Gammarus</i> sp.: ...</small></p>	<p>cave</p>  <p>8 species (terrestrial, obligate subterranean)</p> <p><small>Acarina, Collembola, Trichoniscidae, Aranea, Phalangidae, <i>Laemosterus</i> sp., Symphyla, <i>Anthroherpon ganglbaueri</i></small></p>
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😊 5 potential new species for science 😊

<p>Amphipoda <i>Niphargus</i> sp. n.</p>  <p>Det. by Nataša Mori</p>	<p>2x Isopoda <i>Proasellus</i> sp. n.</p>  <p>Det. by Florian Malard</p>	<p>Copepoda <i>Bryocamptus</i> sp. n.</p>  <p>Det. by Anton Brancelj</p>
<p>Ostracoda <i>Cypridopsis</i> sp. n.</p>  <p>Det. by Nataša Mori</p>	<p>Caricature © Ernő Vincze</p>	



Photos and results from Neretva Science Week 2022

Therefore, we strongly urge the Bureau to ask the authorities of Bosnia and Herzegovina to follow up on Recommendation No. 217 (2022) adopted by the 42nd Standing Committee.

Sincerely,

President

A handwritten signature in blue ink, which appears to be 'Tihomir Dakić', is written over a circular blue stamp. The stamp contains a stylized drawing of a person with arms raised inside a square frame, with the text 'CENTAR ZA ŽIVOTNU SREDINU' at the top and 'CENTER FOR ENVIRONMENT' at the bottom.

Tihomir Dakić

On behalf of the other Complainants:
Aarhus Center in Bosnia and Herzegovina
EuroNatur
RiverWatch
CEE Bankwatch Network
ClientEarth