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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

42nd meeting
Strasbourg, 28 November – 2 December 2022

New Complaint: 2022/01

**Alleged habitat destruction in the area of Novi Sad
due to proposed infrastructure constructions
(Serbia)**

- REPORT BY THE GOVERNMENT -

*Document prepared by
the Ministry of Environmental Protection, Serbia*



Republic of Serbia
MINISTRY OF ENVIRONMENTAL
PROTECTION

Number: 337-00-00026/2022-04

Date: 14 July 2022

Belgrade

Dear Ms. Sticker,

On behalf of the Ministry of Environmental Protection referring to the Request of the Secretariat, of the Bern Convention dated 8 February 2022, pertaining to Complaint New.2022/1: New complaint: Serbia: Alleged habitat destruction in the area of Novi Sad due to proposed infrastructure construction, filed to the Secretariat of the Bern Convention on 29 December 2021 by the NGO "World and Danube", we would like to inform you of the following:

The NGO "World and Danube" did not file a Complaint to the Ministry of Environmental Protection as the competent authority in charge of monitoring the implementation of the Bern Convention in the Republic of Serbia pertaining to the habitat destruction in the area of *Kamenička Ada*, *Dunavac* and *Sodros* but rather directly addressed the Secretariat of the Bern Convention.

Pertaining to the allegations stated in the enclosed Complaint, the Ministry of Environmental Protection, in its capacity as the competent authority monitoring the implementation of the Bern Convention in the Republic of Serbia, sent the Request for Statement No. 337-00-00026/2022-04 dated 5 May 2022 to the competent authorities and institutions at the central (republic), regional and local levels, namely: the Ministry of Construction, Transport and Infrastructure of the Republic of Serbia; the Provincial Secretariat for Urban Planning and Environmental Protection, the Institute for Nature Conservation of Vojvodina Province; the City Administration for Environmental Protection of the City of Novi Sad; the Public Company "Urbanizam" from Novi Sad and the Public Water Management Company "Vode Vojvodine" from Novi Sad.

In accordance with the Statements received from the aforementioned authorities and institutions, we would like to inform you of the following:

- 1 The allegations stated in item 1. paragraphs 1. 2, 3 and 4 of the Complaint, claiming that the degradation of the unique ecosystems in the areas of Kamenička Ada, Dunavac and Sodros has emerged, as well as that, the Republic of Serbia is violating Articles 1, 2, 3, 4 and 5 of the Convention on the Conservation of European Wildlife and Natural Habitats are without merit because of the following (as stated below):

- Firstly, the Republic of Serbia legally protected the aforementioned areas Kamenička Ada, Dunavac and Sodros by adopting the Rulebook on Proclamation and Protection of Strictly Protected and Protected Wild Species of Plants, Animals and Fungi ("Official Gazette of the Republic of Serbia", Nos. 5/10, 47/11, 32/16 and 98/16) thus designating a delineated special part of the area belonging to Kamenička Ada (NSA22b) and a special part of the area belonging to Ribarsko Ostrvo (NSA22a) as habitats of protected and strictly protected wild species of national importance and thereby also including the species of International importance that were transposed by means of this Rulebook into the national legislation in accordance with the Bern Convention and the EU Birds and Habitats Directives.

- The Danube, together with its riparian (littoral) zone, which includes the areas referred to in the Complaint, is designated as an ecological corridor of international importance pursuant to the Regulation

on the Ecological Network ("Official Gazette of the Republic of Serbia", No. 102/2010), thus the measures pertaining to the conservation and protection of species and their habitats are implemented in accordance with this Regulation and as prescribed by the conditions pertaining to nature protection in accordance with the Law on Nature Protection ("Official Gazette of the Republic of Serbia", Nos. 36/2009, 88/2010 91/2010 correction, 14/2016, 95/2018 - other law and 71/21).

- The aforementioned areas: Kamenička Ada, Dunavac and Sodros are located on the territory of the city of Novi Sad, the Republic of Serbia, and are included in the new General Urban Plan of the City of Novi Sad until 2030, which is currently in the process of adoption.

- The public Company "Urbanizam", Institute of Urban Planning Novi Sad, in its capacity as the competent institution for the development of the new General Urban Plan of the City of Novi Sad for the period up to 2030, delivered a Statement on Complaint, No. 1040/22, dated 19 May 2022, and enclosed detailed documentation on the implementation of the procedure pertaining to the development of a long-term planning document, namely, the General Urban Plan of the City of Novi Sad until 2030, including the procedure concerning the application for issuing nature protection conditions and other conditions/criteria required for the purposes of development of this plan as well as the development of a Strategic Environmental Impact Assessment. During the preparation of the new General Urban Plan of the City of Novi Sad until 2030 the Public Company "Urbanizam", Institute for Urban Planning Novi Sad, applied to the competent institution - the Institute for Nature Conservation of Vojvodina Province and was issued the Document prescribing nature protection conditions No. 03-019-2280/2 dated 18 August 2021. It should be noted that the aforementioned conditions prescribed by the Institute for Nature Conservation of Vojvodina Province have been fully incorporated into this planning document, as well as that all conditions referring to nature protection concerning the areas Kamenička Ada, Dunavac and have been fully complied with.

- The mentioned mechanism, defined by the nature protection conditions (i.e. criteria), allows the preservation of the basic natural and landscape features of the areas in question as well as their biodiversity, primarily through conservation and adequate management of the habitats of strictly protected and protected wild species.

- Bearing in mind all facts and arguments provided above, we find that the allegations stated in the Complaint about the alleged "drastic violation of habitat conditions of protected species offlora and fauna of the ecosystems in the areas of Kamenička Ada, Dunavac and Sodros are unsubstantiated and without merit, because it is precisely the Draft General Urban Plan of the City of Novi Sad until 2030 that for the first time identifies, defines, delineates and designates the parts of the mentioned areas (in total 27 ha) as habitats of protected and strictly protected species.

- Please note that the Draft General Urban Plan of the City of Novi Sad until 2030 is a planning document developed at the level of the local self-government unit and that considering the hierarchy of planning documents this document is categorized as a lower-order plan and as such must be harmonized with all higher-order spatial plans, as follows: the Spatial Plan of the City of Novi Sad the Regional Spatial Plan of the Autonomous Province of Vojvodina and the Spatial Plan of the Republic of Serbia in accordance with the Law on Planning and Construction ("Official Gazette of the RS", Nos. 72/2009, 81/2009- correction, 64/2010- decision of the CC, 24/2011, 121 /2012, 42/2013- decision of the CC, 50/2013 decision of the CC, 98/2013- decision of the CC, 132/2014, 145/2014, 83/2015, 31/2019, 37/2019- other law, 92/2020 and 52/2021).

2. The allegations stated in item 1, paragraphs 5, 6 and 7 of the Complaint claiming that "the Republic of Serbia most directly violated the provisions of the Convention b." adopting the Conclusion of the Government of the Republic of Serbia 05 No. 351-40022020 of 05/21/2020", are also without merit because of the following (as stated below):

- The Government of the Republic of Serbia at the proposal of the Ministry of

- Construction, Transport and Infrastructure, adopted the Conclusion of the Government of the Republic of Serbia 05 No. 351-4002/2020 dated 05/21/2020, stipulating that the bypass route construction project around Novi Sad including the bridge over the Danube and related access roads is recognized as a project of special importance for the Republic of Serbia, and further, that this project plans the construction and reconstruction of the public linear traffic infrastructure. The Ministry of Construction, Transport and Infrastructure delivered the Statement on Complaint No. 350-01-01180/2022-1 dated 13 June 2022 and with this in mind, we would like to point out the following facts:

- The aforementioned Conclusion of the Government of the Republic of Serbia establishes the expropriation/administrative transfer of rights/temporary (time-limited) expropriation of immovable property (i.e., real estate) as matters of public interest arising from the construction project requirements and purposes. The City of Novi Sad is designated as the ultimate expropriation beneficiary.

- The bypass route construction project around Novi Sad including the bridge over the Danube and related access roads, which is recognized as a project of special importance for the Republic of Serbia, is included in the Government Decree of the Republic of Serbia pertaining to developing the Spatial Plan of the Special Purpose Area of the Infrastructure Corridor of the First Grade State Road No. 21 Novi Sad-Ruma-Sabac and the First Grade State Road No. 19 Sabac-Loznica ("Official Gazette of the Republic of Serbia",

- Nos. 40/2011, 39/2019 and 88.2020). In accordance with the Law on Strategic Environmental Impact Assessment ("Official Gazette of the RS", Nos. 135/04 and 88/10) the assessment of the impact of the aforementioned project on the environment was carried out (SELA), the appropriate measures were prescribed and the document stipulating environmental protection conditions was obtained.

- With this in mind, the strategic assessment of the impact of the bypass route construction project around Novi Sad including the bridge over the Danube and related access roads (which is regulated by the aforementioned planning document) on the environment, that is SEIA, was carried out for the entire area included in the project. In addition, the environmental protection conditions were obtained and appropriate measures were prescribed for this area as well. In accordance with the above-stated arguments and facts it is evident that the Republic of Serbia did not violate the provisions of the Convention by adopting the Conclusion of the Government of the Republic of Serbia 05 No. 351 4002/2020 of 05/21/2020, nor did it endanger the wild flora and fauna and natural habitats of the areas in question (namely Kamenička Ada, Dunavac and Sodrö), as stated in the Complaint filed to the Secretariat of the Bern Convention by the NGO "World and Danube". The Republic of Serbia followed all legal procedures, including the obtaining of environmental protection conditions, and thus acted fully in line with the provisions of the Bern Convention.

- Please note that the construction of the bridge (which is a part of the Novi Sad bypass construction project) has been planned since 1951 and that since then it has been included in all planning documents, both in general urban plans and in the Spatial Plan of the City of Novi Sad from 2012. Also the construction of the mentioned bridge is planned by the Regulation on Determining the Spatial Plan for the Specific Purposes Area of the International Waterway E-80 Danube (Pan-European Corridor VII). During the process of adoption of the mentioned plans, traffic studies and analyses were carried out, each confirming the project assurance and supporting the construction of this bridge; this was also confirmed by the Draft General Urban Plan of the City of Novi Sad until 2030, which is currently in the process of adoption.

3. In reference to item 1 paragraph 8 of the Complaint, which reads: *"On 2 March 2021, the NGO "World and Danube", together with other local non-governmental organizations, submitted an Initiative for the protection of the Danube, Kamenička Ada, Sodrö and Ribarsko Ostrvo to the Institute for Nature Conservation of Vojvodina Province..."*, further, in accordance with the Statement Issued by the Institute for Nature Conservation of Vojvodina Province 03 - 10. 026-741,4 dated 19 May 2022, we would like to inform you that the aforementioned institution issued the Notice No. 03022-645/2 dated 26 April 2021 pertaining to the submitted Initiative for the protection of the natural public property of Kamenička Ada, Dunavac, Sodrö and Ribarsko Ostrvo in Novi Sad. The Institute for Nature

Conservation of Vojvodina Province did not accept the Initiative on the grounds that the most valuable parts of the area in question (namely, Kamenička Ada, Dunavac, Sodr05 and Ribarsko Ostrvo) have already been delineated and determined as habitats of strictly protected and protected wild species of national and international importance; therefore, the protection measures referring to the aforementioned habitats have already been prescribed pertaining their integration into the relevant planning documents.

Please note that the Institute for Nature Conservation of Vojvodina Province requested that the NGO "World and Danube" provide georeferenced data for each individual entry of important species, since this AGO included a list of strictly protected and protected species inhabiting the area in question in the text of the Initiative. The NGO "World and Danube" has not submitted the requested data thus far.

4. The allegations stated in Item I, paragraph Q of the Complaint that "the Public WG, for Company Vode Vojvodina issued an approval for the construction of an embankment (first line of defense) in the flood zone of the narrow protected part of Kamenička Ada that is open to the Danube, which would lead to the destruction of this alluvial river ecosystem " are without merit.

- In accordance with the statement of the Public Water Company "Vode Vojvodina" Novi Sad No. X91/21-I dated May 17, 2022, we wish to underline that the Public Water Management Company "Vode Vojvodina" Novi Sad, in the process of developing the General Urban Plan of the City of Novi Sad until 2030 issued only the Water Conditions, number II-1032/7-21 dated September 28, 2021, in accordance with the Water Law ("Official Gazette of RS", Nos. 30/2010, 93/2012, 101,2016, 95/2018 and 95/2018 - other law). The water criteria specify the technical and other requirements that must be fulfilled during the preparation of planning documents for spatial development. Therefore, this company prescribed only the criteria under which it is possible to plan activities on the territory covered by the Draft General Urban Plan, with the issuance of new criteria in further development of urban plans of the lower order, and not, as stated in the Complaint: "approval for the construction of an embankment" For the construction of new buildings, the reconstruction of existing ones and the undertaking of other works and the preparation of planning documents Serbian legislation prescribes an obligation to obtain a water approval, which establishes that the technical documentation for the specified works and planning documents is in accordance with the water criteria.

- Relating to the allegations stated in paragraph 9 of the Complaint, the facts presented in the Statement of the Public Enterprise "Urbanizam", the Institute for Urban Planning Novi Sad, should be highlighted at this point. The construction of an embankment (first line of defense) in the area of Kamenička Ada is necessary due to the stipulated conditions of the international rowing organization FISA, which requires that the rowing oaths be located in dammed waters which are not prone to flooding, so that international competitions could take place even in the event of high water levels of the Danube, and thus ensure the safety of the rowers. The rowing track was first planned in the General Urban Plan of the City of Novi Sad published in 1985.

- In accordance with all the above stated, it should be emphasized that the route of the planned embankment (first line of defense) for flood defense is harmonized with the criteria of the Institute for Nature Conservation of Vojvodina Province, in such a way that part of the protected area NSA 22a will remain in the Danube riverbed and will not undergo any changes in the flooding regime compared to current state. Therefore, the allegations stated in the Complaint that the construction of the future embankment (first line of defense) will lead to the destruction of the alluvial ecosystem are completely unsubstantiated.

- Another argument in favor of this is the fact that two studies were developed for the purpose of planning and later realization of the new, first line of defense (the embankment) for the protection against high waters of the Danube in the area of Kamenička Ada and the shipyard. Both studies showed that this activity will not negatively affect the water regime of the Danube, both in the area of the City of Novi Sad and in a much wider area, namely:

1. Hydrological study of the Danube's watercourses with hydrographic data for the purposes of developing a general regulation plan on the left bank of the Danube in Novi Sad, which was prepared by JSC "Vojvodina project" and the Faculty of Technical Sciences in Novi Sad in 2019;

2. Study of the hydrotechnical arrangement of surface and groundwater of riparian zones on the left bank of the Danube in Novi Sad in the area of Kamenička Ada and Ribarsko Ostrvo, prepared by Jaroslav Cerni Water Institute in 2021.

Both studies indicate that the addition of the embankment (the first line of the defense) will not have a negative impact, on the water regime of the Danube, both in the area of the City of Novi Sad and in a much wider area. By expanding the embankment (the first line of defense) and building a rowing lane, the water regime will be improved, both in the area of Kamenička Ada and Telep Adinci and Liman (parts of the city of Novi Sad in the immediate vicinity), which will also have a positive effect on flora and fauna. Due to climate change, a long-term decrease in the level of groundwater is recorded, especially during the summer months, which negatively affects the drying of the soil and leads to the dying of plant species. By regulating the water regime, groundwater levels will also increase, which will allow the root system of the plants to have significantly better access to groundwater during the dry summer months and thus enable the uptake of ground water.

5. The allegations stated in Item 2 of the Complaint reading: "The protected natural resource NP "Ribarsko Ostrvo is located in the Autonomous Province of Vojvodina in the north of Serbia, on the banks of the Danube in Novi Sad. It belongs to the South Back District and the cadastral municipality of Novi Sad 11" are without merit because Ribarsko Ostrvo is not designated a protected natural asset - natural monument (NM).
 - In accordance with the statement of the City Administration for Environmental Protection of the City of Novi Sad number VI-501-1/2022-154 dated May 17, 2022, we would like to point out that Ribarsko Ostrvo is not a protected natural asset - a natural monument
 - It should be pointed out that the City Administration for Environmental Protection of the city of Novi Sad performs tasks related to the preparation and adoption of acts governing the protection of certain natural assets, therefore, in terms of Ribarsko Ostrvo please note that this area has never been declared a natural monument.
 - Furthermore, the Statute of the City of Novi Sad ("Official Gazette of the City of Novi Sad" No. 11/19) stipulates that the Assembly of the City of Novi Sad passes an act on placing certain natural assets under protection, however, the decision to declare Ribarsko Ostrvo a natural monument has never been made.
 - In addition, the Institute for Nature Conservation of Vojvodina Province, in its Statement 03 No. 026-7434 dated 19.5.2022, stated that pursuant to this institution's Work Programme for the period from 2021 to 2031, the activities referring to the valuation of the natural values in the area in question for the purposes of the development of a study pertaining to the protection and conservation of the area have not been planned, which is a prerequisite for implementing the procedure for declaring a protected area.
6. The allegation stated in Item 4 of the Complaint, which claims that the protection of rare and endangered species is "regulated by the Law on Nature Protection (Official Gazette of the Republic of Serbia, No. 14/16)". Please note that from the moment of adoption of the aforementioned Law in 2016 the National Assembly of the Republic of Serbia improved a set of legal provisions and adopted amendments to this Law, first in 2018, and after that in 2021.
7. The allegations made in Item 6, paragraph 1, are without merit. Complaints that read: "According to national laws, for this type of serious habitat change, it is necessary that a Strategic Environmental Impact Assessment be presented and adopted by relevant institutions. This was not done, even though local politicians lied about it in the media", are unfounded for the following reasons given in

statements by the City Administration for Environmental Protection of the City of Novi Sad (number V1-501-1/2022 154 dated 17 May 2022) and the Public Enterprise "Urbanizam" Institute for Urban Planning Novi Sad (No. 1040/22 dated May 19. 2022):

- The Decision on determining the type of planning documents for which a Strategic Environmental Assessment is prepared ("Official Gazette of the City of Novi Sad" 48/2009) stipulates that a Strategic Impact Assessment is mandatory for the General Urban Plan of the City of Novi Sad, which is in accordance with the Law on Strategic Environmental Assessment ("Official Gazette of the Republic of Serbia" No. 135/2004 and 88/2010).

- In accordance with the aforementioned Decision and the Law, a Report on Strategic Environmental Assessment was developed accordingly.

- Upon expiry of 30 days' deadline for the submission of opinions, the Public Enterprise "Urbanizam" of Novi Sad prepared a Report on the participation of relevant authorities, organizations and citizens in the process of obtaining opinions on the Report on Strategic Impact Assessment, which was presented, together with the Draft General Urban Plan, to the Planning Commission at the session of the Commission.

- A public consultation was launched on the Strategic Environmental Assessment Report and the Draft General Urban Plan for the period from December 28, 2021 to February 5, 2022, including three public presentations held on 10, 14 and 21 January 2022. The public enterprise "Urbanizam", Institute for Urban Planning Novi Sad prepared a Report on the public consultation held regarding the draft plan with Strategic Environmental Assessment Report, with all objections and relevant responses provided. The Report was presented during a public session of the Planning Commission in the presence of all interested citizens who had provided the objections.

- We point out that the non-governmental organization "World and Danube" did not submit any objections/suggestions in respect of the Strategic Environmental Assessment Report.

- We add that the City Administration for Environmental Protection of the City of Novi Sad, the matter being within their competence, gave a positive opinion No. VI-501 1,2021-384 of 24 November 2021 on the Report on Strategic Environmental Assessment of the General Urban Plan of the City of Novi Sad by 2030. We particularly stress the fact that PC "Urbanizam", in the process of obtaining an opinion on the Report on Strategic Environmental Assessment of the General Urban Plan of the City of Novi Sad until 2030, received a positive opinion from the competent Provincial Institute for Nature Protection, where it was stated that conditions prescribed by this Institute had fully been incorporated. Furthermore, the Provincial Secretariat for Urban Planning and Environmental Protection stated in its Opinion on the Report on Strategic Environmental Assessment No. 140-50111972021-05 dated 8 December 2021 that the purpose and use of the area were planned in accordance with the well-considered long-term development needs of the planning area and that necessary protection measures were established to create better living conditions and conditions for the protection of the area's natural values.

8. The allegations stated in Item 6, paragraph 2 of the Complaint, reading: *"...and it is not known what will be stipulated by new urban plans. According to the currently valid plan, this area is considered a green zone of the city in its entirety"*, are also without merit for the reasons explained in a detailed statement submitted by the Public Enterprise "Urbanizam", Institute for Urban Planning Novi Sad (number 104C,22 dated 19/05/2022). In the previous three General Urban Plans (published in 1963, 1974 and 1985), the Kamenička Ada zone was defined as construction area with various purposes (recreational areas, parks, protective green areas and hydrotechnical infrastructure works) whereas the General Urban Plans developed after the analysis of the situation and upon expiration of the prescribed restrictions, when the water source exploitation was ended, assessed that this area needs to be conceptually used in a different way. According to the existing (old) General Urban Plan of the City of Novi Sad until 2021, the area of Kamenička Ada and Ribarsko Ostrvo is intended for tourist, sports and recreational purposes, as bathing and water areas. We would like to point out that the Draft General Urban Plan of the City of Novi Sad until 2030 for the area in question provides for a significantly better protection of nature compared to the existing plan. For example, the park area and areas under forests are planned

to be increased by more than 50%, and for the first time the habitats of strictly protected and protected species (NSA22b and NSA22a) have been mapped, green areas increased from 40 ha to 65 ha and it is planned that there should be 50% buildings less compared to the number of buildings defined by the existing (old) plan (GUP 2021).

Copies of the mentioned documents with English translation are attached to this report. Pending a response, we would like to thank the Bureau in advance for its highest consideration of this report.

List of annexes:

1. [Statement by the Ministry of Constructions, Transport and Infrastructure](#)
2. [The Conclusion by the Government of Serbia](#)
3. [Statement by the Institute for Nature Conservation of Vojvodina Province](#)
4. [Note by the Institute for Nature Conservation of Vojvodina Province](#)
5. [Nature protection conditions by the Institute for Nature Conservation of Vojvodina Province](#)
6. [Opinion by the Institute for Nature Conservation of Vojvodina Province](#)
7. [Statement by the Provincial Secretariat for Urbanism and Environmental Protection, Vojvodina Province](#)
8. [Statement by the Provincial Secretariat for Urbanism and Environmental Protection, Vojvodina Province](#)
9. [Opinion by the Provincial Secretariat for Urbanism and Environmental Protection, Vojvodina Province](#)
10. [Statement by the Administration for Environmental Protection, City of Novi Sad](#)
11. [Statement by Institute Urbanisms Novi Sad](#)
12. [Statement by the Public Water Management Enterprise Vode Vojvodine](#)
13. [Opinion by the Administration for Environmental Protection, City of Novi Sad](#)