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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: 2022/08

**Possible negative impact of mining activities in Mountain Baba
(Serbia)**

- COMPLAINT FORM -

*Document prepared by
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Zaštitimo Jadar i Rađevinu/ Protect Jadar and Radjevina*

Convention on the Conservation of European Wildlife and Natural Habitats



COMPLAINT FORM

First name: Milos

Surname(s): Jovanovic

On behalf of (if applicable): Čuvari Petruške krajine / The guardians of Petrush Valley -Serbia, a local association of citizens in service of environmental protection on the territory of municipality of Paracin

KORS/Mining Watch Serbia

Zaštitimo Jadar i Rađevinu/ Protect Jadar and Radjevina

Web site: N/A

Date: September 8, 2022

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).

Serbia has violated so far, at minimum, articles 3.2, 4.1, 4.2, and 5 of the Bern Convention by failing to take appropriate and necessary legislative and administrative measures to protect wild flora and fauna species (including those listed in Appendices I and II) and endangered natural habitat from large stone quarries on mountain Baba. Mining operations induce change in geomorphology and land-use pattern with loss of habitat, dust, generation of a high level of noise, vibrations, erosion, subsidence, and sedimentation. Limestone mining also causes changes in groundwater flow, groundwater quality, and overall water quality¹.

Serbia has thus far approved the mines despite limited information about environmental impacts and inadequate public participation, thus breaking the Convention of Aarhus, also. For example, Serbia's Ministry of Environmental Protection approved the quarry's environmental assessment despite major shortcomings and oversights, such as the information about the species that found home at mountain Baba.

The limited available information shows the mine will have widespread and severe impacts to wild flora and fauna species and endangered natural habitats. At this very point, locals have reported to us the shortage or disappearance of water, agricultural land pollution, animal migration, deforestation. These impacts are indicative of the scale of damage to come.

These quarries would also violate the inherent rights of impacted species and their habitats. Due to shortcomings of Serbia's laws, enforcing the Rights of Nature is necessary to protect species and their habitats in accordance with the purpose of the Bern Convention.

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)

¹ Environmental hazards of Limestone mining and adaptive practices for Environment management plan, 2020, Harsh Ganapathl and Mayuri Phukan

Location: The proposed quarries are located in the biodiverse region also known as the foothills of Rtanj mountains. Mountain Baba is located east of the nearby town Paracin, in the municipality of Paracin. Also, mountain Baba is featuring an important bird and biodiversity area. The town of Paracin, 35 villages, are all situated within the spatial plan of the municipality of Paracin. Also, the cultural and historical sites, dating from the early iron age up to late medieval times, the medieval monastery of Lesje and the medieval city of Petrus located on the mountain Baba, will be destroyed entirely by the quarry of KrusevacPut, Bechtel Enka Uk LTD and Satek Graditi.

Habitats:

Species: these quarries will impact 46 species in the Bern convention (mixture of Appendix II and III)

- **1 fish species: Danube barbel** (*Barbus balcanicus*) (appendix III)

- **4 amphibian species: Yellow bellied toad** (*Bombina variegata*), **European Newt** (*Lissotriton vulgaris*), **Alpine newt** (*Mesotriton alpestris*), **Agile frog** (*Rana dalmatina*) (mixture of appendix II and III)

- **9 reptiles species: European copper skink** (*Ablepharus kitaibelii*), **Smooth snake** (*Coronella austriaca*), **Europeaan green lizard** (*Lacerta viridis*), **Grass snake** (*Natrix natrix*), **Dice snake** (*Natrix tessellata*), **Common wall lizard** (*Podarcis muralis*), **Hermann's tortoise** (*Testudo hermanni*), **Nose - horned viper** (*Vipera ammodytes*), **Aesculapian snake** (*Zamenis longissimus*)

- **23 mammal species**

- **3 butterfly species: Jersey tiger** (*Callimorpha quadripunctaria*), **Clouded Apollo** (*Parnassius mnemosyne*), **The Southern Festoon** (*Zerynthia polyxena*) (Appendix II)

3 invertebrates species: European Stag beetle (*Lucanus Cervus*), **Beech beetle** (*Morimus funereus*), **The stone crayfish** (*Austropotambius torrentium*)

- **3 birds species: Rock bunting** (*Emberiza cia*), **European robin** (*Erithacus rubecula*), **Eurasian jay** (*Garrulus glandarius*) (mixture of appendix II and III)

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

As stated above, we lack sufficient information about mentioned quarries, except for the quarry KrusevacPut. Even though we have information about the latter quarry, most of the information remains hidden due to the unwillingness of local institutions and governmental institutions to cooperate. However, based on some available information and field experience due to the roadblocks, the latter quarry will cause tremendous damage both to biodiversity and all surrounding area. Furthermore, this area is earthquake prone area, as the strongest earthquake happened on 21.11.2006, of 3.9 magnitude.

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?

In addition to the species I have already mentioned above, these quarries will impact species and habitats listed under other international conventions, as also species that are guarded by the Serbian law itself. Mountain Baba is home to 124+ species. 39 species are protected by Habitat Directive, 46 by the Convention of Bern, 15 species by Bonn convention, 8 species by CITES convention and 9 habitats protected by Natura2000. 81 species are protected by Serbian law (Pravilnik) and 45 species are categorized as endemic and relict species. There are, also, 20 species of birds, and all of them are on IUCN red list.

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

The legal system of Serbia fails to provide adequate legislative and administrative protection for wildlife and habitats. Serbia has taken pro-stance through false propaganda that these quarries fall within the interest of the state. Also, local members of the assembly of the municipality of Paracin, altogether with president Vladimir Milicevic, voted for the quarry of KrusevacPut, even though that quarry is illegal by all means. We have filed a case for organized crime, trespassing of private parcels, illegal land clearance, illegal deforestation, and cutting of a hundred years old of oak forest, but to no avail. Serbia's weak EIA process also makes it difficult for the public to fully understand the scope of environmental impacts.

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

There are no known EIAs, except for the quarry of KrusevacPut, in which most of the information is null and void, thus false and incomplete. The area impacted with these three quarries is 8.95 square kilometers, equivalent to the area of nearby town of Paracin. Furthermore, Volt Resources, still a project, will hit 50.56 square kilometers as a mine for copper, gold, and all other minerals found.

ANNEX A

There are three quarries within the radius of 8.95 square kilometers and those are: Transkop, on the hill called „Krajnji Rid”, which is a natural extension of mountain Baba which opened in 2019. This quarry also violates the spatial plan of municipality of Paracin; the second one is a quarry of Serbian Factory of Glass, which opened in 1983. This quarry does not possess the basic environmental study impact and it continues to work and this quarry is located at mountain Baba. The third one is the largest and it ever continues to work, despite two bans it got from the Ministry for the Protection of Environment. The first ban was on the 22.02.2021, and the second one was given on 29.09.2022. and still operates. KrusevacPut is a project bearer, and Bechtel Enka UK LTD and Satek Graditi are subcontractors. The agreement between these companies we did not receive, even though Serbia has signed and verified the Convention of Aarhus. The most dangerous one is the last one that was opened without any legal documents, permissions, or necessary paperwork. The only document that KrusevacPut provided was an environmental study that was largely done by the Geoprofesinal from Serbia, who is a private firm hired by KrusevacPut. This study is widely false, as it violates human rights and its information is largely misinformation about the biodiversity of the area. It all started in 2019 when the local political representatives permitted the opening of such a venture. Little did they know that this quarry **is not allowed** by the spatial plan of the municipality of Paracin. Furthermore, the area hit by this quarry is **reserved** for organic agriculture as it is not polluted and consists of mostly intact nature. Also, mountain Baba is planned to be a protected area, both by the spatial plan and an initiative which a local association of citizens took. 3000 people supported this initiative, but it is delayed to this very date. Furthermore, a petition against the quarry with over 4000 signatures was handed to the local authorities and institutions, but to no avail. They have introduced night shifts, working and mining stone 24/7. Over a hundred fully loaded trucks are going towards an unknown destination. All machinery that works inside this quarry is diesel-run engines. As they do not have access to electricity, they run diesel engines to provide for one. To make things worse, the total area hit by these quarries amounts to 8.95 square kilometers, which is equivalent to the total area of a nearby town of Paracin. There are no environmental impact studies known to be made. Furthermore, the large mine that will open is Volt Resources. It will hit three municipalities of Paracin,

Razanj and Sokobanja. The area impacted is 50.56 square kilometers. This mine is still a project as it is in an early stage of examination. This mine will exploit copper, gold, dolomite and all other minerals found in that area.

In 2020, KrusevacPut (further in the text The Quarry) started its trail of destruction, using the pandemic of Covid19 and the veil of curfew to open this illegal enterprise, so that no one could protest against it. In the beginning, KrusevacPut run by Branko Miljkovic, a notorious businessman, opened the mine, blackmailing local people and tricking them into a belief that this is an interest to the state, buying forest land cheaply. This forest land was not turned into construction land legally, and this firm started exploiting stone from these parcels. This private firm even cut a hundred years old oak forest, a private parcel, and then bulldozed it, as if it was nothing. The woman, who owned this parcel, fell ill and into disarray, for the destruction of her private parcel was too much: her great grandfather managed that parcel, so that the oaks may grow and provide a suitable place for animals to live in. In September 2021., hundreds of people flocked to stop the quarry. We, the people, have a right to say NO to mining, and YES to LIFE. We have a right, guaranteed by our Constitution: *, Every person has a right to have a healthy environment and a right to be informed about the state of it. Everyone, especially the republic of Serbia, is responsible for the protection of the enviroment. Everyone is due to safeguard and upgrade the environment².*' Our human rights and dignity are trampled and reduced next to nothing. On the very first day of roadblocks, our activist was strangled by a police officer who was acting on the orders of his superiors, who, again, are cooperating with this notorious businessman. No one was held accountable for this criminal act, even though the brute force was used. We were not afraid, and the roadblocks continued for over 90 days straight. During those 90 days, we were visited by Aleksandar Antic several times, a former minister of energetics, and a director of Serbia Corridors nowadays. After his visit, Bechtel Enka UK LTD came into the fold. The company flew its banner over the illegal quarry. KrusevacPut went into bankruptcy in the meantime. Aleksandar Antic claimed that the amount of 1.5 million cubic meters of stone will be needed in one year period. We have calculated the amount of detonation on a monthly scale and the number is 32 explosions with over 20 tonnes of TNT. And yet, they detonate TNT without warning, without any signals: the nearby settlement of Sarevac falls within 150 meters from the quarry. There are several people living there in harmony with the Nature. Aleksandar Antic also stated that *, some thin red lines must not be crossed and that we are very close to them'*. The quarry started again in May 2022 and introduced yet another company, Satek Graditi³. No one knows who is really behind the company, but the information we have gathered says that the company was founded in 2020, a registered address in Krusevac. This company might have connections to KrusevacPut and Branko Miljkovic. Also, this company has only one employee. Further attempts to close this illegal quarry were made by using legal means: calling for institutions to resolve this issue. We invited almost all the inspectors in charge, but no one would answer our calls. Some even didn't show up. The area hit by this quarry is rich in archaeological locations as well as historical sites. The nearest historical site, a 14th-century church, ended up in a stone crusher. Also, the nearby monastery of Lesje, which is a 14th-century monastery built on the foundations of a 5th-century Byzantine monastery, is some 800 meters away by air. This monastery is our sacred place and the most visited monastery in the municipality of Paracin. We will not allow our shrines and sacred places to be devastated so that the greedy people might be rich. The early byzantine fortress of Petrus is sitting on top of the quarry: the Institute for the Protection of Monuments from Kragujevac permitted the illegal quarry to mine stone on this ancient site. Most of these sites date back to the early iron age and stone age.

All of this above will be destroyed and may be repaired: but the impact on Mother Nature and its inhabitants cannot. Concerning water: the area surrounding the mountain Baba is a waterlogged area, rich in water, streams, and rivers. Some consequences have appeared: the detonations have pushed groundwater and some people reported that several wells have run dry. Also, a nearby monastery of Lesje

² Устав Републике Србије, члан 74.

³ https://www.companywall.rs/firma/satek-graditi-doo/MMxEbQnhD?recaptchaToken=03ANYolqueYJ8Y4V9gMQWliQ2KumJS-upH5ec5-aob3YeNlp3B0pltMxeZEW7i1GHnrB7Tyu-nbe5UG7Fk--3dgMCjZHdHqYSUa5Xi1SZmeowA-VuR-S3JGSgn_LoUrHjt305anWL_k6Bb0sp6RE2bunJJCAgzZJoi7b3TTWTHBWD1W2ZOPh

reported a shortage of water. To make things direr, the village of Plana lost its natural flow of water due to the opening quarry of Serbian Glass in 1983. This quarry also does not possess the required documentation, and yet it is still in use 40 years later. The impacts on land and soil are already showing: the vegetation around and nearby the quarry is covered in silica dust, decaying and dying. Opencast mining has been associated with a change in the land cover of a region. The process of clearing trees and vegetation in preparation for mineral excavation has huge impacts on prevailing ecosystems. In eco-sensitive areas like forests or hilly regions loss of native and unique species is also coupled with habitat loss of the biodiversity of the region. The topsoil which is excavated is the most fertile component of the soil structure and takes thousands of years to form. Stripping of topsoil cannot be easily compensated, even with rigorous methods of land reclamation (Sharma and Ram 2014). For the extraction of minerals, the layers of materials overlying the ore have to be removed. This layer is called the overburden. The quantity of overburden is usually very high and often consists of waste substances. These materials are dumped on open land at times and used for backfilling of pits after mineral extraction (ELAW 2010). Deterioration of soil quality and alteration in soil properties are known to occur due to prolonged dumping of lime-mixed waste material (Lamare and Singh 2016). Excavation results in the destruction of active caves, natural sinkholes and relicts. The extent of the geomorphic impact is a direct function of the size of the quarry, the number of quarries and the location of the quarry, with respect to the overall landscape and landform (Langer 2001)⁴. As stated above, all machinery in the quarry run on diesel engines. The diesel fuel is hauled by a tank truck every single day. One tank truck can hold from 8 to 15 tonnes of fuel. Dust emissions are of great concern related to air quality surrounding mines. Air-blown particles from the stockpile of excavated material also raise the content of particulate matter in the air. Gaseous pollutants like sulphur dioxide (SO₂) and oxides of nitrogen (NO_x) are emitted from the Heavy Earth Moving Machineries (HEMM) like dumpers and excavators (Lamare and Singh)⁵. These activities also affect water. As stated above, the area is waterlogged, the sinkholes and holes made by a quarry can reach surface water flow. Vice versa, groundwater being pumped from it will change streams from gaining streams to losing streams, which can also lead to drainage of wetlands and ponds. Also, blasting can cause and modify the water flow which can lead to water disappearance.

ANNEX B

The Inherent Rights of Nature

Introduction: This quarry, if allowed to work in full force, would violate the inherent rights of wild flora and fauna species and endangered natural habitats in the area. Due to the shortcomings of traditional environmental laws, recognizing and enforcing the Rights of Nature is a must to protect species and their habitats in accordance with the purpose and requirement of Bern Convention.

Background on the Rights of Nature: Nature's health keeps declining due to biodiversity loss, deforestation, annihilation of rivers and river beds and watersheds, climate change, and other harms. Environmental declines impact humans, as well, because Nature can go on without humans, but humans cannot exist without Nature.

A primary cause of these crises is the legal system's behaviour towards Nature as mere human property, with only humans and human made entities possessing even the most basic rights. In turn, the economic system in Serbia and globally treats Nature as a commodity, encouraging its exploitation for short-term profits. This fundamentally flawed model has led to the inevitable result of the global degradation of Nature⁶.

⁴ Environmental hazards of Limestone mining and adaptive practices for Environment management plan, 2020, Harsh Ganapathi and Mayuri Phukan

⁵ Environmental hazards of Limestone mining and adaptive practices for Environment management plan, 2020, Harsh Ganapathi and Mayuri Phukan

⁶ Grant Wilson, Envisioning Nature's Right to a Stable Climate, 10(1) Sea Grant L. and Pol'y J. 60 (2020)

The Rights of Nature challenges the notion that Nature is mere property and instead acknowledges that natural entities - including ecosystems and plant and animal populations - possess inherent rights, just as humans do⁷. The Rights of Nature are similar to human rights, but for **all life** on the planet. Sometimes, legal guardians are appointed to defend Nature's rights, or they can be enforced by the general public. The Rights of Nature is recognized at some level of government in at least 15 countries.

The Rights of Nature and the Bern Convention: The Bern Convention supports consideration of the Rights of Nature. First, the Preamble of the Bern Convention explicitly recognizes the “intrinsic value” of wild flora and fauna (“Recognising that wild flora and fauna constitute a natural heritage of (...) *intrinsic value* that needs to be preserved and handed on to future generations”)⁸. Therefore, the Bern Convention takes an ecocentric, or Earth-centered, perspective, rather than taking the typical anthropocentric perspective that Nature's value is derived from its human benefits. Legal scholars have posited that “*entities that have value for their own sake*, rather than for the value they provide others, *can have rights*.”⁹ Therefore, recognizing the Rights of Nature is the natural extension of recognizing Nature's inherent value. **We encourage the Secretariat to likewise interpret the Bern Convention in a manner that considers, supports, and/or enforces the Rights of Nature.** This is one of the primary purposes of our complaint.

Article 4 of the Bern Convention also supports, if not necessitates, consideration of the Rights of Nature (*see also* Articles 5, 6, 7, 10). Article 4 of the Bern Convention requires Contracting Parties to “take *appropriate* and *necessary* legislative and administrative measures” to conserve the habitat of wild flora and fauna species and endangered natural habitats. As described above, so long as Nature is legally defined as mere human property, its full protection is impossible, and its exploitation and decline are inevitable. As we have already established, Serbia's legislative and administrative measures fail to adequately protect species and their habitats from the proposed quarry and, to the contrary, encourage Nature's wholesale exploitation. Recognizing and enforcing the Rights of Nature is “appropriate” and “necessary” to protect species and their habitats. It may be impossible to achieve Article 4 in specific and the overarching purpose of the Bern Convention in general without fundamentally addressing root causes of ecological declines, such as by enforcing the Rights of Nature.

Conclusion: We ask the Secretariat to consider this Quarry in light of the Rights of Nature. Specifically, we ask you to infer the Rights of Nature based on the purpose of the Bern Convention and to incorporate it into Article 4, at minimum, by finding that upholding the inherent value and rights of Nature is “appropriate and necessary” to conserve wild flora and fauna species and endangered natural habitats. **More broadly, we ask that you consider the totality of our complaint based upon the Rights of Nature. In making this analysis, note that oftentimes Nature is determined to possess, at minimum, the rights to exist, thrive, and evolve naturally**¹⁰. We would be pleased to provide additional legal analyses on the Rights of Nature and the Bern Convention upon request.

⁷ See generally Zelle et al., *Earth Law: Emerging Ecocentric Law - A Guide for Practitioners* (2021)

⁸ Convention on the Conservation of European Wildlife and Natural Habitats <https://rm.coe.int/1680078aff>

⁹ See Chapron, Epstein, and López-Bao, *A Rights Revolution for Nature, Science* (2019), citing J. Raz, *The Morality of Freedom* (Clarendon Press, 1986) (emphasis added).

¹⁰ See e.g., UN Harmony with Nature Initiative, <http://www.harmonywithnatureun.org/rightsOfNature/>. Colombian courts found the rights of ecosystems to protection, conservation, maintenance and restoration. See *id.* Thomas Berry found that nature has at least three rights: the right to be, the right to habitat, and the right to fulfill its role in the ever-renewing processes of the Earth community. See <https://www.therightsofnature.org/thomas-berrys-ten-principles-of-jurisprudence/>.

ANNEX C



ANNEX D

Other documents can be found [at this link](#).