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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

41st meeting
Strasbourg, 29 November – 3 December 2021

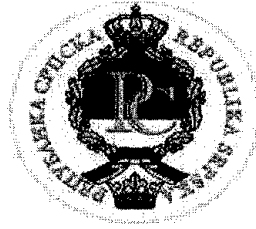
Complaint on stand-by: 2020/9

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

- REPORT OF THE GOVERNMENT -

*Document prepared by
the Ministry of Physical Planning, Civil Engineering and Ecology of the Republic of Srpska, through
the Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina*

- October 2021 -



**REPUBLIC OF SRPSKA
GOVERNMENT**

MINISTRY OF PHYSICAL PLANNING, CIVIL ENGINEERING AND ECOLOGY

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E-mail: kabinetministra@mgr.vladars.net; www.vladars.net

Reference number: 15.04-052-9465/20

Dated, 27th October 2021

**DIRECTORATE GENERAL OF DEMOCRACY
BERN CONVENTION
FAo Ursula Sticker, Secretary of the Bern Convention**

Through:

**BOSNIA AND HERZEGOVINA
MINISTRY OF FOREIGN TRADE AND ECONOMIC RELATIONS
Musala 9
71000 SARAJEVO**

**Reference: Complaint No. 2020/9, information
(Reference - Letter from Directorate General of Democracy of the
Bern Convention, dated 6th October 2021)**

The registry office of the Ministry of Spatial Planning, Construction and Ecology received a request from the Secretariat to the Bern Convention on 6th October 2021, indicating that at its second ordinary meeting on 15-16 September 2021, the Bureau of the Standing Committee to the Bern Convention re-examined complaint of the Centre for Environment no 2020/9 related to possible negative impact of hydropower plants development on the Neretva river and in light of the most recently submitted reports by the authorities and complainant. The Bureau expressed its concern about information that construction had begun in the Emerald Network site, despite this Ministry's reports in April and July of this year, when this Ministry informed the Secretariat to the Bern Convention that the works had been halted until a new EIA had been carried out.

In addition, concern has been equally expressed by the procedure of splitting the EIA of the small hydropower plants into several different studies and lack of cumulative assessment study.

Equally the Bureau of the Standing Committee welcomed new initiatives towards the proclamation of protected areas and asked for clarification as whether this protected area covers the area of development and whether it is already Emerald Network site.

In accordance with the request, please find our reply below:

In accordance with the letter dated 20th October 2021, the Ministry of Spatial Planning, Construction and Ecology requested urgent inspection monitoring in order to determine facts and to provide response to elements in the Secretariat to the Bern Convention query.

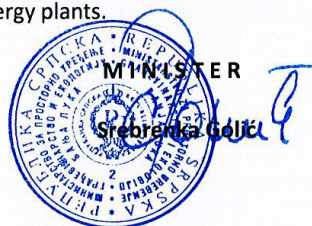
On 25th October 2021 Republic environmental inspection set upon extraordinary inspection control and established that neither site activities has taken place nor construction works has been done for the project HES "Gornja Neretva" Phase I (MHE "Grebenac Ušće", MHE "Mjedenik" and MHE "Igraščica") on the rivers Neretva and Igraščica, municipality of Gacko.

In addition, Republic construction inspection on 25th October 2021 set upon extraordinary inspection related to civil works in the area of upper course of the Neretva river, in village Pridvorica, municipality of Gacko, on locations planned for construction of small hydropower plants "Grebenac Ušće", "Mjedenik" and "Igraščica". It was established that no civil works were taking place on neither of these locations, and no construction machinery on the site nor organized construction site were noted.

We would like to re-emphasize that Ministry of Spatial Planning, Construction and Ecology of Republic of Srpska, after issuing location permit, has conducted EIA procedure for hydro-energy system HES "Gornja Neretva" based on the Law on environmental protection ("Official Gazette of Republic of Srpska 71/12, 79/15 and 70/20). Pursuant to article 26 of the Law on spatial planning and construction ("Official Gazette of Republic of Srpska 40/13, 106/15 and 84/19) authorities of the local self-government units adopted plan of subdivision on which basis and during the environmental impact procedure when the Study on environmental impact is done, and considering that the project is implemented on territory of two municipalities, system was divided into two parts: a) HES "Gornja Neretva" Phase I in municipality of Gacko and b) HES "Gornja Neretva" Phase II in municipality of Kalinovik.

In our previous report we informed you that the Ministry received a letter, reference number 182/21, from the Centre for Environment on 31st May 2021, submitting the Initiatives for proclamation of protected areas "Upper course of the river Neretva, municipality of Gacko" and "Natural trout breeding ground Ulog, municipality of Kalinovik". Pursuant to Article 61, Section 3 of the Law on Nature Protection ("Republic of Srpska Official Gazette", edition 20/14), the Republic Institute for Protection of Cultural - Historical and Natural Heritage is developing the Study of protection for declaring the protected areas, which will include detail description of the area and assessment of the existing situation in the area, whilst the Emerald Network sites will be included together with sites planned for construction of hydro energy plants.

Sincerely,


MINISTER
Srebrinka Goljić

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1. the Addressee
2. Records
3. Archives

- July 2021 -



**REPUBLIC OF SRPSKA
GOVERNMENT**

MINISTRY OF PHYSICAL PLANNING, CIVIL ENGINEERING AND ECOLOGY

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Reference number: 15.04-052-9465/20

Dated, 28th July 2021

**DIRECTORATE GENERAL OF DEMOCRACY
BERN CONVENTION
FAo Ursula Sticker, Secretary of the Bern Convention**

Through:

**BOSNIA AND HERZEGOVINA
MINISTRY OF FOREIGN TRADE AND ECONOMIC RELATIONS
Musala 9
71000 SARAJEVO**

**Reference: Complaint No. 2020/9, information
(Reference - Letter from Directorate General of Democracy of the
Bern Convention, dated 30th April 2021)**

The registry office of the Ministry of Spatial Planning, Construction and Ecology received an act from the Ministry of Foreign Trade and Economic Relations on 11th June 2021, reference number 10-3-50-827-3/21, dated 31st May 2021, forwarding the letter from Directorate General of Democracy of the Bern Convention requesting submission of additional information with reference to the complaint 2020/9 related to possible negative impact of hydropower plants development on the river Neretva.

In accordance with the request, please find our reply below:

In the letter from Directorate General of Democracy of the Bern Convention, dated 10th November 2020, the Ministry of Spatial Planning, Construction and Ecology was informed that the Centre for Environment submitted a complaint, reference number 2020/9, referring to the projects of hydropower plant "Ulog" and hydroelectric system HES "Gornja Neretva" on the territory of Republic of Srpska.

In accordance with the letter in question, the Ministry provided its Reply, reference number 15.04-052-9465/20, dated 11th February 2021, explaining all the allegations from the aforementioned complaint.

The Ministry received a query from the Secretariat of the Bern Convention on 6th April 2020 through an e-mail, regarding the ruling of the District Court of Banja Luka, reference number 11 0 Y 02652220 Y, dated 28 January 2021, annulling the decision of the Ministry of Physical Planning, Construction and Ecology, reference number 15.04-96-165/19 dated 13th April 2020. The Ministry provided its reply to the query in question by e-mail on 13th April 2021.

In relation to the letter of the Secretariat of the Bern Convention, received on 11th June 2021, we emphasize that this body, in accordance with the legal instructions from the aforementioned ruling of the District Court of Banja Luka, issued a new decision, reference number 15.04-96-165/19, dated 26th February 2021, ordering the project holder MHE "MARVEL" d.o.o. Kalinovik (SHPP "MARVEL" LLC), Ul. Karađorđeva br. 19, Kalinovik, to develop the study on environmental impact assessment and to initiate the environmental impact assessment procedure for the project HES "Gornja Neretva" Phase I (MHE "Grebenac Ušće", capacity 1.064 MW, MHE "Mjedenik", capacity of 1.207 MW and MHE "Igrašćica", capacity of 0.675 MW) on the rivers Neretva and Igrašćica, municipality of Gacko.

However, the project holder has not submitted the request with accompanying documentation to this body for the relevant procedure as yet.

The Ministry further emphasises that the Republic Administration for Inspection Affairs, Sector of Town Planning-Construction and Environmental Inspection - East Sarajevo Department, performed a special control of the legal entity "Marvel" d.o.o. Kalinovik, Karađorđeva 19, Kalinovik municipality, upon receiving the submission from the Centre for Environment Banja Luka, Ulica Miše Stupara br. 5, Banja Luka. Upon completed inspection control, Decision, reference number 24.090/362-246-27-2/21, dated 14th April 2021, was issued, ordering suspension of all types of field activities and construction works on the project HES Gornja Neretva phase I (MHE "Grebenac Ušće", capacity 1.064 MW, MHE "Mjedenik", capacity 1.207 MW and MHE "Igrašćica", capacity 0.675 MW) on rivers Neretva and Igrašćica, municipality of Gacko, until obtaining the Study on environmental impact assessment, i.e. environmental permit.

Building permits issued by this Ministry for MHE "Grebenac Ušće", capacity 1.064 MW, MHE "Mjedenik", capacity 1.207 MW and MHE "Igrašćica", capacity 0.675 MW are valid, because the investor has started construction works on the facility in accordance with Article 136 of the Law on Spatial Planning and Construction ("Republic of Srpska Official Gazette", editions 10/13, 106/15, 03/16 and 84/19), and reported the start of the works to the competent town planning - construction inspection in accordance with Article 109, Section 4 of the Law on Spatial Planning and Construction.

Also, the Ministry points out that we received a letter, reference number 182/21, from the Centre for Environment on 31st May 2021, submitting the Initiatives for proclamation of protected areas "Upper course of the river Neretva, municipality of Gacko" and "Natural trout breeding ground Ulog, municipality of Kalinovik". Pursuant to Article 61, Section 3 of the Law on Nature Protection ("Republic of Srpska Official Gazette", edition 20/14), the Republic Institute for Protection of Cultural - Historical and Natural Heritage will start developing the Study of protection for declaring the protected areas. The procedure is ongoing.

Sincerely,



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- 13th April 2021 –

Dear colleagues,

We are sending information for you in accordance with your email from April 6.2021.

Ruling of The Ministry of Physical Planning, Construction and Ecology, No. 15.04-96-165/19, dated on April 13, 2020. was annulled by the Judgment of the District Court of Banja Luka on 28/01/2021.

The ministry has information that the Republic of Srpska's Inspectorate has been officially contacted and that this Inspectorate shall undertake proper activities in accordance with their competences.

In accordance with the instructions from the Judgement of the District Court of Banja Luka, The Ministry of Physical Planning, Construction and Ecology has delivered a new Ruling No. 15.04-96-165/19, dated on February 26, 2021 by which the project proponent of the Small hydropower plant: "Marvel" d.o.o. Kalinovik, Karadjordjeva 19, was ordained to compile the Environmental Impact Assessment study and to start up the procedure of the environmental impact assessment for the project HES "Upper Neretva" Phase I (SHPP Grebenac Delta, with installed power of 1,064 MW, SHPP "Mjedenik" with installed power of 1,207 MW and SHPP "Igrascica" with installed power of 0,675 MW), at the rivers of Neretva and Igrascica, Municipality of Gacko.

Best regards,

Željka Stojičić.



Željka Stojičić

Viši stručni saradnik za zaštitu prirode

VLADA REPUBLIKE SRPSKE

MINISTARSTVO ZA PROSTORNO UREĐENJE, GRAĐEVINARSTVO I EKOLOGIJU

- 8th April 2021 -



REPUBLIC OF SRPSKA
GOVERNMENT

MINISTRY OF SPATIAL PLANNING, CONSTRUCTION AND ECOLOGY

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E-mail: kabinetministra@mgr.vladars.net; www.vladars.net

Reference 15.04-052-9465/20
Dated, 11th February 2021

**DIRECTORATE GENERAL OF DEMOCRACY
BERN CONVENTION
FAo Ursula Sticker, Secretary of the Bern Convention**

Through:

**BOSNIA AND HERZEGOVINA
FEDERAL MINISTRY OF ENVIRONMENT AND TOURISM
Hamdije Čemerlića br. 2
71000 SARAJEVO**

**Reference: REPLY to the Complaint No. 2020/9
(Reference - Letter from Directorate General of Democracy of the Bern
Convention, dated 10th November 2020)**

The Ministry of Spatial Planning, Construction and Ecology was informed by the above referenced letter, forwarded to this Ministry electronically by the Federal Ministry of Environment and Tourism, that the Secretariat of the Bern Convention had received a complaint from the Centre for Environment on behalf of the NGOs listed therein.

In the letter from Directorate General of Democracy of the Bern Convention official position was requested on the elements presented in the attached complaint and its enclosures (Annex II) as well as sending the reply against the complaint allegations until 14th February 2021.

In accordance with the complaint allegations, please find the reply below, as follows:

Upon conducted procedures stipulated by the Environmental Protection Act ("Republic of Srpska Official Gazette", editions 71/12, 79/15 and 70/20), as the authority responsible for protection of the environment on the territory of which the projects of hydropower plant "Ulog" and hydroelectric system HES "Gornja Neretva" are to be implemented, the Ministry of Spatial Planning, Construction and Ecology of Republic of Srpska issued the decisions stated in the complaint. However, the allegation that the data considered during bringing the decisions was obsolete is not true and neither is true the allegation that the Environmental Impact Assessment studies for the aforesaid projects failed to present actual environmental risks and impacts on the environment of the proposed projects. The allegation that assessment of cumulative impact of the

that HES "Gornja Neretva" was considered as one single system in the procedure of preliminary environmental impact assessment, conducted in 2012. Provided that the project in question is implemented on the territory of two municipalities, the system has been divided in two parts a) HES "Gornja Neretva" – Phase I on the territory of Gacko municipality and b) HES "Gornja Neretva" – Phase II on the territory of Kalinovik municipality in the phase of environmental impact assessment during which the Environmental Impact Assessment Study is developed. At the time of bringing the decisions, subject to this complaint, protection of this area was not declared and ecological network of Republic of Srpska was not established in accordance with the Environmental Protection Act ("Republic of Srpska Official Gazette", edition 20/14). The area intended for implementation of the projects stated in the complaint has been identified as a potential candidate for potential site of the future "Emerald Network" in BiH within the project "Establishment of Emerald Network in Bosnia and Herzegovina". The project aimed to identify the areas with significant natural values, however, the identified sites have never been officially adopted by the competent authorities, protection of this area was not declared, and ecological network of Republic of Srpska was not established either. Through conducted procedure of environmental impact assessment for each of the aforesaid projects, plant and animal species were identified on the site and protection measures for both species and habitats were accordingly defined.

Pursuant to the Environmental Protection Act, the impacts of the project on all elements and factors of the environment are assessed in the procedure of environmental impact assessment, and as already stated, all seven small hydropower plants were processed in the preliminary assessment phase for HES "Gornja Neretva". In addition, the conditions for use and protection of waters, as habitats of certain species, have been stipulated by water acts issued in accordance with the Waters Act ("Republic of Srpska Official Gazette", editions 50/06, 92/09, 121/12 and 74/17), which, in this particular case, stipulates the parameters of ecologically acceptable flow, that is, the amount of water that ensures the discharge of guaranteed ecologically acceptable flow in the watercourse, the flow determined on the basis of hydrological characteristics of the water body for characteristic seasons as a minimum average monthly flow of 95% of provision in accordance with Article 65 of the Waters Act, and in order to maintain the life of aquatic communities. All this points to the fact that the allegation in the complaint which refers to the harmful and indirect impacts that the hydropower plants have on the species and habitats is unjustified, that is, the one that brings into question survival or existence in the river on which the mentioned projects are being implemented. Furthermore, the allegation in the complaint regarding the impact of the transmission line on birds and mammals in the subject area is unjustified, because the impact of the transmission line on the living world was determined in the procedure of environmental impact assessment and measures were prescribed to protect all environmental elements and factors, that must be implemented during construction and during exploitation of the plants in question.

The complainant asserts that there were gaps, that is, that the data available has been limited regarding the Gornja Neretva area biodiversity, thus the question arises as to what are the arguments of the complainant for concern?

An administrative dispute was initiated with the District Court in Banja Luka against the decision made in the procedure of the preliminary environmental impact assessment for HES "Gornja Neretva" - Phase I.

Also, there is ongoing procedure referring to the complaint filed before the Secretariat of the Energy Community against the procedure of preliminary environmental impact assessment from 2019, for HES "Gornja Neretva" - Phase I, as well as for the changes at the HPP "Ulog" from 2017, which were not considered as significant changes by the Ministry of Spatial Planning, Construction

In addition to the above, the question arises as to how justified are the complainant's concerns, given that both the Centre for Environment and the listed NGOs failed to exercise the right to equal participation, that they were transparently entitled to, during conducting of the regular procedures and bringing the disputed decisions, and they failed to exercise the right to the remedy enabled in each of the aforesaid decisions from the complaint.

Sincerely,



MINISTER
Srebrenka Golić

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