

## BIOREGIO PROJECT

# ANALYSIS OF NATIONAL INSTITUTIONAL FRAMEWORKS AND LEGISLATIONS AFFECTING BIODIVERSITY AND ECOLOGICAL CONNECTIVITY IN THE CARPATHIAN COUNTRIES.

## NATIONAL REPORT SERBIA

### PILOT AREA

Iron Gates Nature Park/Djerdap National Park (Romania – Serbia)

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## SECTION I: GENERAL PART

### 1 Introductory framework

#### 1.1 The constitutionalized division of power (See Questionnaire 1.1)

The Constitution of the Republic of Serbia<sup>1</sup> was adopted by the National Assembly of the Republic of Serbia at a special session on 30 September 2006 and endorsed by referendum on 28 and 29 October 2006 as the final act of the dissolution of ex-Yugoslavia, after Declaration of Independence of Montenegro in June 2006.

This Constitution was a subject of immense attention of the international community and was reviewed by the European Commission for Democracy through Law (Venice Commission)<sup>2</sup>. The Commission notes that ‘The text of the Preamble considers the Province of Kosovo and Metohija as an integral part of the territory of Serbia enjoying the status of substantial autonomy.’ Article 182 of the Constitution reads: *‘In the Republic of Serbia, there are the Autonomous Province of Vojvodina and the Autonomous Province of Kosovo and Metohija. The substantial autonomy of the Autonomous province of Kosovo and Metohija shall be regulated by a special law which shall be adopted in accordance with the proceedings envisaged for amending the Constitution.’*, thus granting different status to autonomous provinces, but without further elaboration of this matter. The same article (182) regulates territorial issues: *‘Territory of autonomous provinces and the terms under which borders between autonomous provinces may be altered shall be regulated by the Law. Territory of autonomous provinces may not be altered without the consent of its citizens given in a referendum, in accordance with the Law.’*

On the other hand, the Constitution of Kosovo (entered into force and effect as of 15 June 2008) states that: *‘The Republic of Kosovo is an independent, sovereign, democratic, unique and indivisible state.’* The government of Serbia, considering Kosovo as a province of Serbia under the interim administration of UNMIK as established by UN Resolution 1244, does not accept this constitution and does not recognize the Republic of Kosovo.

#### 1.2 Legislative and administrative competences in the field of environment, landscape protection, land use and spatial planning, water, hunting, agriculture, transport, tourism, energy and mining (See Questionnaire 1.1)

The Constitution of Serbia contains a general provision on the competences of both autonomous provinces and units of local self-government: ‘local self-government units shall be competent in those matters which may be realized, in an effective way, within a local self-government unit, and autonomous provinces in those matters which may be realized, in an effective way within an autonomous province’. An additional requirement, however, is that the matter ‘shall not be the competence of the Republic of Serbia’. Venice Commission considers this provision very vague. However, among the matters ‘which may be realized in an effective way’, autonomous provinces shall regulate urban planning and development, agriculture, water economy, forestry, hunting, fishery, tourism, catering, spas and health

<sup>1</sup> The English version of the Constitution of the Republic of Serbia is available at: <[www.mfa.gov.rs/Facts/UstavRS\\_pdf.pdf](http://www.mfa.gov.rs/Facts/UstavRS_pdf.pdf)>

<sup>2</sup> Opinion on the Constitution of Serbia, adopted by the Commission at its 70th plenary session (Venice, 17-18 March 2007) available at: <[www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2007\)004-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2007)004-e)>

resorts, environmental protection, industry and craftsmanship, road, river and railway transport and road repairs, organizing fairs and other economic events, education, sport, culture, health care and social welfare and public informing at the provincial level.

In accordance with Art. 188 of the Constitution, ‘Local self-government units shall be municipalities, towns and the City of Belgrade.’ Among specifically listed competences of the local self-government units there are regulations of the use of urban construction sites and business premises, construction, reconstruction, maintenance and use of local network of roads and streets and other public facilities of municipal interest, local transport, development and improvement of tourism, environmental protection, protection against natural and other disasters; protection of cultural heritage of the municipal interest, protection, improvement and use of agricultural land, etc.

More detailed delineation of the competences in above-mentioned fields is regulated by sectorial laws.

**Spatial planning** is generally governed by the Spatial Plan of the Republic of Serbia<sup>3</sup> which is adopted by the National Assembly at the proposal of the sectoral Ministry. All the other spatial plans have to be compliant with this framework plan. The other plans could be regional spatial plan, local self-government unit spatial plan and the spatial plan for the area of special purpose.

In accordance with Art.35 of the Law on Planning and Construction<sup>4</sup>, regional spatial plans are adopted by the Government at the proposal of the sectoral Ministry, though for regions which are entirely located in the territory of an autonomous province they are adopted by the assembly of the autonomous province. The regional spatial plan for the territory of the City of Belgrade is adopted by the Assembly of the City of Belgrade. Local spatial plans are adopted by assemblies of the local self-government units. All these plans have to be approved by the sectoral Minister in order to secure their compliance with the plans of higher hierarchy.

Spatial plan for the area of special purpose is one of the available tools to protect landscapes. Special purpose area could also be an area with special natural resources, cultural heritage, touristic or hydro potentials, etc.

**Environmental protection** is similarly organized. The main strategic document is the National Strategy on Sustainable Utilization of Natural Resources and Goods<sup>5</sup>, which shall be implemented through various plans and programmes on individual resources. The Government of the Republic of Serbia adopts the National Programme, while autonomous provinces and local self-governance units, shall issue their respective plans and programs for management of natural resources within their competencies and in accordance with the National strategy. Two or more self-government units may promulgate joint programmes. The competent authority (depending on the type of natural resource) may not issue approval for the use of the national resource without the consent of the ministry in charge of environmental protection. The Constitution of the Republic of Serbia requires establishing the environmental protection sector at the level of municipalities.

<sup>3</sup> Spatial Plan of the Republic of Serbia 2010-2014-2020 (abridged version), Ministry of Environment and Spatial planning, November 2010, Belgrade, available in English at:  
<[www.rapp.gov.rs/media/zakoni/Spatial%20Plan%20of%20the%20Republic%20of%20Serbia\\_2010-2020\\_abridged%20%281%29.pdf](http://www.rapp.gov.rs/media/zakoni/Spatial%20Plan%20of%20the%20Republic%20of%20Serbia_2010-2020_abridged%20%281%29.pdf)>

<sup>4</sup> Law on Planning and Construction, Official Gazette of the Republic of Serbia, No. 72/2009, version in English (without last amendments made in No. 24/2011) available at:  
<[www.coe.int/t/dg4/cultureheritage/heritage/cemat/compendium/SerbiaLaw\\_on\\_Planning\\_and\\_Construction.pdf](http://www.coe.int/t/dg4/cultureheritage/heritage/cemat/compendium/SerbiaLaw_on_Planning_and_Construction.pdf)>

<sup>5</sup> National Strategy on Sustainable Utilization of Natural Resources and Goods, Official Gazette of the Republic of Serbia, No.33/2012.

In the **water sector** territorial/administrative division of competences is a bit different due to specific characteristics of water protection based on river basin management plans. Waters are divided in two orders. Waters of the first order are international waters, waters of significant water bodies and waters with special regime of use or protection in accordance with defined criteria. In general the Republic is in charge of managing waters of the first order, while waters of the second order are managed on the basis of defined water areas. There are seven water areas in Serbia:

- Sava
- Beograd
- Morava
- Lower Danube
- Srem
- Bačka and Banat
- Kosovo and Metohija

Both autonomous provinces and local self-government units as well as the public company for water management have their respective competences in the water sector.

A **law on hunting** defines competences in this area. The Ministry responsible for hunting (Ministry of Natural Resources, Mining and Spatial Planning) is generally in charge of hunting affairs in the Republic, while autonomous provinces have competence over hunting issues related to their territory which includes: establishing the hunting grounds, permitting delimitation of the hunting grounds, adopting hunting grounds development programmes, determines criteria for hunting maps, ensuring funds for damage made outside of the hunting grounds by protected wild animals, manages the inspections, etc.

There are also certain competences granted to the public enterprises, hunting associations and hunting chamber.

The Plan on use of agricultural land is adopted by the Government for the territory of the Republic of Serbia. Autonomous provinces can adopt their plans on use of agricultural land upon acquiring the positive opinion of the Ministry of Agriculture, Forestry and Water Management. There is a Directorate for Agricultural land who manages the agricultural land in the state property. Protection of agricultural land from erosion, wild fire, floods and extreme climate conditions is responsibility of the local authorities.

In the Republic of Serbia public roads are magistral, regional and local roads as well as streets in settlements. Depending on their economic and social significance different actors are in charge of their planning, building and maintenance.

**Tourism** policy is generally defined by the National Strategy for the Development of Tourism, the Strategic Master plan for Touristic Sector and other documents of lower hierarchy. The Government proclaims touristic areas in the Republic and their management is entrusted to the public service or public enterprise established by the Republic, autonomous province or the City of Belgrade. The Ministry of Finance and Economy which is responsible for tourism is competent for categorization of touristic resorts and objects, while touristic organizations - which are established at the level of the Republic, autonomous province and at local level - are in charge of promotion of tourism and activities related to it.

**Energy** policy is implemented through a programme adopted by the Government. The Law on Energy<sup>6</sup> determines competences of the Government and the Ministry in charge for energy

<sup>6</sup> Zakon o energetici, 'Službeni glasnik RS', 57/2011 and 80/2011.

(The Ministry of Energy, Development and Environmental Protection). The Government proposes and supervises the implementation of the Energy Strategy, adopts the energy balance, decides on subsidies for renewable energy production and use, decides on conditions of energy supply in case of market distortion, etc. The Ministry is in charge of reporting, licensing and preparing certain legal acts in the energy sector. The third important actor in this sector is the Agency for Energy, a regulatory body competent for developing the energy market, designing regulatory framework, pricing policy, etc.

The strategy for managing natural resources of the Republic of Serbia is a part of the so called 'mineral policy'. It determines the needs for natural resources management, development of the mining sector and geological research taking into account economic, social and ecological aspects. It is adopted by the Government on the proposal of the competent ministry (Ministry for Natural Resources, Mining and Spatial Planning). The Ministry is also competent for permitting exploitation of natural resources, mining works and using of mining objects. Autonomous provinces issue these permits on their territories. Local authorities can only permit exploitation of resources such as stone, gravel and sand as well as the use of geothermal resources to physical persons.

### **1.3 Authorities in charge of nature protection, monitoring and controlling activities, finance mechanisms (See Questionnaire 3.1.1)**

The Government of the Republic of Serbia defines politics/strategies for the protection of nature and natural resources. In the most recent composition of the Government of Serbia (27 July 2012) the Ministry of Energy, Development and Environmental Protection is competent for nature protection and suggests politics/strategies and action plans, supervises and manages their implementation and co-ordination with activities of other ministries and competent institutions. The Ministry proposes legal acts on nature protection and depending on the hierarchy of the act it can be adopted by the Minister, the Government or the National Parliament.

The Serbian Environmental Protection Agency was founded in 2004 to carry out implementation of the environmental protection policy, including development, harmonization and maintenance of the national information system for environmental protection, reporting on environmental conditions, development of methods for processing data on environment and their assessment. The Environmental Protection Agency is also in charge of data collection and reporting on the status of biodiversity.

The Serbian Institute of Nature Protection provides expertise and conducts research with the objective to protect nature, implement natural protection regime, prepare reports which emphasize priorities in evaluating and protecting natural resources, monitor the state of natural resources and suggest nature protection measures, determine protection conditions and provide information about protected natural resources for the purpose of developing spatial and other planning documents, and perform all other relevant duties determined by law.

The Secretariat for Environmental Protection of the province of Vojvodina is in charge of nature protection in the province territory. Public Enterprises, such as 'National Park Tara', 'National Park Djerdap', 'National Park Kopaonik', 'National Park Fruska gora' and 'National Park Mountain Sara', are responsible for management of the national parks in Serbia.

Environmental inspection in Serbia is organized at all three level of governance – republic, autonomous province and municipal. Their competences are based on the territory and the level of protected natural good.

The Environmental Protection Fund was established in 2005 at national level. At local level, environmental protection funds exist in few municipalities and operate with limited resources.

State budget provides funds for protected areas, measures and activities prescribed by specific protection acts, protection of natural goods of national and international importance, liability for damage made by protected species, remunerations for property limitations due to nature protection measures, etc.

Autonomous provinces and local authorities shall provide funds for the protection of areas designated by themselves, measures and activities prescribed by specific protection acts, liabilities and remunerations needed on their own territory.

Part of the needed funds is acquired through the use of natural goods and protected areas.

## **2 Legislative/administrative frameworks relevant for biodiversity and ecological connectivity**

### **2.1 Protected areas**

#### **2.1.1 Implementation of relevant European Directives (See Questionnaire 1.2)**

According to the Progress Report No. 7 on Monitoring transposition and implementation of the EU environmental *acquis* in the Republic of Serbia covering the period from May 2011 to March 2012, transposition of the Habitats and Birds Directives is quite advanced: the Habitats Directive is fully transposed while the Birds Directive has transposition score of 97%. Full implementation of the both Directives has been estimated and scheduled by the draft Action Plan for establishing NATURA 2000 ecological network (2011-2020), planned to be adopted in 2012. Both Directives shall achieve full implementation by the end of 2015.

Transposition of the Water Framework Directive has not been completed yet, but the transposition score is high 80%. Date for full implementation of the Directive has not been determined yet.

EIA and SEA Directives are fully transposed and the full implementation of the EIA Directive has been scheduled for 2012 after the ratification of Amendments to the ESPOO Convention while SEA is fully implemented as of 2010.

As for the Environmental Liability Directive the situation is a bit different. Provisions transposing the directive are scattered through various pieces of legislation and the transposition score reaches only 43%. Taking into account the nature of the directive it seems that its real substance is missing while usual provisions on liability for damage are regular part of the national legislation.

#### **2.1.2 Implementation and management of the Nature 2000 network (See Questionnaire 1.2)**

The Serbian Law on Nature Protection ('Službeni glasnik RS' No.36/2009, 88/2010, and 91/2010) in its Art. 38 provides the legal basis for establishing the NATURA 2000 network. Regulation on ecological network ('Službeni glasnik RS' No.102/2010) regulates



composition, management and financing of the network, prescribing that the network is composed of ecologically important areas, ecological corridors and buffer zones. The matter is further regulated by the Rulebook on selection and types of habitats, endangered, rare, protection priority types of habitats and measures of protection for their conservation<sup>7</sup> and the Rulebook on proclamation of strictly protected species of wild animals, plants and fungi<sup>8</sup>.

Special protection areas (SPAs) classified under the Wild Birds Directive are included in the Natura 2000 in accordance with Art.3 of the Regulation on ecological network<sup>9</sup> which defines the composition of the ecological network. This shall encompass both important bird areas (IBAs) of national and international importance.

Art.4 of the same legal act gives more precise information on ecological corridors described in Art. 10 of the Habitats Directive as: ‘ecological corridors of international importance as well as water flows (natural or seminatural) and other landscape features such as hedges, natural boundaries, field protective belts, meadows or other types of corridors that make connection between ecologically important areas’. Moreover, the Rulebook on special technical-technological solutions for enabling smooth and safe communication of wild animals<sup>10</sup> brings an addition to the system of ecological connectivity in this context.

The Government of the Republic of Serbia designates the legal entity to manage parts of the network which are not already designated as protected areas under other legal acts. The network is financed through state budget, eco-fund, funds acquired through the use of protected areas etc.

### **2.1.3 Procedure for establishing protected areas and the different protection regimes (See Questionnaire 1.2)**

The Law on Nature Protection specifies types of protected areas (Art. 27) in accordance with the IUCN categories. However, all types of protected areas shown in Table 1 can be grouped in three categories:

- Category I – protected area of international, national or exceptional significance
- Category II – protected area of provincial or regional significance
- Category III – protected area of local significance

<sup>7</sup> Rulebook on selection and types of habitats, endangered, rare, protection priority types of habitats and measures of protection for their conservation, Official Gazette of the Republic of Serbia No.35/2010

<sup>8</sup> Rulebook on proclamation of strictly protected species of wild animals, plants and fungi, Official Gazette of the Republic of Serbia No.5/2010 and 47/2011

<sup>9</sup> Regulation on ecological network, Official Gazette of the Republic of Serbia No.102/2011

<sup>10</sup> Rulebook on special technical-technological solutions for enabling of smooth and safe communication of wild animals, Official Gazette of the Republic of Serbia No.72/2010

**Table 1 – Types of protected areas in Serbia/IUCN Categories**

Protected areas in Serbia	IUCN Categories
Strict Nature Reserve	Category Ia — Strict Nature Reserve
Special Nature Reserve	Category Ib — Wilderness Area
National Park	Category II — National Park
Natural Monument	Category III — Natural Monument or Feature
Protected habitat	Category IV — Habitat/Species Management Area
Protected Landscape	Category V — Protected Landscape/Seascape
Natural Park	Category VI – Protected Area with sustainable use of natural resources

Moreover, the Regulation on Ecological Network (‘Službeni glasnik RS’ No.102/2010) brings a list of 101 protected areas which contains additional types of protected areas such as: Regional Park, General Nature Reserve, Park Forest and Landscape with extraordinary natural beauty (which is somewhat different from protected Landscape). It is not clear which kind of different protection regime is granted to these types of protected areas except for Regional Parks that obviously come under Category II described above.

National Parks are established by special law, which practically means that the National Assembly decides on their establishment. The Government establishes protected areas belonging to the first category (with international, national or exceptional significance) on the proposal of the Ministry in charge of nature protection. Furthermore, the Government establishes protected areas of the second category unless they are on the territory of autonomous provinces. If the protected area established by an autonomous province encompasses land or objects which are property of the Republic or goods of public interest, it is necessary to acquire positive opinion from the ministry in charge of nature protection or other competent ministries (e.g. mining, water management). Protected areas of the third category (with local significance) are established by bodies of local self-government units (municipalities). If the area is on the territory of two or more municipalities it is established by their mutual agreement. Similarly to those of the second category, if the protected area covers land or objects which are property of the Republic or goods of public interest it is necessary to acquire positive opinion from the ministry in charge of nature protection or other competent ministries.

Protected areas are established on the basis of a study on protection. This study is based on scientific facts and developed by the Institute for Nature Protection. The initiative for protection of an area can be started by the Government, an autonomous province, a

municipality, the City of Belgrade, a legal entity, an entrepreneur or physical person which in their activity use some natural resource, professional or scientific organizations or institutions, citizens, their associations or other organizations. The procedure for protection of an area is considered started when the study on protection is submitted to the body competent for its establishment. The Law on Nature Protection prescribes (Art. 42) that an area shall be protected as of the moment the procedure is started.

Regulation on protection regimes ('Službeni glasnik RS' No.31/2012) envisages three levels of protection regime. Level I prohibits use of natural resources, construction of buildings, any works or activities except scientific research and monitoring of natural processes, controlled visits for educational, recreational and cultural purposes, delimitation of the territory of the protected area, implementation of remediation, protective or other necessary measures in case of fire, floods or other natural disasters, animal diseases or accidents and maintenance of exceptionally significant objects (e.g. electric transmission lines). Protection regime of level II prohibits construction of buildings on the protected area, as well as following works and activities: building of industrial and mining installations, installations for production of asphalt and fuels, installations for storage petrol and LPG, thermo power plants, wind farms, ports and trading centres, airports, storages, weekend homes and other private leisure objects, exploitation of minerals, plowing of natural meadows, commercial fishing, introduction of invasive alien species, building of recycling installations, waste incinerators or landfills. Level III protection regime assumes prohibition of oil refineries, chemical industry, metal industry and thermo power plants, storage of petrol and natural gas, introduction of invasive alien species and establishment of landfills.

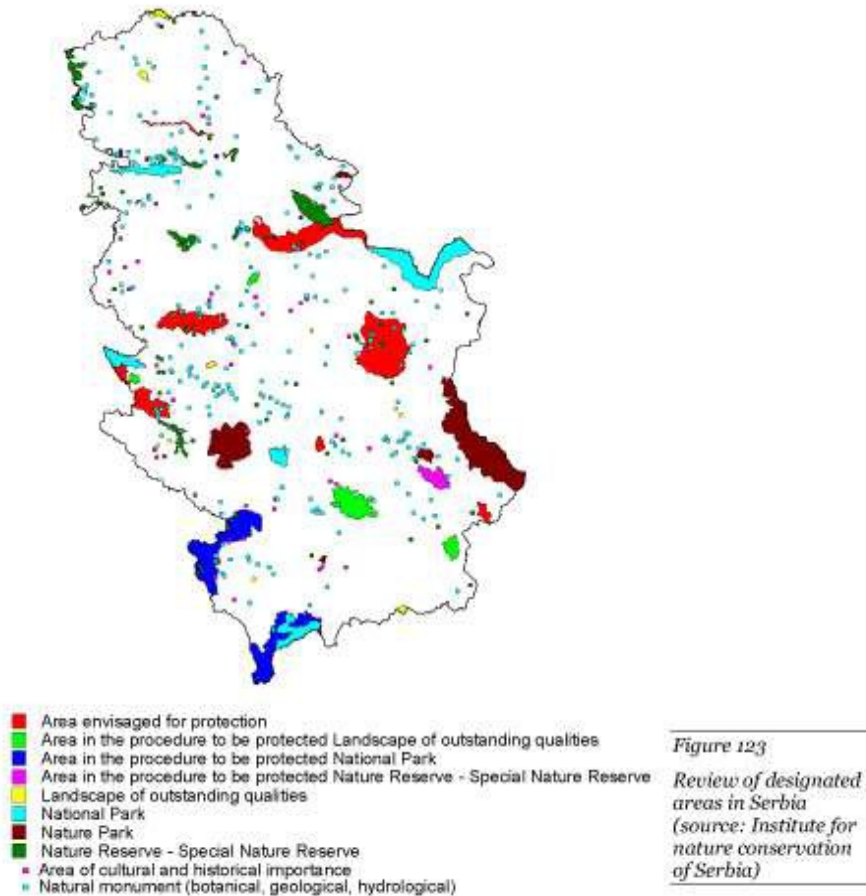
Out of 101 protected areas in Serbia 78 have some international significance classified as Important Plant Areas, Important Bird Areas, Prime Butterfly Areas or Ramsar Areas. Therefore, the majority of protected areas are established by the Government taking into account their international or national significance.

The Regulation on Ecological Network lists both already protected areas as well as those which are in the process of establishment. It is worth considering that one area can consist of more ecologically significant sites which correspond, according their specific features, to different protection regimes. On the comprehensive list of sites there are 23 already protected Strict Nature Reserves, 15 already protected Special Nature Reserves and 19 sites in the process of becoming Special Nature Reserves. There is also one already protected General Nature Reserve and another is on the list for future establishment. Although it is obvious that the protection regime for these general reserves is less strict, there are no details in legislation to confirm this assumption.

There are 5 National Parks in Serbia, while another is under the process of establishment. Moreover, there are 3 established Regional Parks and three more to be established. Seven protected areas are proclaimed Natural Monuments and one more is in the process of acquiring the same status. There is only one site planned to be established as Protected Habitat (birds), but it should be taken into account that there are protected habitats inside protected areas of other types. Eight sites are protected as Nature Parks and two additional are in the process of receiving that status. There is one additional site protected as Forest Park. In total, 26 sites are in the category of Landscapes of Outstanding Features, out of which 10 are

already protected, 11 are in the process of establishment and 5 of them are planned to be granted the status of Landscape with Outstanding Nature Beauty.

Total protected areas in Serbia are 6.6% of the country's territory. There are 5 national parks, 14 parks of nature, 72 natural reserves, 17 protected landscapes, 43 cultural-historical landscapes and 312 monuments of nature. The largest share in protected areas goes to national parks and nature parks, as presented in Figure 123.



The Spatial Plan of the Republic of Serbia 2010-2020 gives slightly different numbers. This is probably due to several different approaches used to describe, define, protect and promulgate protected area. It seems that IUCN categories have been mixed with national ones, combined with different international initiatives and dispersed in terms of responsibilities. Explanatory part of the Spatial Plan gives information about more than 400 of protected 'natural goods' in three categories – natural goods of exceptional significance, of great significance and significant goods where some of those are on the list of Ramsar sites, 'Man and Biosphere' list, and UNESCO list. Surroundings of protected natural goods are also protected and there are 43 areas of that type. There are 46 international bird areas, 62 international plant areas and 40 international butterfly areas. There was a start of development of the EMERALD network in Serbia including Area of Special Conservation Interest – ASCI. There is an overall

impression that the system of protection shall be better harmonized and streamlined in order to ensure adequate levels of protection.

#### **2.1.4 Participatory rights of local communities (See Questionnaire 1.2)**

Local communities – local self-government units (municipalities) have the legal right to establish protected areas of local significance. This is an autonomous right unless the area contains land or objects which are property of the Republic or goods of public interest, therefore it is necessary to acquire positive opinion from the ministry in charge of nature protection or other competent ministries. Local communities have also the right to initiate protection of an area for which the competence of establishment is granted to the Republic. Regardless of the protection regime or category of the protected area in the procedure of establishment, during the development of the Protection Study, the National Institute for Nature Protection is obliged to cooperate with local communities, owners and users of the area subject to the Study (Law on Nature Protection, Art.42).

#### **2.1.5 Buffer areas and their legal regime (See Questionnaire 1.2)**

The Regulation on Ecological Network contains provisions (Annex 3 – Measures for protection of buffer zones) which define measures to protect the buffer zones, although they are not very concrete and there is no mechanism to grant their enforcement. These measures contain: (1) spatial planning which allows appropriate distribution of rural and urban zones and technical/technological measures to minimize adverse effects on wildlife, (2) prohibition of activities that might invoke introduction and spreading of invasive species, (3) protection of hydrological regime necessary for functionality of ecologically significant site or corridor while using natural resources, (4) stimulation of rising green barriers around protected sites in accordance with types of habitat or protected site.

#### **2.1.6 Management plans for protected areas, administering bodies and funds (See Questionnaire 1.2)**

1. The Law on Nature Protection (Art. 52) prescribes the obligation of the managers of the protected areas to adopt management plans. Draft management plans are publicly discussed. Management plans are adopted for 10 years if the act on protection does not require different term. However, for these 10-year plans it is necessary to develop annual implementation plans which are subject to the approval of the competent body that adopts the management plan.

- Management plans for National Parks are adopted by approval from the Government on the basis of opinions of the relevant ministries.

- Management plans for protected areas established by the Government are approved by the Ministry competent for nature protection on the basis of opinions of other relevant ministries.

- Management plans for protected areas established by autonomous provinces or local authorities are approved by the competent body for nature protection of the autonomous province or local self-government unit.

Manager of the protected area reports on the implementation of the plan on annual basis.

In accordance with Art 67 of the Law on Nature Protection, manager of the protected area can be a legal entity, or in special cases an entrepreneur or physical person. There might be a special case when the entire territory of the protected area, or its major part, is in a private property or a single natural object is protected as natural monument. Normally, managers of protected areas are appointed on the basis of open tender. When this is not possible, the manager is appointed by the body competent for establishing the protected area within the same act of establishment. In practice, the only exception is management of National Parks. On the basis of the Law on National Parks ('Službeni glasnik RS' No.39/1993) which has been repealed as of 2009 by the Law on Nature Protection, management of the National Parks in Serbia was entrusted to public enterprises. Although it is not a legal rule any more, public enterprises funded for that purpose still manage national parks entrusted to them.

The Law on Nature Protection envisages seven types of sources to finance protected areas: state budget, budget of autonomous provinces or local self-government units, eco-fund, remunerations for use of protected areas, incomes gained through management of protected areas, funds acquired for realization of projects, programs and plans related to nature protection, gifts, donations and other forms of financial assistance, other sources in accordance with law.

Information on management of the National Park 'Djerdap' in 2012 could serve as an example of the structure of funds used for protected areas. Around 75% percent was covered by income of the public company National Park 'Djerdap'. The residual 25 % of funds is distributed as follows:

- 9,8% financial support by the Ministry of Environment and Spatial Planning;
- 8,1% financial support by the Ministry of Economy and Regional Development;
- 3,6 % from the Ecological Fund;
- 1,8 % covered by the State Forest Directorate;
- 1,3% financial support by the Ministry of Agriculture, Trade, Forestry and Water Management;
- 0,4% donated by domestic economic subjects.

## **2.2 Ecological connectivity and related sectors**

### **2.2.1 Ecological networks and connectivity in the Constitution and national legislation (See Questionnaire 1.2)**

Serbian constitution does not explicitly mention ecological networks or connectivity. However, it prescribes protection of natural heritage and limitation to land use due to environmental protection.

Ecological connectivity is a relatively new concept in Serbian legislation. It came with the process of European integration and firstly occurred in the Law on Nature Protection leading to the adoption of a special Regulation on ecological networks and followed by a set of rulebooks<sup>11</sup>. Although the different regulations on tourism, transport, agriculture, forests,

<sup>11</sup> Rulebook on selection and types of habitats, endangered, rare, protection priority types of habitats and measures of protection for their conservation, Official Gazette of the Republic of Serbia No.35/2010; Rulebook on special technical-technological solutions for enabling smooth and safe communication of wild animals, Official Gazette of the Republic of Serbia No.72/2010; Amendments of the Rulebook on proclamation of strictly protected species of wild animals, plants and fungi, Official Gazette of the Republic of Serbia No.47/2011

water and hunting do not mention this concept, there are certain provisions related to the protection of environment and biodiversity. The new Law on Spatial Plan<sup>12</sup> pays a substantial attention to ecological connectivity, the same goes for the Strategy for Spatial Development 2009-2013-2020 which pursue, as one of its goals, the enlargement of the total territory of protected areas in Serbia to 12% of the national territory by 2020. So far, protected areas cover some 6,2% of the national territory.

In its explanatory part the Law on Spatial Planning defines specific objectives of this document and focuses on spatial integration of the Republic of Serbia at transboundary, inter-regional and trans-national level. In 2013 transboundary and transnational cooperation shall be implemented through the European programme of territorial/spatial cooperation (INTERREG IV), especially through IPA transboundary cooperation between Serbia and Hungary, Bulgaria, Romania, Croatia, Bosnia and Herzegovina, and Montenegro. All these programmes have specific aspects related to infrastructure, transport, environment and sustainable use of resources as well as cultural cooperation. It is also planned to enforce cooperation with FYR Macedonia and Albania.

During 2014 transnational cooperation is foreseen through the EU Programme for South-East Europe where environmental protection is one of the main objectives. Transnational cooperation is the most important achievement in large transnational systems (Corridor X, Corridor VII) where special emphasis is also given to transnational systems related to international conventions, including the Carpathian convention. Serbia will continue participating in UNESCO projects such as MAB (Man and biosphere) and World Heritage Programme as well as cooperating with UNDP and UN Habitat, different initiatives like 'Danube 21', 'Euroregion – Eurobalkans', etc. There is also an initiative to harmonize strategic planning documents with those of neighbouring countries.

Ecological connectivity is specified as a separate objective of Spatial Planning and the goal is to enlarge the territory of protected areas to 100% until 2014. Protection of biodiversity is fundamental, as well as protection and sustainable use of waters, agricultural land and forests. In spatial planning priority is given to approximation to EU standards on environmental protection, capacity building and prevention of illegal construction of buildings. The Plan recognizes spatial units and the necessity of adequate protection regimes for these units regardless of their environmental, cultural or economic character.

The Strategy for Spatial Development 2009-2013-2020 repeats these objectives transposing them into more concrete actions and plans. Ecological connectivity is listed as point 115 of the Strategy and considered as the basis for the concept of spatial planning which will allow connection of natural systems and sub-systems. The point 115 of the Strategy reads: 'Ecological connectivity shall significantly affect the concept of spatial development of the Republic of Serbia. This comprehends enabling the sustainability of the organic connection of natural systems and subsystems as well as key natural elements. In this context, a significant role is awarded to protected natural goods which shall, until 2013, cover more than 12% of the territory of Serbia, which means an enlargement of almost 100% in comparison with 2008. The new protected areas will cover high mountain areas such as Beljanica-Kučajske mountains, mountains near Valjevo, Radan – Sokolovica, Suva Mountain, Mokra Gora – Prokletije, as well as areas near rivers Sava, Danube, etc.'

The following points of the Strategy (116 – 124) cover respectively the relation of spatial development with: sustainable use of water resources and water protection, land use and its

<sup>12</sup> Law on Spatial Planning of the Republic of Serbia 2010-2020.

sustainable multi-functioning, climate change, sustainable use of mineral resources, protection of biodiversity (which is considered as a priority), landscape protection and control of illegal building, urban and rural planning, and protection of the cultural heritage. More concrete measures related to the above mentioned points are given through a specific chapter of the Strategy named 'Strategic priorities 2009 – 2013' (points 523 -532 and 536-541).

Sustainable use of mineral resources (point 523) defines several strategic priorities: development of a comprehensive economic/geological study on the state of play in this sector, improvement of the relevant legal framework, upgrade of the existing information system on mineral resources, and official definition of priority areas with mineral resources listed in the Strategy.

In the water sector (point 524) the priorities are: compliance with the WFD, harmonization of water use and water protection objectives, integrated water management in water basin systems, realistic economic policy on water use that allow self-financing of the water sector, including economic price for water use and application of the 'polluter pays' and 'user pays' principles ; delimitation of the national borders especially on the Drina and the Danube, preparation of a new Law on waters, execution of projects for re-using and recycling water, saving water and implementation of concrete spatial plans for certain areas.

In the sector of land use (points 525 – 527) precedence is given to agricultural land, forests, building and reconstruction. In the agricultural sector priority measures are: harmonization of national legislation with EU directives by adopting new legislation on agriculture, rural development and agricultural land; development of the national strategy on agriculture and rural development together with the Action Plan and National Agricultural Programme; establishment of a Directorate for Agricultural Land and the information system on agricultural land in national territory; redefinition of spatial agricultural documents (plans, basis, etc); capacity building and strengthening of international cooperation especially through European networks (ELSA, PURPLE); adoption of important environmental legislations and strategic documents including establishment of NATURA 2000 and harmonization with the WFD; inclusion of the agricultural sector into national climate policies, etc.

In the forest sector the priorities are: prevention of forest degradation, sustainable management of forests, integration of forestry into national agricultural policy, strengthening of institutions and improving of the legal framework, re-forestation, definition of forest ecosystems that are in the scope of protected natural goods - especially in privately owned forests, development of guidelines for forest management in protected areas, development of the National Strategy for Biodiversity including improvement of *in situ* and *ex situ* protection, participation at EUFORGEN Programme for protection of forests, including forestry in the national climate policy, harmonization of forest management with hunting management and objectives, re-introduction of autochthon game species in forests, support to multidisciplinary research, etc.

In the construction sector the most important measures include: redefinition of goals and concept of transformation of building plots, property issues, improvement of database on building plots, improvement of legislation on urban/spatial planning, transformation of systems to finance land use management and re-definition of roles in regulatory control of land use in the post-privatization period.

Protection of biodiversity is elaborated through several chapters of the strategy, thus receiving a special attention. In chapter G, on elements of protection, management and sustainability, among fundamental objectives there is the establishment of ecological corridors and



ecological networks both on national and regional level (point 193), nomination and promulgation of certain protected areas with international significance (point 197), inclusion of biodiversity centres into European ecological networks – NATURA 2000, EMERALD and Pan-European ecological networks.

In the chapter on strategic priorities 2009 – 2013 (point 528), strategic biodiversity measures include: improving knowledge on climate effects on biodiversity, choosing crops with better resistance on dry climate conditions, restricting the use of groundwaters, reducing water pollution and improving control, reducing pressures on biodiversity, arresting degradation of landscapes, developing a Serbian landscapes study, establishing an information system on landscapes, revalorizing cultural and natural goods, institutionalizing landscape protection, ratifying the European Convention on Landscapes.

For the protection of cultural heritage (point 531) specified priorities are: development of the national strategy in this sector, institutional reform, legal interventions for a new policy on financing, professional conservation, support to new initiatives, protection of cultural heritage on the UNESCO list, definition of special cultural areas, establishment of the Centre for Archaeological Archives, development of specific documents on cultural goods, etc.

Further measures on landscape protection - mentioned under point 528 – include the establishment of an information system on landscapes, development of a Serbian landscapes study, ratification of the European Convention on Landscapes, prevention of further degradation of landscapes, institutionalization of landscape protection, integration of landscape protection in other sectorial policies, training experts employed in competent institutions, etc.

Urban and rural development as well as illegal building are presented in the new sub-chapter Population, settlements, public services, and priorities in these sectors contain the following: defining buffer zones and protection corridors around green areas, limiting uncontrolled expansion of sub-urban areas, supporting ‘brownfield’ projects, establishing a balance between the development of urban and rural areas, encouraging active public participation in spatial planning, developing a *lex specialis* in order to overcome illegal building-related problems and regulate huge illegal settlements, establishing inter-sectorial working groups engaging with local authorities in order to solve the problem of illegal buildings and settlements, developing strategic documents on this matter, etc.

Beside the above listed goals, there is another objective of the Strategy relevant for ecological connectivity described in the chapter on Integration of Serbia into its regional context and Europe. This chapter foresees the establishment of common transboundary plans for land use, the enhancement of international cooperation and a reinforced role of local authorities through new institutions, legislation and awareness rising. It also includes interesting points on collaboration with neighbouring countries (e.g. cooperation on water use and protection, management of protected areas, common spatial planning, etc.) which are very much in favour of ecological connectivity.

### **2.2.2 Specific tools for the implementation of ecological connectivity (See Questionnaire 1.2)**

The Introductory Report on Nature Conservation in Serbia (2008) presents the following Instruments for managing Protected Areas and Biodiversity in Serbia:

- Protection regimes
- Management, protection and utilization plans of specific areas and natural resources

- Protection and development programmes for protected areas and natural values
- Strategic Environmental Assessment and Environmental Impact Assessment
- Agreements / approvals by the Government of the Republic of Serbia / Ministry of the Environment
- Institutions in charge of management and control of protected natural values
- Monitoring
- Financial support<sup>13</sup>

The Fourth National Report to the United Nations Convention on Biological Diversity (2010)<sup>14</sup> adds to it a more comprehensive analysis of sectorial development plans and strategic documents related to biodiversity protection. It encloses:

**1. National Program for Environmental Protection (NES)**<sup>15</sup> which constitutes a strategic framework for tackling ecological and environmental concerns. The NES is implemented through a National Environmental Action Plan which represents an institutional framework for access to projects and budget funds, as well as EU pre-accession funds. This is the most important and the most comprehensive, cross-sectorial strategic planning and management tool in the field of environmental protection.

**2. National Strategy for Protection of Nature and Natural Values** - The Strategy stipulates long-term objectives and guidelines for the conservation of nature and natural values, prescribing the implementation of such objectives in compliance with overall economic, social and cultural development of the Republic of Serbia. It is developed in line with the reports on the status of nature and implementation of protection of nature and natural values. The Guidelines set out by the National Strategy shall be incorporated while designing documents for spatial planning and management plans for natural resources. According to the National Strategy, Autonomous Provinces and local self-government units shall adopt their own environmental protection programmes.

**3. National Strategy for Sustainable Development and Action Plan for Its Implementation**<sup>16</sup> are based on globally accepted principles defined in the Johannesburg Declaration on Sustainable Development, the UN Millennium Development Goals, and the EU Sustainable Development Strategy. Therefore, protecting and improving the environment and ensuring the rational utilization of natural resources are some of the basic national priorities of the Republic of Serbia. A group of outcome indicators (on the basis of internationally recognizable sustainable development indicators) has been selected to monitor the implementation of this Strategy.

**4. Spatial Plan of the Republic of Serbia** - One of its main goals is to protect and improve the environment thanks to a rational utilization of natural resources, the use of renewable energy resources, forestation and landscaping and other measures granting a healthier and more comfortable life in Serbia.

**5. Millennium Development Goals** are based on the UN Millennium Declaration adopted by the General Assembly as a part of the guidelines for the UN Secretary-General to implement the aforementioned Declaration. The main targets of Goal 7 (referring to the

<sup>13</sup> Introductory Report on Nature Conservation in Serbia, prepared for the 28<sup>th</sup> meeting of the Committee of the Parties of the Convention on the Conservation of European Wildlife and Natural Habitats in Strasbourg, November 2008

<sup>14</sup> Fourth National Report to the United Nations Convention on Biological Diversity, Republic of Serbia, Ministry of Environment and Spatial Planning, 2010.

<sup>15</sup> The National Program for Environmental Protection, Official Gazette of the Republic of Serbia No. 12/2010.

<sup>16</sup> National Strategy for Sustainable Development and Action Plan for Its Implementation, Official Gazette of the Republic of Serbia, No. 57/08.

environment) of the Millennium Goals for Serbia until 2015 aim at ensuring environmental sustainability. These are:

- Target 1: Integrate sustainable development principles in national documents, halt the loss of natural resources and encourage their revitalization.
- Specific Target 1: Adopt and implement national programmes, strategies and laws governing sustainable development and environmental protection in the Republic of Serbia by 2015.
- Specific Target 2: Increase land area covered by forest to 32% of the total territory of the Republic of Serbia by 2015.
- Specific Target 3: Increase the land area protected to maintain biodiversity to 10% of the total territory of the Republic of Serbia by 2015.

**6. National Biodiversity Strategy** was developed with the involvement of relevant sectors, governmental and non-governmental organizations. After a long preparation phase the NBSAP was approved by the Ministry of Environment and Spatial Planning. The basic principles of biodiversity protection in NBSAP are:

- 1) Principle of *in situ* preservation – Biological diversity is most effectively conserved *in situ*;
- 2) Integration principle - State authorities, those of the autonomous provinces and local self-governance units shall promote and facilitate the integration of biodiversity protection into all sectorial policies by implementing mutually harmonized plans and programs as well as regulations through a permit system, technical standards and other norms, and by financing biodiversity protection through incentives and additional measures;
- 3) Principle of prevention and precaution – Every activity must be planned and implemented in a way that: causes minimal possible changes in the environment; poses the smallest risk to biodiversity and native ecosystems; reduces spatial burden and consumption of raw materials and energy in construction, production, distribution, and utilization; includes the possibility for recycling; and prevents or limits any polluting impact on the environment at the source;
- 4) Principle of natural values preservation - Natural values shall be used under the conditions and in order to ensure the preservation of geodiversity, biodiversity, protected natural goods, and native ecosystems. Renewable natural resources shall be used under the conditions that ensure their permanent and efficient renewal and permanent quality enhancement. Non-renewable natural resources shall be used under the conditions that ensure their long-term, economic, and reasonable utilization, including limited utilization of strategic or rare natural resources and substitution by other available resources, composite or artificial materials.
- 5) International cooperation principle – The conservation of Serbia's biological diversity is affected by international activities and requires cooperation and actions extending beyond Serbia's national borders;
- 6) Protected areas system principle – The designation of protected areas is one of the most important tools to protect biological diversity. Central to the conservation of Serbia's biological diversity is the establishment of a comprehensive, representative, and adequate system of ecological viable protected areas integrated with environmentally sound management of all other areas, including agricultural and other resource production systems;
- 7) Principle of sustainable development - Sustainable development is a harmonized system of technical/technological, economic and social activities in the overall development, where the natural and acquired values of the Republic are used in a cost efficient and reasonable manner, in order to preserve and enhance the quality of the environment, including native habitats and biodiversity, for the present and future generations;
- 8) Principle of polluters' and legal successors' liability - Any legal or natural entity who shall

be involved in environmental degradation by its illegal or improper activities shall be liable in compliance with the law;

9) Polluter pays principle - the polluter (or 'operator') shall pay charges for damages or threats of damage to protected species, protected and natural habitats, and sites of special scientific interest (biodiversity), as well as water and land it causes or may cause, by its operations or activities;

10) User pays principle – any person who utilizes natural values shall pay real cost for their utilization and re-cultivation of the area;

11) Principle of subsidiary liability - State authorities, within their financial abilities, shall eliminate the consequences of habitat degradation and biodiversity loss and reduce damages when the operator is unknown, and when damages originate from sources outside the territory of the Republic;

12) Principle of incentives - State authorities, those of the autonomous province, units of local self-governance shall take measures for the preservation and sustainable management of environmental capacities, particularly by reduced utilization of raw materials and energy and prevention or reduction of habitat degradation and biodiversity loss via economic instruments and other measures, by the best available techniques, facilities and equipment which shall not require excessive cost and through selection of products and services;

13) Principle of public information and participation - in the exercise of the right to healthy and biologically diverse environment everyone shall be entitled to be informed of the environmental status and to participate in the process of decision making whose implementation may have an effect on the environment.

14) Principle of protecting the right to a healthy environment and access to justice - a citizen or group of citizens, their associations, professional and other organizations shall be entitled to exercise their right to a healthy environment before the competent authority or the court in accordance with the law.

**7. Action Plans** - The following strategic documents have been prepared on behalf of the Republic of Serbia:

- Action Plan for Import Control, Monitoring and Combating Invasive Alien Species for Implementing the European Strategy on combating and controlling invasive alien species;
- Action Plan for the Preservation of Wetlands of International Importance;
- Action Plan for the Conservation of the Brown Bear (*Ursus arctos*);
- Action Plan for the Conservation of the Gray Wolf (*Canis lupus*);
- Action Plan for the Conservation of the Lynx (*Lynx lynx*) species in the Republic of Serbia aimed at implementing the Bern Convention;
- Action Plan for the management of Acipenseridae Species in Fishing Waters of the Republic of Serbia for the period from 2005-2010;
- Action Plan for the management of huchen (or Danube salmon) in Fishing Waters of the Republic of Serbia;

### **2.2.3 Integration of ecological networks in key processes and sectors (See Questionnaire 1.2)**

Although some of the above listed measures are strictly related to biodiversity and not to ecological connectivity, they give us a picture on the level of integration of this latter concept in key sectorial policies. Apparently, ecological connectivity - being a relatively new issue - did not receive a lot of attention in legislation so far, except for the Law on Spatial Plan.

However, there are certain instruments, objectives and legal provisions in favour of ecological connectivity.

**Agriculture:** there are two instruments in agricultural management two instruments (“arondacija” and “komasacija”) which have been used for a long time in order to avoid defragmentation of the agricultural land. Legal provisions related to the land use are mostly contained in the Law on Agricultural Land. Land consolidation (“komasacija) is regulated in articles 31-43, while the Art.27 prohibits defragmentation of the agricultural land in units less smaller than 0,5 ha. Moreover, the owner of arable land has the obligation to cultivate it (Art. 59).

**Transport:** In the transport sector, nature protection has been emphasized as a general objective, but there are no practical measures or legal provisions to support it. The Strategy for development of rail, road, water and air transport in the Republic of Serbia 2008-2015 prescribes the development of the transport system of the Republic of Serbia in accordance with the principle of sustainable development and pledges for decreasing adverse effects of transport on the environment. Essential measures are: renewing the national fleet through the stimulation of new clean technologies and decrease of fuel/energy consumption in transport, but there is nothing related to appropriate land use, planning of grey-green zones or similar instruments.

**Water management:** the Law on Waters is only partially harmonized with the WFD. Although it contains principles related to the good status of waters and establishes 7 river basins (Art. 27), the respective River Basin Management Plans have not been developed yet.

**Climate change:** Serbia does not have a defined climate policy. In its first National Communication to the UNFCCC<sup>17</sup> it is stated: ‘Systematic collection of data and analysis concerning climate change impacts on biodiversity has not yet been realised. Still, the observed climate change impacts on biodiversity and natural ecosystems in Serbia indicate that climate change may lead to the following: phenological changes; changes in the morphology, physiology and behaviour of species; loss of existing habitats and emergence of new ones; changes in the number and distribution of species; increase in the number of vermin and diseases; genetic changes, followed by extinction of species unable to adjust to climate change and changes in the natural fish population.’ Therefore, the Communication foresees the development of a biodiversity indicator system, detailed vulnerability assessment to climate change, increase of number and territory of protected areas, ensuring corridors for the migration of species and decrease of pressure of other anthropogenic factors to biodiversity.

#### **2.2.4 Conservation of cultural landscapes and historic sites in national legislation (See Questionnaire 1.2)**

The Law on Nature Protection (Art.26) defines protection of landscapes as planning and implementing measures to prevent adverse changes, endangering or destroying important features of landscapes, their diversity, uniqueness and aesthetical values and to ensure traditional use of landscapes. The same article makes distinction between different landscape types – those that reflect natural heritage diversity, and those that reflect cultural heritage diversity.

<sup>17</sup> *Initial National Communication of the Republic of Serbia under the United Nations Framework Convention on Climate Change*, The Ministry of Environment and Spatial Planning, Belgrade, November 2010, <<http://unfccc.int/resource/docs/natc/srbnc1.pdf>>

The Law on Spatial Plan 2010-2020, in its part on the general assessment of spatial development in the Republic of Serbia, recognizes that the extraordinary cultural heritage has been endangered by different factors, the legal framework in this area is outdated and there is a high level of intersectorial non-compliance regarding the approach used in planning and protection of cultural heritage. The Spatial plan defines as one of its own objectives the development of cultural identity and territorial recognition.

The Fourth National Report to the United Nations Convention on Biological Diversity (2010) presents the following findings: ‘The overall institutional framework in this area is still weak and with insufficient capacities to consider all the aspects of sustainable utilization of landscapes and adequate protection of the diverse types of landscapes. The methods for classification and categorization of types of landscapes and indicators for assessment of their preservation, cultural, scientific, and production values have not been elaborated. Public awareness of the importance of protection of landscape diversity and of its environmental capacity in the context of sustainable development is on a very low level.’

A positive example in practice could be a special Law on the remediation of cultural-historical heritage and incitement of development of Sremski Karlovci<sup>18</sup>. This small town has been a centre of cultural, political and religious life in Serbia during the XVIII<sup>th</sup> - XIX<sup>th</sup> century. The purpose of this law was to designate competent authorities and secure funds for remediation and development as well as to provide high level protection of this cultural site.

The Law established the Committee for remediation and development of Sremski Karlovci which consists of 14 members. The Assembly of the Republic of Serbia designates Committee members which could be prominent public or cultural workers or businessman. They have a mandate of four years and can be re-elected. The Committee shall ensure conditions for remediation and development of Sremski Karlovci, monitor the remediation and development activities and define dynamics of action plan, responsibilities for its implementation and propose the budget for realization of individual measures and activities. The Committee informs the National Assembly on the realization of the plan for remediation and development of Sremski Karlovci. The Municipality of Sremski Karlovci provides administrative and expert support to the Committee. Supervision over the activities of the Committee and use of funds for remediation of cultural-historical heritage and incitement of development of Sremski Karlovci has been entrusted to the Ministry of Culture.

### **2.2.5 Land use compatible with biodiversity conservation in national legislation (See Questionnaire 1.2)**

Unfortunately, an integrated approach to land use and biodiversity has not been achieved yet in terms of clear and precise legal provisions. Whenever mentioned it is rather a general principle, recommendation or advice, but not a strict rule with mechanism to implement it. For example, Art 23 of the Law on Tourism<sup>19</sup> prescribes the activities of special significance in tourism e.g. management of touristic resorts in an integrated manner, providing common promotion of touristic product, land use, environmental protection, etc. In the Law on Agricultural Land<sup>20</sup> care about the environment is mentioned only twice – Article 9 prescribes to perform the SEA procedure in the process of developing planning documents in

<sup>18</sup> Law on remediation of cultural-historical heritage and incitement of development of Sremski Karlovci, Official Gazette of the Republic of Serbia No. 37/91.

<sup>19</sup> Law on Tourism, Official Gazette of the Republic of Serbia No. 36/2009 and 88/2010).

<sup>20</sup> Law on Agricultural Land, Official Gazette of the Republic of Serbia No. 62/2006 and 41/2009.

agriculture, and Art. 67 prohibits to the tenant of agricultural land which is state property to perform activities that endanger natural resources or the environment.

However, there are some positive examples in practice. The main objective of the project ‘Protection and Management of the Special Nature Reserve Zasavica as a Tool for Sustainable Rural Development’<sup>21</sup> aimed at integrating the protection and management of Zasavica with sustainable rural development, in particular with the development of sustainable agriculture and tourism. With the growing interest for protection and maintenance of semi-natural areas, there is an increasing need to develop capacities for managing protected areas. This counts especially for landscapes and biodiversity related to various forms of grazing, which existed and still exists in floodplain meadows, fen meadows and alpine meadows. The aims of this project proposal were to help the Nature Conservation Movement (non-governmental and non-profit organisation that has taken up the responsibility for the management of the Special Nature Reserve Zasavica) to elaborate the management and development plan, which will give directions for the development of agriculture and tourism within the framework for sustainable protection and management of the Special Nature Reserve. An additional objective of the project was to support the survival of two endangered native cattle breeds that were originally grazing in the floodplains of the Sava River, from where only a small number of animals had survived. These are the ‘swallow-bellied Mangalitsa pig’ and the ‘Podolian cattle’, which are both on the FAO list of native breeds threatened with extinction. The project aims to promote the reintroduction of these species in farm households in the surroundings of the reserve and the use of these animals to maintain the floodplain meadows by grazing, as a contribution to the management of the biodiversity of floodplain meadows.

### **2.2.6 Ecological forestry management and afforestation in national legislation (See Questionnaire 1.2)**

The Law on Forestry<sup>22</sup> represents the main legislative instrument regulating forestry management. It prescribes (in Art. 9) the prohibition of woodcutting, destroying young trees, and collecting seeds of strictly protected and protected species of forest trees, determined by a special regulation on nature protection, except when they represent a source of illnesses or pests, or if they pose a threat to humans and objects. It also defines limitations regarding changes in forest land use (Art. 10): when it is foreseen by forest development plans, if there is a priority interest defined by legal or governmental order, in case of natural disasters or for state defence issues or when its required by procedures of defragmentation for agricultural land.

The law establishes 27 forestry areas in the Republic of Serbia. Forests in Serbia are managed by public enterprises. The largest areas are covered by: ‘Srbijašume’, ‘Vojvodinašume’, and National Parks. Public enterprises ‘Srbijašume’ and ‘Vojvodinašume’ incorporate 21 forest economies.

The forestry development concept is based on integral management of forest ecosystems according to the principles of sustainable development and profitability, which along with the

<sup>21</sup> Protection and Management of Zasavica Special Nature Reserve as a tool for Sustainable Rural Development, Wageningen UR Centre for Development Innovation, Alterra, Nature Conservation Movement of Sremska Mitrovica (Serbia), Institute for Nature Conservation of Serbia, 2011 <[www.wageningenur.nl/en/show/Protection-and-management-of-Zasavica-Special-Nature-Reserve.htm](http://www.wageningenur.nl/en/show/Protection-and-management-of-Zasavica-Special-Nature-Reserve.htm)>

<sup>22</sup> The Law on Forestry, ‘Official Gazette of RS’ No. 30/2010.

maximal use of forest resources implies conservation of forest ecosystems and richness of biological diversity. Public enterprises that are authorised for forest management perform expert and technical activities in private forests as well. For state owned forests and forest land (more than 1,100,000 ha) that are assigned to public enterprises, the Specific Management Basis is elaborated every 10 years. It is approved by the Directorate for Forests of the Ministry of Agriculture, Forestry, and Water Management. The forest area in Serbia covered by planned management documents includes around 900,000 ha, corresponding to 48% of the total forest area, and 53% of the total area of commercial forests. The total area of commercial forests in Serbia covers around 1,700,000 ha, around 90% of the total forest area. The Law on Forests obliges forest managers to keep and protect forests and prohibits waste disposal and changes of water regime in forests (Art.39, 42, 49 and 50).

### **2.2.7 Forest management plans (See Questionnaire 1.2)**

The Law on Forests defines several types of documents related to forestry development, planning and management. The most important are:

- Forestry Development Programmes
- Forest Management Plans
- Forest Development Plans
- Forest Management Basis
- Forest Management Programmes

All above listed documents shall be harmonized. While programmes are more comprehensive, adopted for a longer period (e.g. 10 years) and referring to larger areas, management plans are focused on single forests or forest economy and are usually adopted on annual basis. Although the law obliges forest owner or manager to implement those documents, there are no penalty provisions foreseen in case of failing to adopt or implement forest management plan.

As a matter of fact, annual Forest Management plans are regularly adopted since they allow for better budgetary planning and serve as supporting documentation for the financial audit and control. The other types of documents (such as long-term programmes) regulates forestry policy related matters and are adopted on an *ad hoc* basis, according to the needs.

### **2.2.8 Illegal harvesting and logging (See Questionnaire 1.2)**

Article 111 of the Law on Forests establishes economic penalties in this area. There is an administrative fine from 300.000 to 3.000.000 RSD (approximately 2600-26000 EUR) prescribed for logging, destroying young trees, and collecting seeds of strictly protected and protected species of forest trees. These fines are issued by Commercial Courts.

Moreover, Art. 274 of the Criminal Code of the Republic of Serbia punishes devastation of forests - logging and deforestation, damaging of trees, cutting one or more trees in areas where logging is not allowed - as criminal act. The penalty is alternative – fine or imprisonment up to one year; if the criminal act is performed in a national park or protected forest the imprisonment goes from 3 months to 3 years. Art 275 defines illegal harvesting as a criminal act, it can be alternatively punished – fine or imprisonment up to one year.



### **2.2.9 restoring damaged sites and ecosystems (See Questionnaire 3.1.2)**

The Law on Environmental Protection (Art.16) prescribes the following: ‘A physical person or legal entity which degrade the environment is obliged to remediate or otherwise restore the degraded site in accordance with recovery and remediation projects.’ These projects are subject to the approval of the ministry in charge of environmental protection. Further on, Art. 63 prescribes mandatory implementation of the recovery plan in case of accidents. The polluter is obliged to implement the plan immediately on its own expenses. Art.66 reiterates this obligation in case of exciding the prescribed limits of polluting substances or due to other events that can cause damage to environment. Even though article 63 and 66 are enforced through punitive provisions of this law, there is no defined economic fine for the offense established by Article 16.

According to this same provision (Art.16), the forest owner or user is obliged to reforest damaged sites in case of natural disasters (wildfire, wind, snow, etc.), failed reforestation, sites devastated by logging or illegal harvesting. If the owner or user fails to act within three years, the Ministry in charge of forestry or the competent body of the autonomous province shall perform it at the expenses of the forest owner or user.

### **2.2.10 Illegal construction (See Questionnaire 1.2)**

Illegal construction represents a big problem in Serbia. There is an estimate<sup>23</sup> of one million illegally constructed buildings in Serbia. Although there is an administrative fine for the economic offense prescribed by the Law on Planning and Construction<sup>24</sup> (the fine amounts in range from 1,5 to 3 million RSD approx. 13000-26000 EUR) enforcement is still on low level and the Government plans to legalise most of the illegally buildings with some amendments to the law in order to keep social peace. Most of these offences are made by investors who sold the property to physical persons. Therefore, the demolition of illegally buildings will leave lots of people without a home. Expansion of illegal building happened before the economic crisis at the beginning of the century (2000-2006). Sanction for illegal building are issued by Commercial Courts.

The Criminal Code foresees penalties for illegal building or use of objects and installations or use of technology which can cause environmental pollution in large space or in wide scope contravening to environmental legislation. These are sanctioned with imprisonment from 6 months to five years. If the pollution caused wide-scope extinction of flora and fauna so that remediation requires high investments and long periods of time, imprisonment can be from one to eight years. Article 267 of the Criminal Code prohibits construction of nuclear installations (nuclear power plants, installations for production of nuclear fuel or recycling of used nuclear waste). The sanction prescribed is imprisonment from 6 months to five years.

### **2.2.11 Effective implementation of EIA and SEA procedures (See Questionnaire 1.2)**

According to the Progress Report on Monitoring the transposition and implementation of the EU environmental *acquis* (2012), full transposition of the SEA Directive in Serbia was

<sup>23</sup> Given in the Law on Spatial Plan of the Republic of Serbia 2010-2020.

<sup>24</sup> Law on Planning and Construction, Official Gazette of the Republic of Serbia N. 72/2009, 81/2009 and 24/2011.

reported as of 2004. EIA Directive has been fully transposed in 2009, with the adoption of the amendments to the Law on Environmental Impact Assessment.

Actually, full implementation of the SEA Directive has been achieved by adopting the amendments to the Law on Strategic Environmental Assessment in November 2010, while full implementation of the EIA Directive has been scheduled for 2012 after the ratification of Amendments to the ESPOO Convention.

### **2.2.12 Public participation in EIA and SEA procedures (See Questionnaire 1.2)**

Public participation in both EIA and SEA procedures is an integral part of the process, in accordance with the requirements of the two directives.

However, public participation still needs to be enhanced, thus in 2011 the Republic of Serbia developed a strategy for the implementation of the Aarhus Convention. Four Aarhus Centres have been established (two in Vojvodina – Novi Sad and Subotica, one in south Serbia and one in central Serbia – Niš and Kragujevac). The strategy states that the legal framework for public participation in EIA and SEA procedures is there since 2004, but it also emphasizes the lack of similar provisions in legislation on spatial planning and construction of buildings. Moreover, there are gaps related to cross-border SEA/EIA procedures which is especially relevant for energy related installations. Problems persist whether or not bilateral agreements with neighbouring countries have been signed, since there is no legislation on mutual involvement mechanisms into those procedures from both sides of the border. Therefore, it is necessary to adopt sub-legislation related to the Espoo Convention. The Strategy also emphasizes the lack of cooperation among different sectors and layers of public administration in this field. There is very low awareness on the need, significance and opportunities of public participation both on the part of public, civil organizations and citizen associations who lack capacities to intervene in the debate, and on the part of decision makers who do not consider public participation as a key element for decision making. Local authorities have limited capacities related to environmental protection too. Therefore, the Strategy foresees measures for better cooperation and confidence building, as well as for strengthening environmental education and public awareness on the significance of public participation in environmental decision making.

### **2.2.13 Ecotourism in national legislation (See Questionnaire 1.2)**

The Law on Tourism<sup>25</sup> (Art. 27) prescribes promotional measures in the field of ecotourism by insuring funds - in the state budget - for financing promotion of projects aimed at protecting nature, environment, natural resources and cultural heritage of touristic sites. The concept of ecotourism is not especially promoted in the legislation, but there are many positive examples in the practice.

<sup>25</sup> The Law on Tourism, Official Gazette of the Republic of Serbia No.36/2009 and 88/2010.

## 2.3 Hunting

### 2.3.1 Hunting laws and their exemptions (See Questionnaire 1.2)

The Law on Hunting<sup>26</sup> of the Republic of Serbia has been adopted at state level. However, regional authorities (Autonomous Provinces) have some competences at regional level in accordance with Article 6 of the Law, which reads: ‘An autonomous province in accordance with this law, through its own bodies on its territory:

- 1) establishes hunting grounds in hunting areas;
- 2) establishes hunting grounds on the basis of a request of a legal entity that owns the land and satisfies the conditions for establishment set by this law;
- 3) approves the fencing of a hunting ground;
- 4) designates the legal entity that satisfies conditions set in this law to manage the hunting ground;
- 5) adopts the programme for the development of hunting grounds and areas;
- 6) approves the basis for managing hunting grounds, management programmes and programme for introduction of game;
- 7) in accordance with the Strategy<sup>27</sup> and development programmers for hunting areas defines criteria for the number of hunting licenses to be distributed to hunting grounds in the frame of a hunting area;
- 8) provides funds for improvement of protection and growing of game, in accordance with its legal acts distributes these funds;
- 9) ensures funds for liability for damage made by protected game species outside of hunting grounds;
- 10) approves hunting of protected game species during closed season outside of hunting grounds;
- 11) performs hunting inspections in accordance with this law inside hunting grounds.

Tasks listed in paragraph 1 of this article are entrusted.’

The last sentence of the cited article clearly shows that the granted autonomy is limited, and that the state reserves the right to intervene. Regional authorities do not have the competence to make general exceptions from the provisions of state law, even if there is a certain level of liberty to regulate strictly regional issues. For example, wolfs (*Canis lupus*) and wild cats (*felis silvestris*) in Serbia are protected during the closed season, except in some parts of the Autonomous Province of Vojvodina where they are strictly protected species.

The Law on Hunting of the Republic of Serbia is compliant with the Birds Directive. This Directive has been transposed into Serbian legal framework through the Law on Hunting, the Law on Nature Protection, the Rulebook on the Proclamation and Protection of Strictly Protected and Protected Wild Species of Plants, Animals and Fungi, and the Rulebook on Closed Hunting Season of Wild Animals.

<sup>26</sup> The Law on Hunting.

<sup>27</sup> Hunting Development Strategy of the Republic of Serbia, draft in serbian available at: <[ebookbrowse.com/strategija-razvoja-lovstva-pdf-d54983570](http://ebookbrowse.com/strategija-razvoja-lovstva-pdf-d54983570)>.

### 2.3.2 Bans on hunting for specific species (See Questionnaire 1.2)

The Law on Hunting foresees two types of bans on hunting. There are species protected by a permanent ban and those protected only during the closed season. It is permanently prohibited to hunt:

- European deer (*Capreolus capreolus*) with hunting ammunition whose caliber is less than 7mm and rifle bullet weights less than 9g.
- Fallow deer (*Dama dama*), Virginia deer (*Odocoileus virginianus*), mouflon (*Ovis aries orientalis group*) and chamois (*Rupicapra rupicapra*), except their offspring, with hunting ammunition whose caliber is less than 6,2mm and rifle bullet less than 6g.
- Roes and offspring of European deer, Fallow deer, Virginia deer, mouflon and chamois with hunting ammunition whose caliber is less than 5,6mm and rifle bullet less than 3,5g.
- Wild boar (*Sus scrofa*) with hunting ammunition whose caliber is less than 7mm and rifle bullet less than 9g and with ammunition for non-arch rifle barrels, except spheres.

There is a Rulebook on promulgation of closed season for protected game species<sup>28</sup> which prescribes ban on hunting of chamois (*Rupicapra rupicapra*), European hare (*Lepus europaeus*) and European wolf (*Canis lupus*) during the closed season. Art. 6 of the same Rulebook recalls the legislation on nature protection and, for the sake of regulating the number of population of permanently protected species, defines the brown bear (*Ursus arctos*), European Lynx (*Lynx lynx*) European otter (*Lutra lutra*) and Western Capercaillie (*Tetrao urogallus*) as permanently protected game species.

## 2.4 Cross-border cooperation

### 2.4.1 Cross-border cooperation in bordering Protected Areas (See Questionnaire 1.2)

The Regulation on Ecological Network is the main legal document that recognizes the need of cross-border cooperation in management of bordering protected areas. Art.2 defines the composition of ecological networks: beside protected areas and buffer zones there are also ecological corridors and special emphasis is given to international ones which are separately listed in the Annex 2 of the aforementioned regulation. Art. 3 defines ecologically significant areas and bordering ecologically significant areas that enable connection with ecological networks of the neighbouring countries in accordance with international law.

There are numerous instruments connected with cross-border cooperation on environmental protection. Certainly river commissions have the longest tradition of cooperation, especially the Danube commission which has the longest history tracing back to the XIX century. In 1948, after World War II, it was re-established at the conference held in Belgrade. Nowadays there is also an updated EU Danube strategy<sup>29</sup>.

Since most of the protected natural areas in Serbia are located in transboundary areas, it is worth presenting a brief description of some of the most important transboundary areas in which cross-border projects have been launched:

<sup>28</sup> Rulebook on promulgation of closed season for protected game species, Official Gazette of the Republic of Serbia No.9/2012.

<sup>29</sup> The EU Strategy for the Danube Region (EUSDR) is a macro-regional strategy adopted by the European Commission in December 2010 and endorsed by the European Council in 2011, available at: <[www.danube-region.eu](http://www.danube-region.eu)>

In 1993/94 the Institute for Nature Conservation of Serbia, National park ‘Djerdap’ and the Portile de Fier Nature Park of Romania signed a cooperation protocol on establishing the cross-border reserve «Man and Biosphere» (MAB-UNESCO);

The Ministry of Environmental Protection of the FYR Macedonia initiated the project for the protection of the transboundary region of the Sar-planina National Park, and within the Institute for Nature Conservation of Serbia was prepared a proposal for the borders of the Sar-planina National Park which has been extended to an area of 99,000 hectares instead of the previous 39,000 hectares. (The Protocol on Cooperation was signed in 1995);

One more project within the transboundary cooperation has been underway for several years; the Protocol on Cooperation signed in 1997 between the Ministries of Environmental Protection of the Republic of Serbia and the Republic of Bulgaria covered the creation of the transboundary Stara Planina Nature Park and its nomination for the cross-border reserve Man and Biosphere (MAB-UNESCO);

The initiative ‘European Green Belt’ exists since 2003. Its goal is to secure and further develop the former Iron Curtain, which separated Germany and Europe, as a joint European nature preserve and as a living monument for Europe’s past separation under the label ‘Green Belt’. For practical and logistical reasons, the European Green Belt has been divided into three regions: Fennoscandia (including the Baltic coast), Central Europe and South Eastern Europe. A particular feature of the section through South Eastern Europe, also called ‘Balkan Green Belt’ includes Serbia, Montenegro, Bulgaria, Romania, Macedonia, Albania, Greece and Turkey.

At the end of 2003 ‘Suboticka pescara’ (Subotica sand plato) was declared as Landscape of Especial Features. Since then, active transboundary cooperation with National park ‘Kiskunsag’ in Hungary is carried out.

The Dinaric Arc ecoregion stretches from Trieste in Italy to Tirana in Albania covering large parts of Croatia, Bosnia and Herzegovina, Montenegro, Serbia and Slovenia. The aim of the initiative is to ensure that biodiversity and livelihoods in this region are protected and enhanced. The initiative is led by WWF. In May 2008, ministers from the six countries of the ecoregion came together and signed the ‘Big Win’ – a joint statement to coordinate efforts to deliver on the commitments they made under the Convention on Biological Diversity (CBD). To date over 70% of these commitments have been realised.

Although there are no special provisions related to transboundary protected areas in Serbian legislation, the practice shows that the general procedure for conclusion of international/bilateral agreements is applied. The most recent example (March 2011) shows that the Declaration on establishment of the UNESCO biosphere reserve has been signed between Austria, Croatia, Hungary, Serbia and Slovenia at a ministerial meeting. This transboundary protected area covers 800,000 ha along the rivers Mura, Drava and Danube. Taking The designation of the transboundary protected area is done through bilateral or international agreement since several countries are involved in this process.

Serbia is not a party to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, therefore, transboundary cooperation has been laying on other legal basis.

Not being a EU member state, Serbia is not yet involved in cooperation under the Regulation 1082/2006 on Grouping of Territorial Cooperation (EGTC).

### 3 Case law

a) The following three cases illustrate the level of power of local authorities in the field of environmental protection.

***The municipality has the obligation to protect the environment, therefore it is competent to adopt legal acts for that purpose.***

The Constitutional Court refused a proposal to verify the legitimacy of a municipal act on the protection of a nature park. In the decision<sup>30</sup> the court refers to the Law on local self-government<sup>31</sup>. In its art. 18, this law foresees that the municipality is in charge to protect the environment and can issue legal and administrative acts (*ex* Art. 30). Since that the municipality had not regulated issues related to property of the protected area, transfer of rights on the use of state owned forest, land or waters, but only to the regime of protection of the protected area, the Court found that relevant provisions of the Law on assets owned by the Republic of Serbia<sup>32</sup> were not violated.

***The municipality is competent to define the local tax for environment protection for enterprises and entrepreneurs with an economic activity on its territory.***

The Constitutional Court of the Republic of Serbia decided<sup>33</sup> in favour of Municipality L. regarding its decision to set an environmental tax for enterprises and entrepreneurs with an economic activity on its territory referring to provisions included in the Law on environmental protection, Law on local self-government, Law on public incomes and expenditures which authorize the local authorities to define such taxes.

***The municipality has no competence to ban certain economic activities on its territory.***

The Constitution of the Republic of Serbia prescribes that freedom of entrepreneurship can be limited by law, for the purpose of environmental protection. The Law on Environmental Protection foresees that only the Government under certain conditions can limit the work of installations or performing activities in certain areas, while the Ministry in charge of environmental protection can prohibit certain activities for limited period of time within the territory of the Republic or autonomous province or local self-government unit in order to prevent endangering the environment or human health. Therefore, although the municipality has the right to decide on locations for performing certain activities, in its decision<sup>34</sup> the Court has ruled that local self-governments cannot prescribe the prohibition of performing an economic activity on the whole territory of the municipality.

b) State powers in the field of land use were also questioned through several cases.

***State owned forests and forest land are not subject to sale or other transformation of ownership except in case of application of land consolidation schemes.***

The Supreme Cassation Court of the Republic of Serbia voided several decisions of minor courts and returned the case back to the first instance in order to decide on the validity of an agreement on exchanging property in state owned forest. In the rationale of its decision<sup>35</sup>, the Court refers to the Law on Agricultural Land<sup>36</sup> ) Art.2 which prescribes that the agricultural land has to be used for agricultural production and cannot be used for other purposes except

<sup>30</sup> Decision of the Constitutional Court of the Republic of Serbia U-No. 15/00 of 15/12/2002.

<sup>31</sup> Law on local self-government, Official Gazette of the Republic of Serbia, No.09/2002.

<sup>32</sup> Law on assets owned by the Republic of Serbia, Official Gazette of the Republic of Serbia, No.53/95.

<sup>33</sup> Decision of the Constitutional Court of the Republic of Serbia U-No.135/04 of 17/11/2005.

<sup>34</sup> Decision of the Constitutional Court of the Republic of Serbia U-No. 122/06 of 16/07/2009

<sup>35</sup> Decision of the Supreme Cassation Court of the Republic of Serbia, Rev.319/10 of 29/04/2010

<sup>36</sup> Official Gazette of the Republic of Serbia No. 49/92, 53/93.

in cases foreseen by law. The Law on transformation of state ownership on agricultural land<sup>37</sup> Art.11 reads: ‘State owned land can be sold for market price if it is previously offered to the Ministry of Agriculture, and it has not accepted this offer in 30 days.’ Moreover, the Law on Forests<sup>38</sup> prescribes that state owned forests cannot be alienated except in cases of application of legally defined land consolidation schemes. The Government of the Republic of Serbia approves sale or exchange of state owned forests.

***It is redundant to prohibit to alienate agricultural land by means of an interim measure since it is already forbidden by Art. 72 of the Law on Agricultural Land.***

Interim measures for ensuring certain claims are only used when the creditor is reasonably suspected of possible alienation of the subject of claim. Given that alienation of state owned agricultural land is prohibited by Art. 72 of the Law on Agricultural Land<sup>39</sup>, there is no sufficient ground to order this kind of interim measure. Therefore, the High Court in Pančevo annulled this measure in its ruling<sup>40</sup>.

***Use and management of agricultural land can be limited by law.***

The Constitutional Court of the Republic of Serbia refused the complaint for determining the constitutionality of Art. 27 para. 1 of the Law on Agricultural Land<sup>41</sup> which prescribes that arable agricultural land cannot be fragmented into units smaller than 0,5 ha of surface, or 1 ha of surface if this land was consolidated through consolidation schemes. Considering the provisions of the aforementioned Law related to the protection of agricultural land to ensure its natural functions, the Constitutional Court concluded that measures prescribed for protection and conservation of agricultural land represent a common interest and approved this limitation. Although the Constitution of the Republic of Serbia grants the human right to property, it also foresees the possibility of limiting that right for common interests. Furthermore, its Art. 88 para. 2 protects agricultural land and foresees certain limitation in its use and management. Thus, the Constitutional Court decided<sup>42</sup> that Art. 27 para. 1 of the Law on Agricultural Land is compliant with the Constitution.

***The Magistrates Court shall stop the procedure on an offence when the offender is judged guilty for the same offence integrated in a criminal act in front of the regular court.***

In this case, the offender was simultaneously prosecuted for a minor offence defined in the Law on Nature Protection (Art. 126) and for a criminal act defined in the Criminal Code. The offence is related to Art. 93 of the Law on Nature Protection<sup>43</sup> which reads: ‘A person which finds protected wild animals shall immediately inform the nearest veterinary organization and the ministry competent for nature protection about: 1) found dead specimens of protected wild animals, or 2) specimens of protected wild animals which are ill or wounded so that are not capable to survive in nature on their own. The criminal act as defined in the Criminal Code (Art 242) is ‘illegal production’. The offender was in fact a taxidermist in which house inspection has found specimens of dead protected wild animals unreported to the veterinary organization and the ministry.

<sup>37</sup> Official Gazette of the Republic of Serbia No. 49/92, 54/96.

<sup>38</sup> Official Gazette of the Republic of Serbia No. 4/91, 83/92, 53/93, 63/93.

<sup>39</sup> Official Gazette of the Republic of Serbia No. 62/06, 41/09

<sup>40</sup> Decision of the High Court of Pančevo, Gž. 1239/10 of 16/03/2010.

<sup>41</sup> *Supra* note 39.

<sup>42</sup> Decision of the Constitutional Court of the Republic of Serbia U-No. 175/06 of 17/09/2009.

<sup>43</sup> Official Gazette of the Republic of Serbia No. 36/2009, 88/2010)

In accordance with domestic legislation as well as with practice of the European Court for Human Rights and the European Convention on Human Rights (Protocol 7, Art 4), and the principle *ne bis in idem* the Court annulled the disputed judgment<sup>44</sup>.

c) A similar confusion exists on the distinction between illegal harvesting and logging, timber theft and devastation of forests defined as separate criminal acts:

***If the offender is judged guilty for the criminal act of ‘devastation of forest’ and the judgment refers to ‘illegal logging’, the judgement is unclear and represents a violation of the criminal proceeding rules.***

The first instance court judged the offender guilty for devastation of forest according to Art. 160 of the Criminal Code of the Republic of Serbia<sup>45</sup>. The second instance court adopted the appeal of the offender, annulled the judgement and returned the case back to the first instance<sup>46</sup>.

The first instance judgement was found unclear and confusing. The Court<sup>47</sup> also stated that it was necessary to engage with the court experts or other means to define the quantity and quality of forest damage in order to distinct illegal logging from devastation of forest.

***If the offender takes from ‘Srbija Šume’ 7,5 m3 already cut wood and sells it, this cannot be considered a ‘timber theft’, but as a criminal act of theft<sup>48</sup>. The criminal act ‘damage to the environment’ defined in Art. 264 of the Criminal Code is a general criminal act. Thus the court has to define which article of the law has been violated in order to provide a clear and non-confusing judgement.***

The first instance court sentenced the offender guilty for damage to the environment for changing the land use of rented land on the territory of the National Park Kopaonik. By transforming a complex of meadows into arable land the offender destroyed flora and fauna and endangered natural ambient without approval of the Institute for Nature protection and the Public company ‘National Park Kopaonik’. Since the explanatory part of the judgement did not refer to the violated law or article, the second instance court<sup>49</sup> annulled the judgement of the first instance court finding it unclear and confusing.

d) In addition to the fact that environmental damage is not easily proved, there are also cases when damages to a third party is given priority.

***When a wild animal surprisingly appears on a main road and causes damage to a vehicle, the hunting society is liable for this damage in accordance with Art. 34 of the Law on Hunting.***

According to the determined facts, there was a car accident on a main road provoked by a deer that surprisingly jumped in front of the car of the claimant. The deer was killed and the car damaged, as confirmed by the insurance company report. The first instance court proclaimed the liability for damages<sup>50</sup> of the hunting association according to Art. 34 of the Law on Hunting<sup>51</sup>. On the other hand, the second instance court - deciding on the appeal of the hunting association – decreed that the damage happened outside the hunting grounds and

<sup>44</sup> Decision of the High Magistrate Court in Belgrade (department Novi Sad) III-307 Prž. No. 47/12 of 31/01/2012

<sup>45</sup> Judgement of the Municipal Court in Gornji Milanovac, K No.153/05 of 27/06/2005

<sup>46</sup> Decision of the Regional Court in Čačak, Kž. No. 418/05 of 09/11/2005

<sup>47</sup> Judgement of the Municipal Court in Gornji Milanovac, K No.153/05 of 27/06/2005

<sup>48</sup> Judgement of the Regional Court in Belgrade Kž. No. 1603/5 of 29/06/2005.

<sup>49</sup> Judgement of the Apellate Court in Kragujevac, Kž. 1-1004/10 of 10/05/2010.

<sup>50</sup> Judgement of the Basic Court in Čačak, P.2487/10 of 15/03/2010.

<sup>51</sup> The old Law on Hunting, Official Gazette of the Republic of Serbia No. 39/93, 44/93 and 60/93 it has been repealed by the new Law on Game and Hunting on 23rd of March 2010, seven days after the subject first instance judgement.



refused the appeal.<sup>52</sup> There are no instruments to determine the liability of the hunting association for inadequate protection of wild animals, since the deer was accidentally killed on the road.

e) The following case illustrate the situation in the building construction sector that has been out of control for a long period of time.

***Building permits and permits for using objects or their parts which have been built without permit can be issued after the object was built or reconstructed until the coming into force of the new Law on planning and construction on 11 September 2009.***

The judgement of the first instance court refuses charges against the defendant for illegal construction since the building of the object started in 2003 and did not finished before the 26 November 2009 when an inspection found the defendant reconstructing the facility. Taking into account that Art. 185, para. 1 of the Law on Planning and construction<sup>53</sup> prescribes that legalisation is a procedure requiring the issuance of the building permit after the object was built and that the building permit shall be granted through this procedure to all objects built or reconstructed until the 11 September 2009, the second instance court<sup>54</sup> adopted the appeal since the first instance court did not determined the fact that the object in question was not fully constructed by November 2009.

#### **4 Suggestions for the improvement of national legislation**

The analysis developed above draws the attention to several major issues that could represent legal barriers to ecological connectivity in Serbia, and the legal tools have to be improved on there issues:

- the role of local authorities;
- legislation on ecological network, protection regimes and harmonization with IUCN categories;
- integration of the concept of ecological connectivity into relevant sectors;
- enforcement of nature protection, liability for damage, remediation, etc.;
- legal framework related to cross-border cooperation

**a) The role of local authorities** Although the legal framework gives a general autonomous right to local authorities to proclaim and protect natural goods or areas, in practice their role is quite limited. This is mostly due to the complicated classification of protected areas that is partially harmonised with IUCN categories, but on the other hand, has other types of classification on the top of it. Protected areas are established on the basis of their significance<sup>55</sup> and if this significance is marked as international, national or regional, local authorities are quite excluded from the management of the area and only consulted and obliged to cooperate during the development of the protection study. Moreover, if the protected area is only of local significance, rights of local authorities are limited by state ownership on objects or land in the protected area. The legislative framework should give more competence to local authorities in terms of supervising management and ensuring protection of protected area bringing decision making as close as possible to the appropriate level.

<sup>52</sup> Judgement of the High Court in Čačak, Gž.825/10 of 09/06/2010.

<sup>53</sup> Official Gazette of the Republic of Serbia No. 72/2009, 81/2009 and 24/2011

<sup>54</sup> Decision of the Apelate Court in Kragujevac, Kž. 730/11 of 06/06/2011

<sup>55</sup> See paragraph 2.1.3.

**Legislation on ecological networks** The legislation on ecological network – Regulation on ecological network<sup>56</sup> has been recently adopted, even if the network NATURA 2000 has not been really established yet. The adoption of this regulation presents a giant step in this field, but as to be improved. The regulation lists 101 areas divided in 8 types:

1. Protected area
2. Area in process of protection
3. Area planned to be protected - where protection studies are in process of development
4. Emerald areas
5. Internationally important plant areas (IPAs)
6. Internationally important bird areas (IBAs)
7. Prime Butterfly Areas (PBAs)
8. Ramsar Areas

On the top of it protected areas are classified into:

- 1) Special Nature Reserve
- 2) Landscape of outstanding features
- 3) Nature Park
- 4) Nature Monument
- 5) National Park
- 6) Regional Park
- 7) Strict Nature Reserve
- 8) Landscape with outstanding natural beauty
- 9) General Nature Reserve
- 10) Forest Park

As presented in the analysis above, this complex classification system has not been elaborated enough, thus legislation does not show the protection regime or other important information on the level of protection of each category. Moreover, different types of protected areas are often merged in one complex area. For example, a National Park can encompass inside its territory important international sites (IPAs, IBAs or Ramsar sites), specific Natural Monuments, landscapes or reserves. Deeper analysis<sup>57</sup> shows that, despite the similarity between the names of these categories with international classification, certain discrepancies still have to be overcome. For example:

**Strict nature reserve** is the most consistent category in the national system and as such it almost completely fits into category I. The main problem of this national category is the size of the areas. They are usually very restricted and small. There are no minimal sizes for category I areas, but extremely small areas (smaller than 10 or 20 ha) can be in collision with some general features of that category.

**Special nature reserve** in general resembles to category IV. A system of three-level zoning of protection regime is applied in these areas. Average percentage of zones of 1st and 2nd level of protection is around 12% and 50% respectively. Remaining areas are in zones of 3rd level of protection where nature conservation is not necessarily prioritized and relatively intensive use of natural resources is usually allowed. Due to that, it is doubtful whether all special nature reserves would comply with '75% rule'. Certain special nature reserves can be assigned to category IV only if the 3rd level of protection is fully harmonized with general objectives for the conservation of certain target species or habitats. Another problem is that

<sup>56</sup> Official Gazette of the Republic of Serbia No. 102/2010

<sup>57</sup> G. Sekulić, *Overview of the National System of Protected Areas in Serbia*, Klagenfurt, May 2011.

not all special nature reserves have objectives focused on specific species, habitats or ecosystems. Some of them have broadly defined objectives which refer to conservation of ecosystems or landscapes. Some special reserves, especially larger ones, are expected to be closer to category V or even category VI.

**Natural Monument** includes different types of protected areas: individual natural features, individual trees, urban parks. It is a largely inconsistent category for both size and primary objectives. It is doubtful whether all areas from this category can be interpreted as protected areas according to the IUCN's definition. This is especially the case of urban parks and individual trees which are often protected in this category. However, other natural features protected as natural monuments - like caves, waterfalls, springs, fossil beds, old semi-natural forests - fit very well into category III. Their management is also compatible with this latter category since most of their surface is managed for conservational purposes (2nd level of protection).

**National parks** in Serbia have very high percentage of natural and semi-natural areas and they all include large ecosystems or complex of ecosystems. These characteristics as well as the name of their category imply connection to category II, but their management objectives does not clearly correspond to this category. The size of areas within national parks in which use of natural resources is excluded is far below 75%. The main obstacle is forestry and commercial timber extraction which is allowed in average on around half of the parks' territories. In some parks share of these zones (3rd level of protection) reach 70%. Additionally, all national parks include tourist resorts and large hotels, visitor centres and other facilities which are clearly in collision with primary objectives. Some parks include larger settlements with developed infrastructure. This is obviously in collision with the definition of protected areas. Serious revision of zoning aimed at defining protection regimes and management practices is necessary for this category.

**Landscapes of exceptional features** generally tend to category V. However, some areas do have management objectives which could fit better into category IV since they focus on specific features and do not have pronounced interaction between people and nature. In larger forest areas in this group, intensive exploitation of forest (not traditional and for local uses) is allowed on more than 25% of the territory. Additionally, those are mostly natural areas with lower share of cultural landscapes. Such areas gravitate to category VI.

**Nature parks** have quite an unclear position in the national system categories. Linking them to the IUCN's classification system is yet another challenge. Larger areas in mountainous parts have mainly characteristics which would fit into category VI. Most of these areas include intensive use of resources and they have minor share of strictly protected zones. Another group of nature parks, smaller ones mainly in lowland regions, seems closer to category IV of V.

**Protected habitat** has not been implemented as a new category yet. However, characteristics of two finalized proposals for protected areas of this category show some generalities. These protected areas are focused on conservation of particular species, and the whole management concept is based on implementing conservational measures for these species and improving their status. Those should not be strictly protected areas since they allow different human activities if they are in line with conservation of target species.

Current difficulties in developing a system of protected areas (e.g. small coverage, negative trend, small percentage of strictly protected areas) cannot be justified only with issues of categorization and classification of protected areas. There are many other factors influencing the whole system. However, improving the system of categories, as well as a more consistent

interpretation and implementation of categories can significantly help for the general improvement of the status of protected areas in Serbia. Another legal obstacle which significantly influences effective categorization is protected areas zoning. The zoning system is rigid and it applies to all protected areas in a similar way and it does not consider their categories. Except for strict nature reserves, where only the first level of protection can be applied, all other protected areas can have any combination of the three levels of protection. General recommendations would be:

- legal definitions of protected areas should be improved - they should be more specific and precise with particular criteria. Special attention should be devoted to definitions of nature parks, landscapes of exceptional characteristics and national parks;
- definitions should be based on management objectives - priority as well as secondary management objectives should be defined in the process of establishment and they should be explicitly stated in the act of protection;
- criteria for categorization should refer to specific zoning pattern;
- management of most protected areas should be improved and more focused on nature conservation in order to achieve proper harmonization with the IUCN's system. Improvement of management does not necessarily mean stricter protection, but better integration of existing human activities.

#### **Integration of the concept of ecological connectivity into relevant sectors**

As already emphasized in the analysis given above, the concept of ecological connectivity has not been integrated into relevant sectors. Amending laws on agriculture, transport, water and construction in this sense will become necessary in order to guarantee proper protection of ecological network since they currently refer only to protection of environment in general and do not recognize protected areas or network of protected areas and the need for connecting those areas in national or international contexts.

#### **Enforcement**

Unfortunately the Serbian tradition of low enforcement of environmental legislation is long. Apart from certain well accepted and integrated procedures (e.g. SEA, EIA) general enforcement of legislation on environmental protection and related matters is quite low. As shown through the case law analysis, inaccurate definition of environmental crime is one of the main obstacles. Lack of clear distinction between minor offences and criminal acts is another. However, the most important problem is obviously a lack of defining either offences or crimes in many cases. For example, environmental liability is not well integrated into the legislative system. The Law on environment foresees the obligation of remediation, but there is no enforcement mechanism to insure the implementation of remediation plans or fine for those who fail to develop them. Legislation has to be seriously improved in this context. Since ecological connectivity is only elaborated through secondary legislation, it is obvious that there is no protection provided through punitive provisions. Proper transposition of the Environmental Crime Directive and the Environmental Liability Directive is a must in this context. Moreover, better practice in recognizing violations of legal provisions related to environmental protection is necessary. The analysis of case law shows that the majority of cases focus on liability for damage of private property, violation of property rights and traditionally connected cases related to use of natural resources, timber theft or illegal construction of objects.

#### **Cross-border cooperation**

The Serbian legal framework does not contain specific rules and procedures on cross – border cooperation related to ecological connectivity. This matter is regulated through bilateral

agreements which are very often quite general and aim at confirming political will for cooperation, but do not detail rights and obligations of each party, mechanisms to achieve the objectives of cooperation or tools to legally ensure implementation. Therefore, the recommendation is to further develop the legal framework in this area with clear distinction of institutional obligations on each level, thus building a link for cooperation between neighbouring municipalities on both sides of the border and passing the rights and obligations of the state, who is party to international or bilateral agreements, to the relevant internal institutional framework.

## SECTION II: PILOT AREA

### **The Iron Gates Nature Park/Djerdap National Park (Romania - Serbia) (See Questionnaire 3.2)**

#### **1. Regional/local institutional frameworks and legislation affecting biodiversity protection and ecological connectivity in the pilot area**

Being a National Park, the area of Iron Gates/Djerdap is regulated by legislation adopted at **national level**. Local authorities are only in charge of approving the annual management plans as elaborated below.

The area of the National Park Djerdap is situated on the territory of three Serbian municipalities: Majdanpek (29467 ha), Golubac (18116 ha), and Kladovo (16024 ha). The total area of the National Park is 63 608 ha.

The Spatial plan of the National Park (NP) Djerdap<sup>58</sup> emphasizes that the Republic of Romania is situated north from the NP and that cooperation with Romania as well as with other ‘Danube countries’ shall ensure environmental protection and the protection of the Danube river in accordance with international agreements. Beyond this international dimension, the Spatial plan defines general, national, regional and municipal developmental objectives. Among regional/municipal objectives are:

- development of forestry in accordance with special purpose forest;
- development of agriculture in accordance with natural potentials and protection measures;
- exploitation of mineral resources in accordance with protection measures;
- promotion of SME based on traditional craft and especially related to tourism;
- promotion of development of clean industry;
- development of water supply systems;
- use of renewable and clean energy sources;
- development of regional/local road and water transport;
- development of a telecommunication system for the NP.

The general impression is that the main purpose of this document (Spatial plan of the National Park Djerdap) is to promote the development of economic activities in this area, while very little and very general attention is paid to the protection of its natural value. There are three levels of protection applied in the National Park<sup>59</sup>. Level I (the strictest) is applied to 4,2% of the total surface of the NP. It contains one landscape with outstanding features, 9 strict nature reserves, 7 nature reserves, 5 natural monuments, protected flora and fauna species and numerous cultural goods. Level II covers 24% of the NP surface. This area contains 12.420 ha of forests and 1.909 ha of agricultural land. Level III applies to the largest zone and covers 71,8% of the NP area which contains forests and agricultural land, but also areas for tourism, transport, sport and recreation, infrastructure (energy, water, telecommunication), exploitation of mineral resources (queries), construction sites as well as settlements.

<sup>58</sup> Spatial plan of the National Park Djerdap, Official Gazette of the Republic of Serbia No. 34/89.

<sup>59</sup> See para 2.1.3 of this report for a detailed description of these protection levels.

Annual management plans are made on the basis of Management plan of the National Park which normally covers a 10-year period and is submitted to the approval of the Manager of the protected area, in this case the Public Company ‘National Park Djerdap’ which represents the only entity in charge of managing the protected area.

The 2012 Management plan of the National Park Djerdap has been developed on the basis of Art. 54 of the Law on Nature Protection<sup>60</sup> (), in accordance with the Spatial Plan of the National Park Djerdap and the Management Plan of the National Park Djerdap for the period 2011-2020. The annual plan is an operative plan for the realization of already determined measures and tasks aimed at improving the ecological status, protection and development of natural and cultural-historical values in line with established regimes of protection. This particular plan defines the following priority activities:

- complex scientific research of flora and fauna of the National Park Djerdap and professional presentation of the results;
- education and communication as a basis of modern approach to nature protection;
- international cooperation as a tool for improvement of nature protection, improvement of management and exchange of experiences in managing protected areas.

As noted above, the Public Company ‘National Park Djerdap’ is the official manager of this protected area. The Company is situated in Donji Milanovac, Municipality of Majdanpek and cannot be considered a part of the local/regional administrative structure since it has been established by the National Assembly by means of the specific Law on National Parks<sup>61</sup>. The company exists since 1993. The three municipalities, on whose territory the National Park is situated, do not have specific environmental services or institutions in charge for nature protection. All of them have public companies in charge of communal services and a number of local authority bodies, but none is particularly devoted to environmental protection. Local services for spatial planning are generally in charge of environmental issues (e.g. EIA). This explains the lack of local legislation on environmental matters and the marginal role of local communities in management of protected areas as elaborated above.

Local legal acts that can affect ecological connectivity are mostly building permits and other urban planning instruments developed at local level, which have to be compliant with higher hierarchy spatial plans.

## **2. Cross-border cooperation instruments affecting biodiversity protection and ecological connectivity in the NP**

Going back to the 2012 Management plan of the National Park Djerdap, it emphasizes international cooperation as one of the priority activities, in particular:

- activities for maintaining cooperation with the Europark Federation;
- activities for maintaining cooperation with UNEP;
- activities for maintaining cooperation with UNESCO on sustainable development of cultural heritage of Djerdap;
- activities for the realisation of projects in the scope of the Carpathian network of protected areas;
- activities for maintaining cooperation with the Alpine network of protected areas;

<sup>60</sup> Official Gazette of the Republic of Serbia No.36/09 and 88/10.

<sup>61</sup> Official Gazette of the Republic of Serbia No.39/93 and 44/93

- activities for maintaining cooperation with the Danube network of protected areas (DANUBEPARKS);
- implementation of the Action plan for protection of white tailed eagle;
- strengthening cooperation with the Romanian Nature Park Portile de Fier (Iron Gates)
- monitoring natural values of protected areas on both sides of the border;
- participation at workshops organized by the Regional Environmental Network for Accession (RENA);
- strengthening cooperation with the Montenegrin National Park ‘Skadarsko jezero’ in accordance with the signed bilateral agreement;
- strengthening cooperation with the Croatian Nature Park ‘Kopački Rit’ in accordance with the signed bilateral agreement.

Apart from the above listed instruments, it is also worth mentioning the Danube Strategy. In June 2009 the EU Council gave mandate to the European Commission to create a joint comprehensive strategy for the Danube countries. The Commission adopted the final document of the Strategy and referred it for adoption to the EU Council of Ministers on 8 December 2010. Along with this document the Action Plan for the implementation of the Strategy was adopted as well. Finally, on 24 June 2011 the EU Council adopted the conclusions calling all relevant actors to take an active part in the implementation of the Strategy, thus formally concluding the Strategy adoption process. A comprehensive EU strategy for the Danube region is based on three pillars:

1. establishment of a safe navigation system and development of transport and supporting infrastructure;
2. environmental protection and sustainable utilization of natural resources;
3. economic development and strengthening of regional cooperation and partnership in the Danube region

In the second pillar the strategy envisages the following actions relevant for biodiversity protection and ecological connectivity:

- **Adopt an appropriate legal and strategic framework in the field of sustainable use of natural resources and goods (surface and ground waters), environmental protection, ratification of several international conventions; as well as affirmation of environmental protection and European standards in this area.**

In May 2010, Serbia adopted a new Law on Waters. This law regulates the Water Management Strategy and the protection of waters from pollution. Adoption of bylaws relating to emission limits and limits for pollutants in surface and ground waters and sediment is envisaged. The Ministry of Environment and Spatial Planning has prepared a draft regulation on the priority substances in water and this is expected to be adopted by the end of the year, as well as the Law on Ratification of the Convention on the Protection and use of transboundary rivers and international lakes.

- **Develop the potentials of national parks and protected areas.**

A spatial plan for the area of special natural reserve of the Gornje Podunavlje region has been adopted in March 2012 while an update for the National Park Djerdap area<sup>62</sup> is still pending. The Ministry of Environment and Spatial Planning of the Republic Agency for Spatial Planning is in charge for both projects. The *Iron Gate* area and its surroundings are places with many forms of geological heritage. That is why it is necessary that the Iron Gate area gets its deserved place among protected areas following the example of other geological parks

<sup>62</sup> The existing Spatial Plan of the National Park Djerdap is from 1989, thus it is considered outdated.



in Europe. The part which would be protected, would considerably increase the percentage of protected areas of Serbia.

- **Adopt and implement measures aimed at increasing the quality of waters in the Danube flow.**

The projects of the Ministry of Environment and Spatial Planning, *Construction of the Waste Water Collectors, the Waste Water Treatment Plants, Scooping out of the Silt (Veliki Backi Canal)* and *Monitoring of the Water Quality and Sediments of the Veliki Backi Canal* are the two projects developed by the Ministry with a view to improving the quality of the water in the basin of the river Danube.

- **Establish a research system, develop a general planning document, principles of use of biodiversity components of flora and fauna.**

The project proposal *Biodiversity and the ecological status of levees, waters and wildlife in the Sava basin* is being prepared in coordination with the Sava Commission. Its implementation is planned for the second round of the implementation of the plan to manage the flow of the Sava river basin. The project proposal will be sent to the Third call for Transnational Program for Southeastern Europe at the end of this year.

- **Develop a system of receiving stations for collecting ship waste in order to solve environmental and community problems in Inland Waterways.**

The Ministry of Infrastructure approved the project *Development of an integrated model for management of ship waste materials in waterways corridors of the Republic of Serbia* and it will be funded by the Ministry of Science. Directorate for Inland Waterways is included in the *WANDA* project. This is the first step, but Serbia is fully committed to implement all EU standards in order to protect the Danube and Sava rivers from all forms of pollution.

### **3. Relevant case law related to biodiversity protection and ecological connectivity in the pilot area**

During the general maintenance service of the HE Djerdap huge amount of fish (some 20 tonnes) were captured while the dam was closed and water drained for the maintenance service. A state ecological inspection was allowed at the site and the HE Djerdap managing body showed high level of cooperation aimed at preventing such cases in the future. The management authority was sentenced for an economic crime and paid fine, but it was also ordered to install sound emitters to warn fish before the dam closes. It is not yet known how the system works, but there has been no similar case after this judgement.

It is relevant mentioning that, due to legal gaps, it was not possible to use environmental law instruments such as environmental liability or protection of environment through criminal law.

### **4 Suggestions for the Improvement of legislation**

The presented analysis draws attention to several major issues that could represent legal barriers to ecological connectivity in the Pilot Area, thus relevant legal tools have to be improved in these fields.

#### **a) Role of local authorities**

Local authorities have marginal role in management of protected areas. They are consulted in the process of developing the protection study and involved in the process of approval of the management plans but do not have a major role. They could potentially affect ecological

connectivity through issuing building permits and EIA consents on local level. Thus, it would be necessary to build local institutional capacities in order to entrust local administrations with new obligations, and ensure synergy between nature protection and other relevant sectors (transport, agriculture, construction, water management, etc.) where municipal services have more competence. It is also necessary to motivate local administrations through legal tools and give them stronger voice in decision making in this area.

**b) Spatial Plan of the National Park Đerdap**

The Spatial Plan of the National Park Đerdap has to be updated with new data on protected species of flora and fauna, forest inventories, results of different scientific research, etc. The Plan has to be updated also in terms of goals, putting more emphasis on the concept of ecological connectivity and highlighting cross-border cooperation.

**c) Increase the size of protected areas (Level I and II)**

The Pilot Area presented above cannot be considered a National Park in the sense of IUCN categories if more than 70% of the territory is at the lowest level of protection allowing the performance of numerous human activities, except for the most polluting ones such as: oil refineries, chemical industry, metal industry and thermo power plants, storage of petrol and natural gas, introduction of invasive alien species and establishment of landfills. The structure of protection zones has to be reorganized providing higher protection levels to at least 75% of the territory of the National Park.

**d) Connectivity versus transport**

It seems that the sector of transport does not consider the concept of ecological connectivity and confuses this term with the traditional meaning of connectivity and mobility. All national/regional/local policies including the Spatial Plan of the National Park Đerdap are dealing with building new roads and improvement of road infrastructure, improvement of water transport, etc.; but there is nothing about better planning for ecological corridors or about building technical solutions in order to ensure the mobility of wild animals. More roads does not always mean better economy, but always entails more pollution.

**e) Cooperation**

More emphasis should be given to the implementation of international agreements, thus improving the role of local authorities and fostering cross-border cooperation of neighbouring municipalities.

## ANNEX: QUESTIONNAIRE

(Prepared by Dr. Mariachiara Alberton)

### 1. GENERAL PART

#### 1.1 Introductory questions:

- Provide brief information on the form of constitutionalized division of power of your country (i.e. federal/unitary model)
- Describe briefly how are the legislative and administrative competences in the field of environmental/landscape protection/ land use and spatial planning/water/hunting/agriculture/transport/tourism/energy?/mining? divided among different government levels
- Describe briefly what are the bodies in charge of nature protection (for legislation, implementation and enforcement). At what level (state/regional/local) are monitoring and controlling authorities been established for nature and forest protection? How are they financed? (Public, e.g. state, funds?)

#### 1.2 Questions on legislative/administrative frameworks relevant for biodiversity and ecological connectivity

##### **Protected areas:**

- How have European directives (i.e. Habitats directive, Birds directive, Water framework directive, Environmental liability directive, EIA and SEA directives) been implemented in your country? (For non EU countries: have legislation similar to the mentioned directives been approved in your country?) Draft laws?
- What are the provisions for the implementation and management of Natura 2000? (See in particular artt. 3 and 10 of the Habitats directive and national reports on implementation)
- Who is in charge of establishing protected areas (i.e. strict nature reserves, wilderness areas, national parks, national natural monuments, habitat/species management areas, protected landscapes, managed resource protected areas. See IUCN categories of protected areas)? What is the procedure for designating such areas? What is the legal basis? What is the different protection regime of those categories in your country? List existing categories of protected areas in your country and compare them with IUCN categories.

- Are protected areas mostly established by State/Regions/local governments/administration?
- Have local communities the right to designate protected areas? Is this an autonomous right or dependent on province/regional/state authorisation? If not, how can local communities participate in the setting up of protected areas? In which phase (initiative, project definition, project approval, ex post information) and with what powers (ex. voluntary consultation, mandatory opinion, mandatory and binding opinion etc.)?
- Are protected areas in the process of being established in your country? What is their regime? (See IUCN categories of protected areas)
- Do national laws contain specific provisions concerning the surroundings of protected areas? (Thus ensuring that critical areas are buffered from the effects of potentially damaging external activities). What is the legal regime therein provided?
- Have management plans for protected areas been established at state/regional/local level?
- Who is in charge of administering and managing protected areas (see IUCN categories of protected areas)? Public enterprises, state controlled institutions, private organisations?
- On what basis are protected areas financed? (state/regional/local funds?)

#### **Ecological connectivity and related sectors:**

- Are ecological networks/connectivity mentioned as concepts in the Constitution?
- Are ecological networks/connectivity included in other national legislative acts? (please consider the following sectors: environmental protection, i.e. nature and biodiversity, water management and protection; hunting and fishing; forest; landscape; land use and spatial planning; agriculture; transport; tourism).
- Which are the specific (national) tools mentioned therein for implementing ecological networks? (For example: develop sustainably managed agricultural landscape; promote sustainable forest management and prevent deforestation/degradation; develop spatial plans that reduce habitat fragmentation and destruction; address ecosystem issues in the river basin management plans for river districts; achieve good ecological status of waters; sign cooperation agreements with other management authorities)
- Are ecological networks integrated in key processes and sectors? (E.g. In the agriculture sector, priority given to agricultural management, connectivity, land abandonment; in the transport sector a balance is assured to green and grey networks; in climate change policies, priority is given to adaptation measures and connectivity; in water management, the principles and objectives of the Water Framework Directive 2000/60/EC are implemented, etc.).
- Does national legislation include provisions on conservation of cultural landscape and historic sites? Provide reference and examples

- Does national legislation include provisions on compatible forms of land use (with the conservation of biodiversity)? Provide reference and examples
- Is legislation on ecological forestry management, afforestation enacted? Describe briefly contents
- Are forest management plans obligatory?
- Are illegal harvesting and logging punished in your country? Who may issue fines/sanctions in these cases? Are there penal or administrative sanctions?
- Do provisions on restoring damaged sites and ecosystems exist? Are they enforced? Who is under such an obligation?
- Is illegal construction sanctioned in your country? Are there penal or administrative sanctions? Who may issue these sanctions?
- Are plans or projects having a significant effect on the environment subject to EIA/SEA (or equivalent) procedures?
- Is public participation prescribed as part of the procedure?
- Is ecotourism promoted in the legislation?

### **Hunting:**

- At what level are hunting laws approved (state/regional)?
- Can hunting sub-national laws contain exemptions from national laws?
- Are hunting laws in compliance with the bird directive?
- Are bans on hunting imposed for the following species: European Lynx (*Lynx lynx* L.), Brown Bear (*Ursus actos*, L.), European Wolf (*Canis lupus*, L.), European Otter (*Lutra lutra*, L.), Chamois (*Rupicapra rupicapra*, L.), Western Capercaillie (*Tetrao urogallus*, L.), European Hare (*Lepus europaeus*, Pallas)?

### **Cross-border cooperation:**

- Do provisions on cross-border cooperation for the management of bordering protected areas exist in your country? If yes, have any cross-border cooperation agreements been concluded? Please describe their scope and purpose
- Who is in charge and what are the legal tools/procedures to designate a transboundary protected area?
- Have cooperation been developed in your country on the basis of the “European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities” and related Protocols?
- Has legislation similar to the European Regulation 1082/2006 on Grouping of Territorial Cooperation (EGTC) been implemented in your country (for non EU countries)? Have initiatives related to nature protection and ecological connectivity been promoted through this tool (For EU; and through similar tool for non EU countries)?

### 1.3 Case law

Is there any case law in the above-mentioned sectors concerning ecological connectivity/networks? Please quote and summarise existing cases

## 2. PILOT AREAS

Analysis of regional and local institutional framework and legislation (beside the national institutional framework and legislation) affecting the biodiversity protection and ecological connectivity of selected pilot areas (for specific guiding questions see above: 1. General Part of the Questionnaire):

- a) Analysis of regional/local institutional frameworks and legislation affecting biodiversity protection and ecological connectivity in pilot areas;
- b) Analysis of cross-border cooperation instruments affecting biodiversity protection and ecological connectivity in pilot areas;
- c) Analysis of relevant case law related to biodiversity protection and ecological connectivity in the pilot areas (if any)

Sectors of analysis:

- Protected areas and biodiversity;
- Landscape;
- Land use planning and control (spatial planning, land use and management within the transport sector);
- Environmental impact assessments and strategic environmental assessments;
- Agriculture and agro-environment;
- Forestry;
- Water;
- Hunting;
- Tourism.