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Preserving biodiversity
in South Eastern Europe
using EU standards

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Europe's Living Heart



Project title:

**Europe's Living Heart.
Preserving Bosnia and Herzegovina's
natural heritage using EU-tools.**

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Abbreviations

ADA	Austrian Development Agency
EBRD	European Bank for Reconstruction and Development
EEA	European Environmental Agency
EIB	Europäische Investitionsbank
EU	European Union
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit
IPA	Instrument for Pre-Accession Assistance
IUCN	International Union for Conservation of Nature
MAB	Man and Biosphere
NGO	Non Governmental Organisation
OSCE	Organisation for Security and Co-operation in Europe
USAID	United States Agency for International Development
UNDP	United Nations Development Programme
UNECE	United Nations Economic Commission for Europe
UNEP	United Nations Environment Programme
UNIDO	United Nations Industrial Development Organization
UNESCO	United Nations Education Scientific and Cultural Organisation
UNITAR	United Nations Institute for Training and Research

Note

Cursive numbers in brackets are refereeing to references in chapter 8.

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Preamble

South Eastern Europe encompasses a big share of the European natural values. Countries like Bosnia and Hercegovina, Serbia and Montenegro are rich in biodiversity, and with common challenges to benefit from it and ensure its sustainable future.

Furthermore, the EU perspective is currently a main political driver in the region, and EU accession is surely a key objective for these countries. Strong economic growth and progressing integration of the region into the EU are set to bring the stability, security, and prosperity that the peoples of the region are hoping for.

However, this process will only be successful if it preserves and enhances the environmental and social capital rather than sacrificing it. The challenge for the environmental sector is not just transposition of EU environmental law, but also how it can make a positive contribution to political and economic development. The countries in the region need to increasingly use their unique positive characteristics to build a competitive advantage in Europe beyond low cost labor and resource extraction

With the main goal of ensuring sustainable development while protecting biodiversity in the region, we in the WWF Mediterranean Programme Office have been active in the Dinaric Arc ecoregion for over 10 years. Not only by supporting countries in implementation of EU Nature-protection legislation (including Habitats, Birds and Water Framework Directives) and other international conventions (Barcelona Convention, Convention on Biological Diversity Program of Work on Protected Areas), but also by building capacity of actors, addressing threats, demonstrating solutions and establishing partnerships for conservation.

Our work in the region is framed by Memoranda of Understanding signed with the governments of Slovenia, Croatia, BiH, Montenegro, Serbia and Albania, establishing cooperation on protected areas issues, like creating an enabling policy framework for protected areas/Natura 2000, financing, transboundary co-operation, governance and communication.

Within this framework, the project Europe's Living Heart, financed by the Norwegian Minister of Finance was launched in early 2008. The present report is one of the outcomes from this efforts..

We hope this report can be a useful tool to contribute to enhancing the sustainable development and biodiversity conservation in the region. The EU biodiversity protection standards are for sure a positive way forward for this purpose, and therefore our commitment to support their adequate implementation in the region: the future of the Dinaric Arc's biodiversity is a key part of the future of Europe's biodiversity.

Deni Porej
Director of Conservation
WWF Mediterranean Programme

Introduction

Within the framework of the WWF Mediterranean Program's "Living Neretva" project, the seminar "Towards EU Standards in the Neretva River Basin in Bosnia and Herzegovina: linking water management and biodiversity conservation" took place in Sarajevo in April 2007. IT was focused on the EU Water Framework Directive and the EU Nature Directives, and it generated an important interest from participants in the EU biodiversity standards, especially among national authorities.

Building on this interest, the new project "Living Heart of Europe, Phase I" concept was subsequently developed. It was launched in January 2008 and has been running till June 2008. Within this project, the following key activities have been carried out:

- Development of the workshop "EU Biodiversity protection standards implementation in South Eastern Europe" in Sarajevo (April 2008).
- Creation of the "EU Biodiversity Standards Scientific Coordination Group" (HD WG), aiming at identifying existing relevant information relevant for the identification and selection of the main biodiversity values and areas in Bosnia and Herzegovina according to the EU Biodiversity Protection Standards.
- The current report "Europe's Living Heart – Preserving biodiversity in South Eastern Europe".

The main goal of this report is to analyze the current nature protection system in Bosnia and Herzegovina, in order to support the nature conservation especially taking into account the positive EU biodiversity standards. This information might be also relevant for a potential EU accession process of the country, but obviously this is not related with the current goals. Instead, this document is intended to be a tool for national authorities and other relevant stakeholders in their efforts to effectively conserve the biodiversity in their countries following the positive EU biodiversity protection standards.

The report is focused mainly on Bosnia and Herzegovina, but it includes some extra information from Serbia and Montenegro. The current situation is analysed on a national basis, extracting some conclusions from it; as said with a strong emphasis on Bosnia and Herzegovina, and less in Serbia and Montenegro. The overall picture gives us the opportunity to also draw some general regional conclusions.

Europe's Living Heart

Part A:

Bosnia and Herzegovina



1. Short description

Bosnia and Herzegovina (BiH) is situated in South Eastern Europe, in the central part of the Balkan Peninsula and has a total land area of 51,129 km². The total length of its borders is 1,537 km of which 762.5 km are land borders, 751.0 km are river borders and 23.5 km are sea borders. Bosnia and Herzegovina has common frontiers with Republic of Croatia (931 km), Serbia (375 km) and Montenegro (249 km). To the north, Bosnia and Herzegovina has access to the river Sava, and to the south to the Adriatic Sea, at Neum. The land is mainly hilly to mountainous with an average altitude of 500 meters. Of the total land area, 5% are lowlands, 24% are hills, 42% are mountains and 29% are karst area.

The state of Bosnia and Herzegovina is regulated by the Dayton Agreement (signed on 14th of December 1995 in Paris) and comprises the three separate administrative units of the Federation: the Federation of Bosnia and Herzegovina (FBiH), which is divided into 10 cantons; the Republika Srpska and the Brčko District.

According to the 1991 census, Bosnia and Herzegovina had a population of 4.4 million inhabitants and a gross domestic product per capita of about 2,500 \$, placing Bosnia and Herzegovina among medium-developed countries. The most recent estimates show, that the population has decreased to 3.5 million inhabitants as a result of the consequences of war and that the gross domestic product has fallen to the substantially lower figure of about 1,200 \$ per capita (A10).

3. Legal situation

“Nature Conservation”

3.1 Short description of present situation of the legislative framework

In Bosnia and Herzegovina a complex legal situation is identified consisting of 13 relevant laws at the state level, 31 relevant laws in the Federation of Bosnia and Herzegovina, 30 in the Republika Srpska and 13 in Brcko District; and altogether 106 laws on cantonal level (A1).

The national legislative framework for nature conservation is based on the Constitution of Bosnia and Herzegovina, the Constitution of the Federation of Bosnia and Herzegovina, the Constitution of Republika Srpska and the Statute of Brcko District (A7).

Pursuant to the provisions of the Dayton Peace Accord, environmental management is the responsibility of the entities, and in the Federation of Bosnia and Herzegovina some competences are even devolved to the cantons (A11).

Nature protection is under the jurisdiction of the Ministry for Physical Planning, Civil Engineering and Ecology in Republika Srpska, and the Ministry of Environment and Tourism in Federation of Bosnia and Herzegovina (A2). This subject is treated through several legal acts in both entities (Law on Nature Protection, Law on Environmental Protection, Law on Physical Planning and Law on Forests). Those acts indicate that there should be a Strategy for Nature Protection on entity level. The Strategy should determine tasks and the policy for protection of natural and biological diversity should ensure the establishing of information systems for monitoring and nature protection and should comply with inter-entity programme of nature protection.

On the municipality level, there are plans for nature protection that must comply with this act.

The entity governments are responsible for delivering the Red Books. Expert institutions (i.e., Institute for protection of natural/cultural heritage in the Republika Srpska or respective institution in the Federation of Bosnia and Herzegovina) are preparing the Red books, and the competent ministries of environment at the entity level are submitting those lists to the governments who adopt the Red books. At the state level, the Red Book is harmonized by an Inter-entity body for Environment, the Inter-entity Environmental Steering Committee.¹

Maintenance of species in the Red Book as well as their natural habitats should be accomplished through the establishment of protected areas, and their incorporation in protected sites according to Birds and Habitats Directive.

The Laws on Nature Protection of both entities and Brcko District, adopted in the period 2003–2004, are partly based on the EU Habitat Directive (92/43/EEC) and the EU Birds Directive (79/409/EEC) (A7). Bosnia and Herzegovina has signed the “Convention on Biological Diversity” in 2002, with the Federal Ministry of Tourism and Environment in the Federation of Bosnia and Herzegovina assigned as a responsible authority for implementation of the convention at state level in the sense of a contact point. As an operational body, this Ministry is responsible for communication with international institutions, initiation of activities within the Convention and coordination with other authorities and interested parties (A7). For each decision the Federal Ministry of Bosnia and Herzegovina has to cooperate with the Ministry of Physical Planning, Civil Engineering and Ecology in Republika Srpska.

¹ Information given by Ozen Laganin; Ministry of Physical Planning, Civil Engineering and Ecology of Republika Srpska

Bosnia and Herzegovina till now didn't sign "Convention on protection of wildlife and natural habitats in Europe (Bern, 1979) ", but implementation is in procedure (A11).

However, regarding the Laws and Directives, it is stated that the degree of implementation of nature conservation laws in Bosnia and Herzegovina is low, due to lack of financial and organizational capacities (A7). Furthermore, it is acknowledged that the mechanisms for implementation of the laws are still not well developed. As a result, there is a complex and difficult procedure for practical protection of valuable nature areas. The absence of horizontal and vertical connections between the Law on Nature Protection and other relevant legislation as well as relevant administrative structures leads to the fragmentation of activities and isolation of biodiversity conservation from all other relevant sectors and fields. The additional difficulty lies in the fact that governmental institutions responsible for natural resource management do not have sufficient expert and technical capacity necessary for the complex and underdeveloped process of management (A7). Furthermore, the expert institutions that are supposed to implement goals and actions of the Convention of Biological Diversity have still not been established (Federation of Bosnia and Herzegovina and Brcko District) or do not have sufficient capacity (Republika Srpska).

Separate Progress Monitoring Reports for each entity in Bosnia and Herzegovina were submitted to the European Commission's DG-Environment in July 2007 as the first report tracking the environmental approximation status in Federation of Bosnia and Herzegovina and RS. The report covers 25 major EU directives and 3 regulations within the horizontal, air quality, waste management, water quality, nature protection, industrial pollution control and chemicals sectors (A3) and (A4).

According to the Progress Monitoring Report for Federation of Bosnia and Herzegovina transposition of the EU Habitats and Birds Directives is only in the early stages. While some provisions of the Habitats Directive have been transposed, reaching a transposition score of only 14%, no initiatives have been taken as yet in terms of transposition of the Birds Directive. Furthermore, it is stated that further effort is needed to ensure that the requirements are transposed in this sector. Implementation of the Birds Directive has not been initialized. It is expected that various assessments will be made upon the adoption of a new Nature Protection Law. The date for full implementation has not yet been determined. In the report it is mentioned that a project, "Natural Biodiversity Strategy and Action Plan" (NBSAB), which is connected to the Habitat Directive, was being carried out. A draft of the strategy was finalized in January 2008. Furthermore, it is stated in the report that the Ministry lacks resources for implementation. All further implementation steps are foreseen only upon amendment of the Law on Nature Protection. Thus, no further information could be provided at this stage on the expected timing for full implementation (A3).

On the other hand, in the Progress Monitoring Report for Republika Srpska it is stated that the situation is slightly better with regard to the Habitats Directive. The transposition is still at an early stage reaching a transposition score of 25%, due to the fact that a few provisions have been transposed in the Law on Nature Protection 50/02 (A4). However, as for the Birds Directive, transposition has basically not yet begun, and there is currently no estimation of when full transposition can be expected. Furthermore, Republika Srpska has not yet established any specific deadlines for full transposition. Regarding the process of implementation, it is stated in the report that it is at a very initial stage. In terms of the Birds Directive, measures for implementing articles 4–6 were expected to be implemented by the end of 2007. For the remaining requirements, implementation is not determined yet. As for the Habitat Directive, it is foreseen that an inventory of sites will be carried out one year after the adoption of a new law amending the existing Law on Nature Protection. However, it has not yet been determined when full implementation is likely to occur.

A “protected area” is a part of land that is designated for the protection and maintenance of biological diversity, of natural and cultural resources.

The current IUCN Definition of a Protected Area, as adopted at the 1994 IUCN General Assembly, is as follows: “An area of land and/or sea especially dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, and managed through legal or other effective means” (A17). The new proposed IUCN definition of a Protected Area, which is still being discussed is as follows: “A clearly defined geographical space, recognized, dedicated and managed to achieve the long-term conservation of nature, associated ecosystem services and cultural values [through legal or other effective means/through state or other effective governance]”² (A18).

Protected areas of Bosnia and Herzegovina cover 30,766.82 ha, which amounts to 0.60% of the state’s total territory (5,120.976 ha) (A19). The protected area system of Bosnia and Herzegovina includes 16 strict reserves, 9 managed natural reserves, 2 national parks, 5 special nature reserves, 10 natural landscape reserves, 110 natural monuments, 1 protected landscape and 1 monument of nature (A20).

However, it is stated that designation of new protected areas in the territory of Bosnia and Herzegovina is planned (A7).³ Furthermore, there have been some incentives for establishment of transboundary protected areas between Bosnia and Herzegovina and its neighbouring countries, for instance the Sutjeska-Durmitor-Tara River Valley, coherent transboundary complex of protected areas between Bosnia and Herzegovina and Montenegro.

² The new definition is from the IUCN *Guidelines for applying protected area management categories – Draft of revised guidelines* (January 2008). According to the IUCN website, the document is based on the papers prepared for the “Protected Areas Categories Summit” held in Almeria, Spain (May 2007) and is meant for general discussion. Furthermore, after the consultation phase, the Guidelines were to be field tested in a number of different countries and then discussed at the WCPA Steering Committee meeting in Cape Town in April. Furthermore, French and Spanish versions will be prepared and a final version will be published for release at the World Conservation Congress in Barcelona in October, 2008.

³ The Una River watershed area, Igman-Bjelasnica mountains, the Prenj, Cvrnsnica, Cabulja centers of endemism, etc.

The definition of a protected area and their categorization appear to be the same according to the Law on Nature Protection of Republika Srpska (Official Gazette of RS no.50/02) (A22) and Law on Nature protection of Federation of Bosnia and Herzegovina (Official Gazette of Federation of Bosnia and Herzegovina no. 33/03) (A21). Protected area is defined in both entities’ Law as “a part of the land⁴ that is designated for the protection and maintenance of biological diversity, of natural and cultural resource”.⁵

The categories of protected areas are (A22):

- Natural protected areas
- National parks,
- Natural monuments,
- Protected landscapes.

However, according to the Law on amendment of the Law on Nature Protection of Republika Srpska (Official Gazette no.34/08) (A23) there are certain, significant changes. According to the act 14 of the Law on amendment of the Law on Nature Protection “areas which have significant biological, geological, ecosystem or landscape diversity are designated as protected areas”.

⁴ In Federation of Bosnia and Herzegovina it is slightly different “a part of the land and/or sea”

⁵ The categorization of protected areas of Federation of Bosnia and Herzegovina refers to the IUCN categorization in the following way (A7):

- Natural protected areas (IUCN categories Ia, Ib, IV)
- Natural protected areas (IUCN categories Ia, Ib, IV)
- National parks (IUCN cat. II)
- Natural monuments, (IUCN cat. III)
- Protected landscapes (IUCN cat. V)

The Strategy for Environmental Protection of Federation of Bosnia and Herzegovina also states that the post-war Law on Nature (obviously the one published in the Official Gazette 33/03) is based on the EU Directives – Habitat Directive (92/43/EEC) and Birds Directive (79/409/EEC) (A6). However, it is also acknowledged that transposition of Directives to the legislation of the Federation of Bosnia and Herzegovina is not satisfactory – the degree of non-harmonization of Habitat Directive is 87%, while the degree of non-harmonization of Birds Directive is 100% (A3). However, it is stated that one of the goals of the Federation of Bosnia and Herzegovina is to strengthen legal framework in the field of nature conservation – which is planned to be achieved through revision of the current Law on Nature Protection, among other measures, in accordance with more efficient protection of geological and biological heritage and international intentions (A3).

According to the same act (act 14) protected areas are:

- Natural protected areas
 - Strict nature reserves
 - Special reserves (wilderness areas)
- National parks,
- Natural monuments
- Habitat Management Area
- Protected landscapes.
 - Protected natural landscapes
 - Protected cultural landscapes
 - Nature parks
 - Forest-parks, forest zones for protection and natural areas around cultural sites and areas
- Managed Resource Protected Area
 - Artificial (man-formed) planted areas (botanical gardens, parks, alpinetums, alleys)
 - Individual trees, groups of trees or living natural collections

Therefore, according to this Law on amendment there is a legal basis for harmonization with IUCN categories in Republika Srpska.

There are different procedures of designation a protected area in the Republika Srpska and the Federation of Bosnia and Herzegovina:

In Republika Srpska, proposals for designation of protected areas of all categories are made by the Ministry of Physical Planning, Civil Engineering and Ecology.

In Bosnia and Herzegovina the competence for designation depends on category: Natural protected areas and national parks are proposed by the Federal Ministry of Environment and Tourism, proposals for designation of protected landscapes and natural monuments are given by Cantonal Ministry (A2).

Proposals for designation of protected areas that are in the area of both entities are made by the Federal Ministry of Environment and Tourism in the Federation of Bosnia and Herzegovina and the Ministry for Physical planning, Civil Engineering and Ecology of the Republika Srpska. Republika Srpska entity government is in charge for adoption of measures for management of all categories of protected areas. In the Federation of Bosnia and Herzegovina the responsibility for management depends on category of the protected area: competences are the same as with protected areas designation.⁶

Possible areas can be designated for Natura 2000 through special Act of Government of Republika Srpska and the Federation of Bosnia and Herzegovina (Article 37 of the Law on Nature Protection of Republika Srpska, and Article 33 of the Law on Nature Protection of the Federation of Bosnia and Herzegovina). Sites that can be designated are National Parks, protected natural areas and natural monuments if there are species or habitats of common interest according to international criteria. Any plan or project which is likely to affect the natural values of a site is subject to appropriate assessment of its implications for the site.

However, the only document where Natura 2000 and other international instruments of nature protection are mentioned is the Law on Nature Protection of the Entities (A2). There is neither mention of Natura 2000 nor other international instruments of nature protection in other relevant documents such as the Law on Forests, Law on Hunting, Law on Physical Planning and others. Furthermore, in this Report it is stated that entity legislation is rather confused concerning this matter and concrete definitions differ from law to law (A2).

⁶ Financial support is ensured through the entity budget and Environmental Protection Fund.