

# **Presentation and analysis of the existing legal and institutional framework that defines the protection of the natural environment and its biodiversity - Conditions in the “Republic of Macedonia” (recognised by Greece as: “The Former Yugoslav Republic of Macedonia”)**

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## **1. Outline of the International Multilateral Agreements on Nature Protection and Promotion**

### **Status of the International Agreements in the Republic of Macedonia**

In order to permanently monitor and update all the changes of the international agreements, in the Ministry of Foreign Affairs in 1995 a Unique Catalogue was prepared of all the international documents in this area, which are of interest for the Republic of Macedonia. The Catalogue was prepared in electronic version and it contains all the relevant data for the ratified international agreements by the Republic of Macedonia, as well as the ones that are in a procedure of ratification, i.e. there is an initiative for their ratification.

The current condition of the international document status is:

- Out of the global international documents adopted in the frames of the UN, so far the Republic of Macedonia has acceded to three conventions:
  - Vienna Convention, in 1993,
  - Ramsar Convention, in 1995,
  - UNESCO Convention, in 1997.

For all of them the official date of access is 8.09.1991.

Separate laws ratified five more Conventions:

- Rio Convention, in 1997,
  - Basel Convention, in 1997,
  - Bonn Convention (Hague Agreement and London Agreement), in 1999,
  - Espoo Convention, in 1999,
  - Washington Convention, in 2000.
- Out of the documents adopted in the frames of the Council of Europe, the Republic of Macedonia have so far signed and ratified by a separate law the Bern Convention in 1997.

### **Institutional Capacities for Convention on Biological Diversity (Rio, 1992) Implementation in the Republic of Macedonia**

The Republic of Macedonia has ratified this Convention by means of a separate Law adopted by the Parliament on 14 October 1997 (published in the “Official Gazette of RM” No: 54/97). The Convention entered into force for the Republic of Macedonia on 2 March 1998. The Ministry of Environment and Physical Planning of the Republic of Macedonia is the competent national body for coordination of

activities related with the biological diversity preservation, and accordingly for the Convention implementation.

On 10 March 1999, in Skopje, upon the recommendation of the Standing Committee of the Convention, National Committee for Biological Diversity (NCBD) was established by the Ministry of Environment and Physical Planning, in cooperation with the relevant Parliamentary and Government commissions, Ministry of Foreign Affairs, scientific and professional institutions and non-governmental organizations. In accordance with its responsibilities, the Government of the Republic of Macedonia, confirmed by decision the constitution of the Committee (published in the "Official Gazette of RM" No: 36/99). This body is composed of President and Vice President and 18 members. The main role of the Committee is to assist as an expert body to the Ministry of Environment and Physical Planning in various issues regarding biodiversity conservation, especially in the field of implementation of the Convention on Biological Diversity.

In 1999, for the purposes of development of the National Strategy and Action Plan for Biological Diversity Protection, the Ministry undertook activities for application for a project under the Global Environmental Facility (GEF). The application was approved by the GEF, and the World Bank was assumed an implementation agency for the project. The commencement of the implementation of the project is expected very soon, and it will be implemented by the Ministry, in cooperation with the National Committee for Biological Diversity. The development of this project is part of the obligations of the Republic of Macedonia derived from the Convention. Upon suggestions by the GEF and the World Bank, the proposed project was supplemented by the development of the First National Report on the implementation of the Rio Convention in the Republic of Macedonia.

## **Convention on the Wild and Natural Habitats Conservation in Europe (Bern, 1979)- Conditions in the Republic of Macedonia**

The Republic of Macedonia ratified this Convention by separate Law adopted by its Parliament on 18 September 1997 (published in the "Official Gazette of RM" No: 49/97). The Convention entered into force for the Republic of Macedonia on 1 April 1999. The Ministry of Environment and Physical Planning of the Republic of Macedonia is the competent public body for the implementation of the activities aimed at Convention implementation.

Upon the recommendation of the Depositary, the Secretary General of the Council of Europe and the Committee of Ministers, the Government of the Republic of Macedonia adopted Declaration in 1999, specifying exceptions as of articles 4-8 of the Convention, referring to our specific conditions, i.e. rich presence of populations of wild flora and fauna and the possibility for their sustainable use, by undertaking measures for prevention of adverse impacts on their survival.

During the last year, and in accordance with the obligations deriving from the Convention, the National Report on the implementation of the Bern Convention in the Republic of Macedonia was developed. This document resulted from the cooperation between the Ministry, as a competent public body and the National Committee for Biological Diversity and National Ramsar Committee. The Report was submitted to the 20<sup>th</sup> Session of the Standing Committee of the Bern Convention (Council of Europe, Strasbourg, December 2000).

## **2. The National Law in the Republic of Macedonia**

The protection of the nature areas, which as the value of common interest have special significance and enjoy special protection in the Republic of Macedonia, is regulated with several laws: the Act on Natural Rarities Protection (Official Gazette No.41/1973), the Act on National Parks Protection (Official Gazette No.33/1980) and the Act on Protection of lakes Ohrid, Prespa and Dojran (Official Gazette No.45/1977).

According to the Constitution of the Republic of Macedonia, in the Article 8, "proper urban and rural planning to promote a congenial human environment, as well as ecological protection and development" are among the fundamental values of the constitutional order of the Republic of Macedonia. According to the stated constitutional regulation and the perceived need of a system law as a basic law for protection of the environment and nature, in 1996 the Macedonian Parliament

passed the Act on Environment and Nature Protection and Promotion (Official Gazette No.69/1996; 51/2000).

The **Act on Natural Rarities Protection** was passed in 1973. In this act, as natural rarities are considered all the immobile and parts and objects of the living and non-living nature that due to their scientific, aesthetic, health and other values, as well as their cultural, educational and tourist recreational functions are under special protection of the community. The objectives of the protection of the natural rarities are: preservation of the natural rarities in their original state, creation of favourable conditions for maintenance, development and promotion of the natural rarities, prevention of all actions with which the natural rarities, natural development and state could directly or indirectly be changed and regulated of the human relation towards the natural rarities with aim of their permanent and rational benefit. The natural rarities are categorized as given below:

|                                                               |                                                                                                                                                                                                |                                                                                                                                                    |
|---------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| Natural reserves                                              | General natural reserves:<br>National parks;<br>Strict natural reserves;<br>Scientific research natural reserves;<br>Regions with special natural characteristics and characteristic landscape | Special natural reserves<br>(Regionally limited areas in which specific biocoenotic, floral, faunal, geological and hydrological natural rarities) |
| Separate plant and animal species out of the natural reserves |                                                                                                                                                                                                |                                                                                                                                                    |
| Monuments of nature                                           |                                                                                                                                                                                                |                                                                                                                                                    |
| Memorial monuments                                            |                                                                                                                                                                                                |                                                                                                                                                    |

The general natural reserves such as the national parks, the strict natural reserves and the scientific research natural reserves as well as the special natural reserves are proclaimed by law by the Parliament of the Republic of Macedonia. The municipality proclaims the regions with special characteristics and the characteristic landscapes as local authority organs.

The monuments of nature and the memorial monuments of nature are also proclaimed by the municipalities as organs of the local authorities.

Each natural rarity, as well as each object which has features of a natural rarity, enters the register of the natural rarities. The register is conducted by the Agency for Environment, which is an organ of the Ministry of Environment and Physical Planning.

This act anticipates penalties for offences like damage and destroying of the natural rarities, usurpation of objects that represent natural rarity, starting conservation, restoration or research activities without permission thus causing damage to the natural rarities etc. Violations are punished with symbolic sums.

In 1980 the **Act on National Parks Protection** was adopted. With this act, the procedure for proclamation, organization and the regime of national parks protection is more specifically regulated.

Law protects the lakes Ohrid, Prespa and Dojran as monuments of nature.

The **Act on Environment and Nature Protection and Promotion**, adopted in 1996, specifies the rights and responsibilities of the Republic of Macedonia legal entities and persons in the providing of conditions for environment and nature protection and promotion in order to implement the constitutional civic right for healthy environment.

According to this act, the natural heritage is defined as protected part of nature with particular natural values and characteristics, and which has permanent ecological, scientific, cultural, educational, health, recreational, tourist and other significance, due to which enjoys a special protection as a wealth of common interest for the Republic of Macedonia. All the expert activities and the expert supervision of the protected natural heritage is responsibility of the Agency for Environment at the Ministry of Environment and Physical Planning.

According to this act, the other laws which regulate the natural heritage usage conduct the activities as protection, restoration and management of the natural heritage; protection and unobtrusive realization of the function of the specially protected nature heritage, biodiversity, eco-systems protection; special

regime of protection and management stating; saving and usage of the areas of the protected natural heritage; specifying the areas with endangered natural heritage and the restoration of these areas, etc.

The protected natural heritage can be used according to the law, and the legal entities and persons who manage the protected natural heritage are obliged to develop a register and a program on protected natural heritage and to submit it to the Ministry.

Inspective supervision on the protected natural heritage is under the authority of the Republic Inspectorate for Environment.

Part of the recommendations given in the **National Environment Action Plan** from 1997 are revision of the laws and acts on protection of bio-diversity and the protected areas and preparation of a strategy and an action plan on bio-diversity conservation, reevaluation of the natural heritage and establishing of the Red Book; admission to the international programs, like CORINE and the International Union for Conservation of Nature (IUCN); preparation of a plan to manage the protected areas and training of experts on management of protected areas and parks; intensifying the activities for spreading information for conservation of natural rarities, bigger engagement of NGOs, development of public awareness and promotion of environmentally sustained tourism.

In the conditions of new constitutional structure and the existence of a new system law on protection and promotion of environment and nature, the Act on Natural Rarities Protection and the Act on National Parks Protection cannot respond to all modern demands concerning the protection of the natural heritage, especially the protection of national parks.

In order to achieve an efficient protection of nature parts as natural heritage, in conditions of new conceptual solutions, and the application of a new international categorization and international standards on natural heritage protection, the Ministry for Environment and Physical Planning prepared a **Draft Act on Natural Heritage Protection**. It is believed that the new law regulation will enable the Republic of Macedonia to join the European legislation on natural heritage protection.

The state of protection of natural heritage, which is known as natural rarities in the Republic of Macedonia by the authorities and the involved organs, organizations and the community, is estimated to be inappropriate.

The natural wealth and the biodiversity are not properly protected. The most noticeable violation of the natural ambience is present at the tourist and recreational areas. There are problems such as medicinal plants collecting, mineral resources exploitation and illegal urbanization in the national parks.

With the Draft Act on Natural Heritage Protection, parts of the existing acts from this area were codified. The new categorization of the International Union for Conservation of Nature (IUCN) was adopted in the Draft Act. The proclamation of natural parts as natural heritage is based on previous scientific research study on the natural and social values and significance of the natural parts that are proposed for protection. The proclaimed natural parts for natural heritage are recorded in a central register at the Ministry for Environment and Physical Planning.

In the Draft it is proposed that a National Parks Administration, as an organ in the frame the Ministry but as separate legal entity, shall manage the national parks as natural heritage. The subjects determined with the proclamation act shall manage the other categories of the natural heritage.

The Draft provides for a possibility that the tourist-recreational parts of the national parks to be leased on use to native and foreign legal entities with an approval by the Government of the Republic of Macedonia.

The Inspection monitoring over the conduction of the provisions of that law and the acts that will be brought shall be the competence of the Republic Inspectorate for Environment and Nature Protection and Promotion, founded in accordance with the Act on Environment and Nature Protection and Promotion, with appropriate competences proclaimed with this act.

The Draft provides for penalties provisions of fines that shall be imposed for offences.

For implementation of the Act, funding shall be provided from the Budget of the Republic of Macedonia, the Fund for Environment and Nature Protection and Promotion, from the usage of the natural heritage, donations, concessions and other resources in accordance to the law.

The hunting regulations in the Republic of Macedonia have existed since 1948, and today the **Act on Hunting** from 1996 is in force. There is a conclusion that the basic common characteristic of all acts was the protection, maintenance and breeding of the game, as integral part of the complex biocoenosis, not to be completely destroyed by the man influence.

Permanent ban of hunting the protected game is proclaimed on separate species that are rare and for which there is danger of complete destruction and extinction as species in the specific area or on the entire area of the Republic of Macedonia. The protected game, for which there is a permanent hunting ban, is forbidden to be hunted, chased or annoyed. With this law there is a permanent hunting ban on the bear, deer, lynx, otter, jackal, squirrel and others. There is a permanent hunting ban for 78 from 127 species game living in the Republic of Macedonia.

Monitoring over the implementation of this Act is the duty of the Ministry of Agriculture, Forestry and Waterworks, and hunting inspectors does the inspectorial monitoring.

Ministry for Environment and Physical Planning has also prepared **draft-text of Environmental Impact Assessment Law**.

The **Criminal Code** was published in The Official Gazette of the Republic of Macedonia” number 37/96. The Criminal Code changes and supplements are necessary trend of innovations in this area spurred and conditioned by the overall development of the Macedonian state after its independence.

### **The treatment of the Crimes against environment**

These crimes are:

– Pollution of the environment; – Pollution of the drinking water; – Production of harmful means for cattle and poultry medical treatment; – Veterinarian medical malpractice; – Transmission of contagious diseases at animal and plant life; – Contamination of cattle food and water; – Destruction of plantation nurseries with usage of harmful substance; – Realty usurpation; – Forest destruction; – Forest fire cause; – Illegal hunting; – Illegal fishing; – Endangering the environment with waste substances; – Unauthorized supply and possession of nuclear substances; – Import of dangerous substances in the country; – Animal torture; – Serious crime against environment.

There are Crimes against cultural monuments, archive materials and **natural rarities**. The same chapter consists of four articles as follow: – Damage or destruction of monuments of cultural and historical importance; – Adoption of cultural monuments, archive materials or natural rarities or other archaeological material; – Exporting a cultural monument, archive material or natural rarity; – Destruction or cover up an unprocessed archive material.

In Skopje on 04.09.2000 Macedonian Minister of Environment and Physical Planning and Greek Deputy Minister of Environment, Physical Planning and Public Works have signed **Memorandum of understanding and cooperation in Sustainable Development and the Environment**. Two Parties agreed to do everything in their power to –provide assistance to develop legislative and administrative mechanisms for the protection of the environment, according the International Agreements, the requirements of Community Law; -undertake joint research efforts to monitor air, water and soil pollution, establish monitoring systems for this purpose and provide bilateral linkage between these monitoring systems; -cooperate in the sustainable management of transboundary water resources, in accordance to the international legal framework; -develop and adopt environmentally sound strategies and implement joint programmes for the management of industrial, liquid and solid waste (urban, medical and hazardous); ...- cooperate in the conservation and management of the natural environment including the establishment and management of protected areas;...etc.

On 07.09.2000 **Memorandum of Understanding concerning cooperation in the field of Environmental Protection and Sustainable Development** between the Macedonian Ministry of Environment and Physical Planning and the Albanian National Environmental Agency, was signed.

On 09.06.2000 **Agreement** between The Ministry of Environment of the Republic of Macedonia and The Ministry of Environment and Waters of the Republic of Bulgaria **on cooperation in the field of environmental protection**, was signed.

## **3. Conclusions and recommendations**

The Republic of Macedonia has adopted the two international documents most relevant to the subject of this project – the Rio Convention and the Bern Convention

Concerning the Rio Convention, the Republic of Macedonia has fulfilled the most of the priority activities: development of national strategy and action plan; establishment of National Committee for Biological Diversity; development of the First National Report on the implementation of the Rio Convention in the Republic of Macedonia.

Still, there are several more activities to be done, some of them requiring regional cooperation, such as development of regional strategies and action plans and establishment of regional body.

Concerning the Bern Convention, the Republic of Macedonia has fulfilled one of the priority activities – development of the National Report on the implementation of the Bern Convention in the country. There should be developed the national and sub regional strategies and action plans and national and sub regional bodies should be established.

Referring to the national legal order and condition, we recommend several activities:

- Urgent adoption of Act on Natural Heritage Protection and Environmental Impact Assessment Law;
- Training of the National Park employees;
- Development of the sustainable management programs for the protected areas;
- Bigger involvement of NGOs and better access to information in the field of protection of natural heritage;
- Public awareness raising;
- Promotion of environmentally sustained tourism;
- Better cooperation among the Ministry of Environment and Physical Planning and the Ministry of Agriculture, Forestry and Waterworks, as well as among the Forestry Inspection, Hunting Inspection and Environmental Inspection.

Referring to the project pilot area – Kaimakchalan Mountain, we recommend harmonization of its protection status on the both sides of the border, which can be realized with cooperation of both countries.