

LEGAL ASPECTS OF BIODIVERSITY CONSERVATION IN FR YUGOSLAVIA

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Part A: Presentation and analysis of the existing legal and institutional framework that defines the protection of the natural environment and its biodiversity

A1. International and European legal order

1. Implementation of the International Law in Yugoslav Constitutional System

In Yugoslav Constitutional System there are a few rules about acceptance and implementation of International law. Most of these rules are about ratification of the international treaties. An article 16. of Yugoslav constitution says:

"The Federal Republic of Yugoslavia shall fulfil in good faith the obligations contained in international treaties to which it is a contracting party.
International treaties which have been ratified and promulgated in conformity with the present Constitution and generally accepted rules of international law shall be a constituent part of the internal legal order. "

This means that the international and internal law are on the same level of importance.

2. Most important international treaties that Yugoslavia ratified

Standards and norms of environmental protection are defined, on international level, through number of international conventions and resolutions of global (referring to the world) importance, or regional (referring to Europe) character. Besides conventions, international organizations also define strategies on environmental protection through a number of action plans and programs, as well as standards and categories for protected areas and endangered floral and animal species. In this chapter, international agreements that Yugoslavia ratified will be discussed, placing special stress on those whose application and implementation has impact in context of the problem we are dealing with here.

Yugoslavia has ratified International Convention for the Protection of Birds, Ramsar Convention and Convention Concerning the Protection of the World Cultural and Natural Heritage.

International Convention for the Protection of Birds was adopted in 1950, and Yugoslavia ratified it in 1973. It determines obligation for making lists of protected local bird species, as well as migrating birds, which are protected during the time of their migration across the territory of the country that signed the document. It also determines obligation of founding reservations in swamp and wetlands, to secure conditions for nesting and feeding of the swamp bird species.

Ramsar Convention - Convention on Wetlands of International importance Especially as Waterflow Habitat - was adopted in 1971, and Yugoslavia ratified it in 1977.

The Convention protects swamps, marshes, peat bogs, and other wetlands, known for being habitats of swamp birds. It is obligation of every country that signed the convention, to extract and put under international jurisdiction, protection of at least one swamp area.

Convention Concerning the Protection of the World Cultural and Natural Heritage, which protects natural and cultural riches of universal (world) importance, was adopted in 1972, and Yugoslavia ratified it in 1974. Protected areas that get status according to this convention, became noted on the list of the world cultural and natural heritage of UNESCO. The Convention proscribes obligations to the country that is signatory, concerning protection and conservation of the riches that are placed on the list of world riches.

Convention on Biodiversity, adopted on United Nations Conference on Environment and Development in Rio de Janeiro in 1992, Yugoslavia has signed, but not yet ratified. The Convention presents new way of thinking, new philosophy in planetary development politics, which must be compatible with protection of nature and environment in general.

To implement this convention, government of the Federal Republic of Yugoslavia, has brought Resolution on Politics of Biodiversity Preservation in FRY. The Resolution defines riches of biodiversity of Yugoslavia, as well as the activities to be undertaken for their preservation.

Yugoslavia is not among signatories of three important conventions concerning areas of environmental protection.

Washington Convention – Convention on International Trade of Endangered Species of Wild Flora and Fauna was adopted in 1973, with international cooperation in purpose of preventing overexploitation of certain natural species, as main objective.

Bern Convention – Convention on Preservation of Floral and Animal Wildlife and Natural Habitats of Europe, was adopted in 1979, by European Council. The Convention suggests that each country forms a network of protected natural resources.

Bonn Convention was not adopted, as well.

2.1. International treaties in the field of the environment, ratified by FRY

First international agreement signed by Yugoslavia was the Convention Concerning the Use of the White Lead in Painting (1921).

During next 60 years Yugoslavia ratified 58 conventions more, but from 1992-1996, during the period of civil wars in the former Yugoslavia and during the international isolation of FR Yugoslavia, only four conventions were adopted, including couple of bilateral conventions.

There is very important task for Yugoslavia to accept and to ratify the other important agreements, including Rio Convention on Biodiversity, Washington convention, Bern convention and Bonn convention.

3. Institutions dealing with environmental protection

The most important institutions that deal with environmental protection are: The Bureau for Protection of Nature of Serbia, The Bureau for Protection of Nature of Montenegro and Directorate for Environmental Protection of the Republic of Serbia, Ministry for Environmental Protection of the Republic of Montenegro.

A2. National legal order

1. Environmental protection regulations in the Constitution of FRY

Constitution of FRY says in the article 52:

“Man shall be entitled to a healthy environment and timely information about its condition. It is everyone's duty to protect the human environment and make use of it in a rational manner.

The state shall be charged with maintaining a healthy human environment and to this end shall prescribe the conditions and manner of the performance of economic and other activities. “

2. Yugoslavian regulations in the field of environmental protection

First laws that partially deal with this problematic, date from medieval Serbian state (XIV century), and modern legislation dates from XIX century.

2.1. Yugoslav regulations on environmental protection

GENERAL REGULATIONS

1. The Constitution of the Federal Republic of Yugoslavia (Off. Jour. of FRY, No. 1/92, 34/92, 29/00)
2. Resolution on the environmental policy in FR Yugoslavia (Off. Jour. of FRY, No. 31/93)
3. Resolution on the biodiversity protection policy in FR Yugoslavia (Off. Jour. of FRY, No. 22/94)
4. Law on the grounds for environmental protection (Off. Jour of FRY, No. 24/98, 24/99)
5. Regulations on the form for federal environmental inspector official ID (Off. Jour. of FRY, No. 69/99)
6. Decision on establishing the Committee for protection and advancement of the human environment (Off. Jour. of FRY, No. 48/86, 41/87)
7. Decree on establishing Yugoslav environmental protection standards (Off. Jour. of FRY, No. 11/98)

Besides these very important regulations there are 17 regulations on air (2), water (8), soil (1), and biodiversity (6) protection.

Since the jurisdiction in the area of environmental protection has been divided between federal state (FR Yugoslavia), and federal units (Republic of Serbia and Republic of Montenegro), there are regulations in both republics.

2.2. Regulations in Serbia

GENERAL REGULATIONS

1. The Constitution of the Republic of Serbia (Off. Jour. of RS, No. 1/90)
2. Law on environmental protection (Off. Jour. of RS, No. 66/91, 83/92, 67/93, 48/94, 53/95)
3. Regulations on premises and works environmental impact assessment (Off. Jour. of RS, No. 61/92)
4. Decision on special compensation for protection and advancement of the environment (Off. Jour. of the town of Belgrade, No. 22/99)
5. Decree on establishing the Organizational Board of the "Belgrade - a healthy city" project (Off. Jour. of the town of Belgrade, No. 22/99)

Besides these general regulations there are regulations on air (7), water (14), soil (5), noise (2), forest (3), biodiversity (13) and hunting and fishery (6) protection in the Republic of Serbia.

2.3. Regulations in Montenegro

GENERAL REGULATIONS

1. The Constitution of the Republic of Montenegro (Off. Jour. of RM, No. 48/92)
2. Declaration on the Ecological State Montenegro (Off. Jour. of RM, No. 39/91)
3. Law on the environment (Off. Jour. of RM, No.12/96, 55/00)
4. regulations on environmental impact assessment of operations (Off. Jour. of RM, No. 14/97)
5. Regulations on the level of compensations, calculation modalities and paying compensations for polluting the environment (Off. Jour. of RM, No. 26/97, 9/00, 52/00)
6. Regulations on contents of environmental inspectors records on inspection monitoring (Off. Jour. of RM, No. 19/96)

7. Regulations on awarding prizes for contribution in protection and development of national parks – The Eco Award (Off. Jour. of RM, No. 40/96)
8. Decision on establishing the Public Institute “The center of ecotoxicological investigations of Montenegro (Off. Jour. of RM, No. 40/96)
9. Guidelines for keeping records of inspecting procedures of environmental inspectors (Off. Jour. of RM, No. 19/96)
10. Guidelines on contents of environmental impact assessment study for operations in the environment (Off. Jour. of RM, No. 21/97)
11. Decree on establishing the Council for environmental protection (Off. Jour. of RM, No. 56/00)

Besides these general regulations there are regulations on air (4), water (16), soil (6), noise (1), forest (3), biodiversity (6), and hunting and fishery (7) protection.

Part B: Presentation and analysis of the existing legal and institutional framework that defines the protection of transboundary protected areas

FR Yugoslavia covers a total area of 102,173 km². This is a Balkan, Mediterranean as well as Danubian country.

Four percent of the territory of the FR Yugoslavia has been designated as protected natural areas. Valuable objects of environment and biodiversity protection include 7 internationally protected areas, 9 national parks, 16 regional natural parks, 26 splendid areas and 89 nature reserves.

B1. International and European dimension

The natural resources of international concerning the territory of the FR of Yugoslavia, which have been registered or nominated for international status are as follows:

I World's Natural Heritage – UNESCO Programmed

Registered:

- Durmitor National Park

There are five more areas that have been nominated for the UNESCO List of the World's Natural Heritage through the Yugoslav Commission for the UNESCO.

II Biosphere Reserves – MAP Programme – UNESCO

Registered:

- Tara River Canyon
- Mountain Golija

There are nine more areas that have been nominated through the Yugoslav Commission for UNESCO.

III Ramsar Regions

The following have been *registered* thus far as the regions of significance:

- Ludosko Jezero Special Nature Reserve
- Obedska Bara Special Nature Reserve
- Carska Bara Special Nature Reserve
- Skadarsko Jezero National Park.

Another 40 wetlands from territory of the FR of Yugoslavia should be protected as the Ramsar region, four till 2002.

B2. National dimension

1. Regulations on protected areas

There are no federal regulations on protected areas because the jurisdiction in this field is completely carried over to the federal units.

1.1 Serbia

- 1) Law on national parks (Off. Jour. of RS, No. 39/93, 44/93, 53/93, 67/93, 48/94)
- 2) Law on protection the Delibladska pescara sand pit (Off. Jour. of SRS, No. 6/95)
- 3) Law on declaring the Oplenac park as a spatial memorial natural monument (Off. Jour. of SRS, No. 25/67)

These laws were brought by the parliament, but there are also 61 regulations, decrees and spatial plans adopted by the government. The following are related to bordering areas, including the mentioned law (a).

- a) Law on protection the Delibladska pescara sand pit (Off. Jour. of SRS, No. 6/95)
- b) Regulations on protection of special nature reserve "Selevenjske pustare" (Off. Jour. of RS, No. 37/97)
- c) Regulations on protection of natural monument "Danube park" (Off. Jour. of RS, No. 5/98)
- d) Regulations on contents of protection and development plan for Deliblato sand pit (Off. Jour. of SRS, No. 40/65)
- e) Decision on compensations for utilization of National Park "Fruska Gora mountain" (Off. Jour. of RS, No. 47/95, 42/98)
- f) Decision on compensations for utilization of National Park "Djerdap" (Off. Jour. of RS, No. 51/95)
- g) Decision on compensations for utilization of National Park "Sara mountain" (Off. Jour. of RS, No. 8/96, 5/99)
- h) Decree on previous protection of the natural good "Zasavica" (Off. Jour. of RS, No. 51/95)
- i) Spatial plan of National Park "Tara mountain" (Off. Jour. of SRS, No. 4/89)
- j) Spatial plan of National Park "Djerdap" (Off. Jour. of SRS, No. 34/89)

Especially important for potential bilateral cooperation within project Eco-net is Decision on compensations for utilization of National Park "Sara mountain" (g).

1.2 Montenegro

1. Law on environmental protection (Off. Jour. of RS, No. 66/91, 83/92, 67/93, 48/94, 53/95)
2. Law on national parks (Off. Jour. of RM, No. 47/91)

Besides these laws brought by parliament, there are also 15 decisions and decrees adopted by government.

The following decision is important for potential bilateral cooperation within project Eco-net.

- a) Decision on starting the elaboration of the spatial plan for the area of special purpose of National Park "Skadarsko Lake" (Off. Jour. of RM, No. 47/92)

2. Potential cross-border cooperation

Amongst all protected areas (or those planned to be promoted into ones) in FRY, about 20 can be considered to be significant as protected near-border areas. It is very important to say that the most of the national parks are in border areas. We especially single out protected areas that might, or already have status of protected transboundary areas:

- Djerdap (Iron Gate, Danube) - FRY/Romania
(National Park Derdap Yugoslavia/ Strict Nature Reserve Cazanele Romania)

- Suboticke sume i pescara (Suboticke forests and sand) – FRY/Hungary
(Proposed Protected Area Körös-er Yugoslavia /Proposed protected area Körös-er Hungary)

- Selevenjske stepe (Selevenj steppe) - FRY/Hungary
- Gornje Podunavlje (Upper Danube area) – FRY/Croatia
- Bosutske sume (Bosut forests) - FRY/Croatia
- Zasavica (Zasavica channel) – FRY/Bosnia and Herzegovina
- Planina Tara (Tara Mt.) – FRY/ Bosnia and Herzegovina
("National park Drina")
- NP Durmitor with Tara canyon (Durmitor Mt.) - FRY/ Bosnia and Herzegovina
(National Park Durmitor Yugoslavia (Montenegro)/ National Park Sutjeska Bosnia)
- **Prokletije (Prokletije Mts.) – FRY/Albania**
(Proposed National Park Prokletije Mountains Yugoslavia (Montenegro)/ National Park Thethi Albania)
- **Skadarsko jezero (Skadar lake) - FRY/Albania**
(National Park Skadar Lake Yugoslavia (Montenegro)/ Nature Reserve Skhoder Lake Albania –“REReP”)
- **Sar planina (Sara Mt.) – FRY/FYROM**
(National Park Shara Mountains Yugoslavia /National Park Mavrovo Republic of Macedonia)
- **Stara planina - Vidlic (Stara Planina -Vidlic Mt.) – FRY/Bulgaria**
("Bilateral Park of Peace")

These areas, which are indicated with bold characters, are significant for potential bilateral cooperation in context of the project.

Part C: Overall evaluation and proposals

There are several hundred regulations that deal with protection of nature and environment in Yugoslavia today. In these regulations are mostly implemented contemporary strategies, as well as standards and conventions, which are applied in the world. It should be insisted for these numerous legislations to be entirely implemented in reality.

It is necessary for FRY to sign, and ratify international conventions in the area of environmental protection, with purpose of being adequately included in international relations, organizations and institutions. Yugoslavia still hasn't signed the Washington, Bern and Bonn Convention, and also hasn't ratified Convention on Protection of Biodiversity.

For the purpose of more successful implementation of contemporary international strategies in the area of environmental protection in FRY, we need to:

- Further develop network of natural assets, by placing under protection, new areas important for preservation of biodiversity
- Enlist certain natural assets amongst biosphere reservations, securing them, thus, international status, as well as affirmation of nature and its values

That aside, it is necessary to fit in Yugoslavian legislation into international norms and standards, where the need for that can be perceived.