

Denial of competencies between the umbrella bodies of Bosnia and Herzegovina and Republika Srpska regarding the right to grant concessions for the construction of the Buk Bijela hydropower plant on the Drina, and not entirely clear and precise views of Montenegrin government representatives on a project that could potentially endanger UNESCO's natural and cultural heritage countries are following this infrastructure project, which is financed by Serbia and whose cornerstone was laid in May.

However, if the ESPOO Convention, which defines that the signatories take into account the transboundary environmental impact, would accept the complaints of several environmental NGOs from Bosnia and Herzegovina and Montenegro, and find that the provisions of that document and the contract were violated by approving the project construction of the hydroelectric power plant Buk Bijela on the Drina - this would mean that the authorities of the Republika Srpska are obliged to repeat the procedure, make a new study so as not to continue to violate their international obligations.

This was announced to Pobeda by Nina Krševljaković, legal advisor of the Aarhus Center from Sarajevo, who together with several other non-governmental organizations from Montenegro sent a complaint to the secretariat of the ESPOO convention regarding the official construction of Buk Bijela on the Drina as part of a wider hydropower project. Krševljakovic, however, says they have not yet received an official response from the ESPOO Convention secretariat to their complaints about the start of construction of the reservoir for hydroelectric power plant Buk Bijela, which they believe could endanger the area upstream - Tara and the zone of the Durmitor National Park.

Influence on Tara

"The key problem is the cross-border impact that this project will have on the territory of Montenegro." The environmental impact study states that the maximum altitude of the reservoir will be 434 meters above sea level, ie. the same as the normal elevation, while Montenegro claims that the altitude at the international border between Bosnia and Herzegovina and Montenegro is at 432.37 m. That means that the accumulation would still include a part of the territory of Montenegro, said Krševljaković.

According to her, regardless of whether the accumulation covers a part of the territory of Montenegro or not, the impact on the Tara canyon is expected, especially on the ichthyofauna upstream from the planned accumulation in the zone which is important as a natural hatchery for many species of indigenous fish species.

She points out that the Tara canyon itself can provide very little habitat for spawning and breeding some of its iconic fish species, such as the endangered juvenile (Hucho hucho), but also the European grayling (*Thymallus thymallus*), brown trout (*Salmo trutta*) and woodcock (*Chondrostoma nasus*) "because it is a very turbulent system with few or no accessible tributaries".

"Species such as saplings, European grayling and scorpionfish, which need gravel beds and

suitable low-speed habitats for larval rearing, must migrate from the canyon to achieve adequate spawning. No studies have been conducted on the migration of these fish species in these parts of the rivers, and understanding these patterns would be imperative for understanding the impact of the Buk Bijela hydropower plant. Most likely, the area around the planned power plant serves as a hatchery and breeding ground for numerous species of fish that live in the canyon of the Tara River. Therefore, the development of these reaches of the Drina River for hydropower will probably have a high and direct impact on the size of the fish population in the Tara River”, Krševljaković believes.

This context and the fact that no studies have been done on the migration of fish species and the impact of the accumulation on their population were previously pointed out to Pobjeda by the non-governmental organization Green Hom from Podgorica.

However, this NGO expects that further construction of HPP Buk Bijela on the Drina, which is a joint business venture of Republika Srpska and Serbia, will be suspended until all facts related to possible negative impacts on the environment and biodiversity of the Tara River, which is protected on national and international level, as a national park, UNESCO natural heritage, potentially Natura 2000 area, as well as the Declaration of the Parliament of Montenegro.

The executive director of this non-governmental organization, Nataša Kovačević, told Pobjeda earlier that such expectations are based on the fact that, regarding the construction announcement, these and several other non-governmental organizations filed a complaint with the Secretariat of the ESPOO Convention (Convention on Environmental Impact Assessment in a Transboundary Context) and the Secretariat. Energy Community, an international organization whose current parties are Albania, Bosnia and Herzegovina, Montenegro, Kosovo, Macedonia, Moldova, Serbia and Ukraine.

Kovačević pointed out that the construction of the Buk Bijela hydroelectric power plant brings significant modification of the water body and degradation of biodiversity in the length of 30 km in Bosnia and Herzegovina, while it is not clearly defined and presented how large this impact will be on the territory of Montenegro.

Disagreement in the Government

One of the topics of conversation in Sarajevo between the Minister of Foreign Affairs of BiH Bisera Turković and the Montenegrin Deputy Prime Minister Dritan Abazović on July 9 was Buk Bijela, when the representative of the Government of Montenegro, according to media reports, emphasized that there was a potential danger that the construction of that hydropower plant consequence on the environment of Montenegro, but also endangering the Durmitor National Park, as a UNESCO heritage site.

Minister Turković told Abazović that the project had cast a shadow over the relations between Bosnia and Herzegovina, Montenegro and Serbia, especially after UNESCO joined the case, which sought the position of Bosnian-Herzegovinian institutions, while the

Republika Srpska authorities assessed the concession as their competence.

After the meeting, Abazovic stated that Montenegro has a “pronounced ecological component, that it is also defined by the Constitution as an ecological state, and therefore must take care of the protection of national parks”. He added that he believes “that this situation will eventually be overcome in a way that will not lead to major problems between Sarajevo and Podgorica”.

On the other hand, the Montenegrin Ministry of Capital Investments, as well as the Ministry of Ecology, Spatial Planning and Urbanism, do not see anything controversial in the project as long as the water reservoirs do not cross the border.

State Secretary for Ecology at the Ministry of Ecology, Spatial Planning and Urbanism Danilo Mrdak told Pobjeda earlier that, regarding the construction of the Buk Bijela energy facility, the Ministry’s position is that as long as it is constructed in such a way that the future artificial lake does not enter even at the highest water levels. into the state territory of Montenegro, that department has no objections.

With the information passed on December 4, the previous government adopted a series of moves and responsibilities, according to which the executive power, through the Ministry of Foreign Affairs and the permanent delegation to the UN, was to gather information in order to obtain official data on the intention of Republika Srpska and Serbia to start construction. Loud views on this today come only from the NGO sector and the opposition. And indirectly, the environmental aspect was emphasized by Deputy Prime Minister Abazović, but without specifying the official position of the Government on that issue.

Scope of constitutional decisions on the issuance of concessions

The BiH Constitutional Court confirmed on Friday that the Republika Srpska has no absolute jurisdiction over the issuance of a concession for the construction of hydropower plants on the Drina.

The appeal states that decisions regarding state property, such as rivers at international borders, can only be made at the BiH level.

According to media reports, the Constitutional Court ordered the Commission for Concessions of Bosnia and Herzegovina, in its capacity as the Joint Commission for Concessions, to resolve the disputes between Bosnia and Herzegovina and the Republika Srpska, which arose in three months from the date of delivery of this decision. in connection with the award of concessions, H1 reported.

The Constitutional Court made this decision at the request of 24 members of the House of Representatives of the BiH Parliamentary Assembly to resolve the dispute between BiH and RS, after Republika Srpska decided to grant Serbia concessions for the construction and use of Buk Bijela, Foca and Paunci na Drini hydropower plants.

The Chairman of the Presidency of BiH, Milorad Dodik, said that this decision of the Constitutional Court was “ujdurma” against the Republika Srpska and reiterated that in that

zone, as with previous concessions, RS has exclusive jurisdiction.

Construction contract

The construction of the Buk Bijela hydroelectric power plant, according to the contract from November 13 last year, will be jointly financed by the Electric Power Industry of Serbia and the Electric Power Industry of the Republic of Srpska in the amount of about 220 million euros.

The project of hydroelectric power plants in the upper course of the Drina envisages the construction of three hydroelectric power plants - Buk Bijela, Foča and Paunci.

The cornerstone for the beginning of the construction of HPP Buk Bijela was laid on May 17 in Foca by the Serbian Prime Minister Ana Brnabić, as a representative of the state of investors, and the Prime Minister of the Republic of Srpska Radovan Višković. Responding to the criticism of official Sarajevo, Viskovic said that the construction and issuance of the concession is not within the competence of Bosnia and Herzegovina, but exclusively of the Republika Srpska.

At the beginning of June, the director of the UNESCO Center for Cultural Heritage, Mechild Rosler, followed, asking the Bosnian-Herzegovinian institutions to decide “regarding the information about laying the foundation stone for the construction of a dam on the Drina downstream from the Durmitor National Park in Montenegro.”

She called for respect for the international convention and “not to take any measures that could endanger the cultural or natural heritage in the states signatories to the Convention.”

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