



Centar za
životnu sredinu

Environmental democracy in Bosnia and Herzegovina: Aarhus Convention shadow implementation report 2017-2020

TRANSITION
Transition Promotion Program

CHARACTERISTICS OF REPORT

- Different methods to create it were used (questionnaires, information from field, online, web sites of institution, cases)
- Organized civil sector actively participate (4 Aarhus centres in BiH, 2 NVO coalitions, foreign and domestic experts)
- Implementation of the Aarhus Convention in practice (9 case studies)
- Includes different aspects of implementing the Aarhus Convention (PRTP, Covid-19, mechanisms of compliance, EU Directive implementations)
- Includes concrete conclusions and recommendation

CONTENT OF REPORT

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ADMINISTRATIVE FRAMEWORK

- 1 state unit
 - Bosnia and Hercegovina - 5 institution directly related with environment
- 2 entity unit
 - Republic of Srpska-10 institution directly related with environment
 - Federation of Bosnia and Hercegovina-12 institution directly related with environment
- 1 Brčko District unit-1 institution directly related with environment
- 10 cantons unit-too many institutions directly related with environment

In total 14 unit that have their own assembly, government and other institutions

LEGAL FRAMEWORK

- Each unit, except state, has own environmental laws
- Environmental protections are divided into many legal fields as:
 - Concessions
 - Environment
 - Water
 - Energy
 - Construction

BASIC LAWS APPLIED IN THE FIELD OF ENVIRONMENT

- Environmental laws (FBiH, RS, Brčko District)
- What is new?
 - New environmental laws on the entity levels adopted in 2020 (in FBiH an entirely new law, in RS amendment to the law)
 - Civil sector plays important role in preparing and adopting process
 - Implementation of the Aarhus Convention is continuously in progress, but some changes made a step back in terms of involving civil society (see details in report)

AARHUS CONVENCIÓN PILLARS IMPLEMENTATION- -working analysis

- This chapter is the heart of the report and contains:
 - Introduction of all three pillars in general
 - Analysis of the questionnaires sent to the civic sector, institutions (BiH, RS, FBiH, BD), courts and Ombudsman of BiH
 - Summary in relation to all three pillars of Aarhus convention which apply in BiH laws

Conclusion

- Insufficient response to the questionnaires from institutions and courts (39 questionnaires sent, 11 response)
- Education of the administrative workers especially workers in companies where the government is the major owner (in report there are concrete examples of breaching of the AC)
- Public is more involved in public participation (especially in EIA processes, but not enough)
- More court cases than in previous period 2013-2017 (consequence of the existence Aarhus centres in BiH – they provide legal aid)
- Long court processes

APPLICATION OF THE AARHUS CONVENTION IN PRACTICE – case studies

This part of the report is extension of previous part and it contains cases of implementation of the Aarhus Convention in practice

Report contains 7 different cases regarding implementation of all three pillar of the Aarhus Convention

Cases deal with different fields of the environment and different parts of administrative units of Bosnia and Herzegovina

Some cases last for several years

APPLICATION OF THE AARHUS CONVENTION IN PRACTICE – case studies

Access to information

- Slag and ash landfill Jezero II
- Opinion of the Republika Srpska Attorney's Office
- Tax Administration of Republika Srpska

Public participation in environmental decision-making

- Law on Animal Protection of BiH
- FBiH waste regulations

Access to justice

- Environmental permits for thermal power plants
- Hydropower plants on the Drina river

IMPLEMENTATION OF THE AARHUS CONVENTION DURING THE COVID-19 PANDEMIC

- Pandemic did not stop institution to work (adopting environmental laws)
- Pandemic did not stop investors to work (building mini-hydro power plants on the rivers Bjelava and Mala Bjelava) and they misuse the situation and work without permits
- The case is in court and 3 criminal charges have been filed – ongoing case

POLLUTANT RELEASE AND TRANSFER REGISTER- (PRTR)

- Too many years passed since adoption of the laws and preparing all necessary condition for PRTP (10 years)
- All environmental laws in BiH regulate PRTP
- Register in FBiH exist but not functional, in RS and BD registers do not exist formally
- No precise data for polluting in BiH
- Industrial lobby is strongly against establishment of PRTP
- Big pollutions do not pay pollution taxes

AARHUS CONVENTION, AND EUROPEAN DIRECTIVES AND IMPLEMENTATION IN CONVENTION IN BOSNIA AND HERZEGOVINA LAWS

- **Environmental Information Directive** - Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC
- **Public Participation Directive** - Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programs relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC
- **Industrial Emissions Directive** - Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control)
- **ESPOO Convention** - Convention on environmental impact assessment in a transboundary context

MECHANISMS OF COMPLIANCE WITH THE AARHUS CONVENTION IN BOSNIA AND HERZEGOVINA

- First communication with the ACCC from BiH
- The application had been accepted before all domestic remedies were used – that was an exception
- BiH is on the list of members that violated the provisions of several laws

PERSECUTION OF ACTIVIST

- **Kruščica case**

Hundreds of people in 2017 and 2018 were peacefully blocking a bridge in Kruščica in order to prevent entry of the machinery to the riverbed, and thus to enable the start of the hydropower plant construction, for over 500 days. One day in August 2017 police brutally attacked a group of 40 people, mostly women from which one was pregnant, at the bridge at the moment. At least 27 women and 2 men had to receive emergency medical services due to injuries they suffered, mostly bruising and contusions. The Ministry denies all the allegations referring to baseless violence and insisted that there were no injured people during the whole intervention

- **Attack on Mika's Tibold house**

On 25 November 2020, in the early morning, unknown perpetrators stoned the house of Tahira Tibold of Kruščica, the first woman ever elected as a chair of the local community. Environmental groups are convinced that the attack is connected with Tibold's struggle to rescue the River Kruščica from the construction of harmful small hydropower plants by a private investor.

- **Zeleni neretva case**

A member of a Zeleni Neretva NGO was physically abused in his hometown of Konjic, near Sarajevo in July 2019. The environmental organisation defending the Neretva River is convinced that the aggression is linked to their activities.

CONCLUSIONS AND RECOMMENDATIONS

Educate civil servants

- so far training conducted mostly refers to higher administrative workers (ministries and other second level institutions)
- education of municipal and city officials is still lagging behind

Apply an electronic system of publishing information using new tools in line with the recommendations

- Electronic Information Tools Case Studies and UNECE
- Consultation on the Recommendations on electronic information tools

CONCLUSIONS AND RECOMMENDATIONS

Establish and publish PRTP

- Established and publish ASAP

Intensify cooperation between the civil sector and the authorities with the active participation of Aarhus Convention Focal Point of Bosnia and Herzegovina

- continuous communication and exchange of information
- regular meetings
- involve civil sector in local level

ALL RECOMMENDATIONS ARE TASKS OF THE CIVIL SECTOR IN ENVIRONMENT PROTECTION AND NATURE CONSERVATION

THE END FOR NOW

THANK YOU FOR YOUR TIME TO LISTEN ALTERNATIVE AARHUS
CONVENTION IMPLEMENTATION REPORT FROM
BOSNIA AND HERZEGOVINA

