



**Monitoring of the construction of priority section of the Bar-Boljare highway
(Smokovac - Mateševo section)
2019/2020**

CONTROL FUNCTION OF THE PARLIAMENT OF MONTENEGRO

Analysis of the actions of state institutions



CASE STUDY

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Control function of the Parliament and devastation of the Tara River

After NGO MANS revealed and presented to the public the extent of devastation of the Tara River caused by construction of the Bar - Boljare highway, in cooperation with several environmental NGOs, MANS initiated a control hearing of the Minister of Sustainable Development and Tourism, Pavle Radulović, and the Minister of Transport and Maritime Affairs, Osman Nurković.

In December 2014, the Parliament of Montenegro adopted the Law on Bar - Boljare Highway, thus creating a legal precondition for starting the "project of the century" in Montenegro, as the highway is often called.

Previously, in February that year, the Government of Montenegro concluded the Contract on design and construction of the Bar - Boljare highway, section Smokovac - Uvač - Mateševo, with the Chinese company "China Road and Bridge Corporation" (CRBC). Value of the works is estimated at €809 million, and the financial construction was completed by signing a preferential loan agreement with the Chinese EXIM Bank in October 2014, according to which the Chinese bank will provide 85% of the funds needed for construction, and Montenegro 15%.

The works on the construction of the highway officially started in May 2015, and in addition to the main contractor, the company CRBC, the largest domestic construction companies were also hired according to the contract. The construction of the highway in Montenegro has been the subject of numerous controversies from the very beginning, while the lack of transparency regarding this project has been the subject of a report by the European Commission on the process of Montenegro's accession to the European Union.

Namely, in November 2018, environmental NGOs Center for Protection and Research of Birds (CZIP), Green Home, the Environmental Movement "OZON" and the Environmental Society "Breznica", in cooperation with NGO MANS, submitted an initiative to the Committee on Tourism, Agriculture, Ecology and Spatial Planning of the Parliament of Montenegro for the control hearing of ministers Radulović and Nurković, all due to the discovered damage to the nationally and internationally protected Tara River.¹

NGOs demanded, among other things, that the line ministers be heard before the Parliament of Montenegro due to apparent devastation of the Tara River caused by construction of the highway in its riverbed, which endangered flora and fauna in the protected area. In addition, the organizations reminded that the Strategic Impact Assessment, an accompanying document of the Detailed Spatial Plan of the Bar - Boljare highway, warned that any works in the Tara riverbed could devastate the terrain and in that case threaten to remove the river from the UNESCO World Network of Biosphere Reserves.²

However, the session of the Parliamentary Committee, which was scheduled for December 26, 2018, was then cancelled for unexplained reasons.³ In the next four months, the committee did not organise hearings of Ministers Radulović and Nurković, although in the meantime it held a dozen sessions, dealing with, among other things, laws on tourism and hospitality, tourist organizations, invasive foreign plant species and industrial emissions.⁴

¹ See more at: <https://www.dan.co.me/?nivo=3&rubrika=Ekonomija&clanak=672276&najdatum=2018-11-22&datum=2018-11-23>

² See more at: <http://barboljare.me/wp-content/uploads/2017/09/Predlog-DPP-autoputa-Bar-Boljare-15.10.2008-za-Sluzbeni.pdf> and <http://www.unesco.org/new/en/natural-sciences/environment/ecological-sciences/biosphere-reserves/europe-north-america/>

³ See more at: <http://skupstina.me/index.php/me/sjednice/sjednice-radnih-tijela/odbor-za-turizam-poljoprivredu-ekologiju-i-prostorno-planiranje-sjednice>

⁴ See more at: <http://zakoni.skupstina.me/zakoni/web/app.php/sjednicaradnogtijela/2236>

Due to all that, on March 22, 2019 - World Water Day, MANS, OZON and Breznica held a performance called "Alarm clock for ecological state", during which they invited MPs in front of the Parliament of Montenegro to hold the planned hearing, but also to get involved at a higher and more proactive level in resolving the issue of devastation of the Tara River.⁵

Finally, the Parliamentary Committee held a hearing only at the beginning of April 2019, but without the presence of Ministers Radulović and Nurković. Instead, the session was attended by Ivana Vojinović, Director General of the Directorate for Environment of the Ministry of Sustainable Development and Tourism (MSDT), Rina Ivančević, Director General of the Directorate for Inspection and Licensing in MSDT, Momčilo Blagojević, Director General of the Directorate for Water Management in the Ministry of Agriculture and Rural Development (MARD), and Damir Gutić, Director of the Water Administration.

Among other things, Vojinović pointed out that "during the construction of large infrastructure facilities, damage to the environment can always happen, depending on the intensity of works, thus, constant attention of the competent authorities is necessary at all levels." Discussing the role of the Water Administration and its competence, Damir Gutić said that "what is ignored is the fact that performing of works in the Tara riverbed has temporary and short-term effects that last only during performing of works and that, after the completion of works, the riverbed will be returned to the previous state". At the hearing, Rina Ivančević stated that, to her knowledge, "the construction works on the facility are being carried out in accordance with the revised main project and so far there have been no deviations from the certified revised project." On the other hand, Momčilo Blagojević from MARD said that "it is necessary to know that Tara is a river with torrential character which carries away land, endangering people's lives as well, so in accordance with the Law on Waters, there is an obligation of the Ministry to carry out works on rehabilitation and regulation of the Tara River which would prevent the consequences of natural disasters." All of them rejected any responsibility of the competent institutions for the situation on Tara, attributing it to the scope of works on the construction of a large infrastructure project such as the highway.⁶ Concluding the session of the committee, the chairman Petar Ivanović pointed out that he believes that "despite different views, conclusions can be made that would contain assessments on which there is consensus", and invited those present to submit proposals for conclusions within 3 days to be determined by the committee at one of the next sessions.⁷ Proposed conclusions were obviously not submitted as they cannot be found among the committee materials.

However, after the European Parliament did that in November 2018, both the European Commission in May, and UNESCO in June and July 2019, recognized the serious threat to the Tara River caused by construction of the highway.⁸

⁵ See more at: <http://www.rtcg.me/vijesti/turizam-i-ekologija/234807/radovi-na-tari-opasni-po-ljude-i-okolinu.html> i <https://www.dan.co.me/?nivo=3&rubrika=Ekonomija&clanak=689016&najdatum=2019-03-23&datum=2019-03-24>

⁶ See more at: <http://zakoni.skupstina.me/zakoni/web/dokumenta/sjednice-radnih-tijela/2281/6014-.pdf> i <http://www.skupstina.me/index.php/me/radna-tijela/odbor-za-turizam-poljoprivredu-ekologiju-i-prostorno-planiranje/item/3484-odbor-za-turizam-poljoprivredu-ekologiju-i-prostorno-planiranje-odrzao-56-sjednicu>

⁷ See more at: <http://zakoni.skupstina.me/zakoni/web/dokumenta/sjednice-radnih-tijela/2281/6014-.pdf>

⁸ See more at: https://www.europarl.europa.eu/doceo/document/TA-8-2018-0482_EN.html, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-montenegro-report.pdf>, <https://whc.unesco.org/en/documents/174707> i <https://whc.unesco.org/archive/2019/whc19-43com-18-en.pdf>

After that, NGOs MANS, CZIP and Green Home once again requested that the Committee on Tourism, Agriculture, Ecology and Spatial Planning of the Parliament of Montenegro hold a control hearing of Ministers Pavle Radulović and Osman Nurković, after relevant international organizations, each in their own way, recognized that the works near Tara seriously endanger the river and its character which makes it a protected good, and the competent institutions did not in any way prevent further devastation of the river.⁹

The Parliamentary Committee then rejected the second initiative to organise hearing of the ministers. The explanation for such acting was that it had been agreed at the previous hearing that the members of the board would visit the construction site near Tara and determine the level of compliance with regulations that accompany the construction of the highway. Bearing in mind that the started activities of the board in the form of a field tour, for which was then stated that it could not be organized before the end of September 2019, were not completed, the board rejected the initiative of MANS, CZIP and Green Home.¹⁰

Photo 1: Part of the minutes from the 56th session of the Committee on Tourism, Agriculture, Ecology and Spatial Planning, held on July 25, 2019

Predsjednik Odbora, prof. dr Petar Ivanović podsjetio je da je Odbor na 49. sjednici održao konsultativno saslušanje na temu „Trenutno stanje segmenata životne sredine rijeke Tare“, kojem je prisustvovao predstavnik NVO „MANS“, nakon što je predsjednik odobrio prisustvo, na njihov zahtjev. Saslušanje je održano na inicijativu drugih NVO i Odbor je na inicijativu odgovorio u najkraćem roku i dobio podatke, relevantne za temu saslušanja, od nadležnih državnih organa. Tada je dogovoreno da se, u saradnji sa predstavnicima NVO koje su inicirale saslušanje, običe trasa autoputa, s tim što je raspored sjednica Skupštine ukazivao da obilazak nije moguće organizovati prije kraja septembra. Naglasio je da različite NVO, koje se bave istim oblastima, treba u međusobnoj komunikaciji da koordiniraju podnošenje istih inicijativa i da to nije ingerencija Odbora.

S obzirom da rasprave po ovoj tački dnevnog reda nije bilo, predsjednik Odbora prof. dr Petar Ivanović je predložio da se, kako je i dogovoreno na održanom konsultativnom saslušanju, završe započete aktivnosti koje se odnose na obilazak terena. Ukoliko Odbor na terenu konstatuje da je došlo do značajnijih odstupanja u odnosu na informacije koje Odbor već ima, otvorio bi se prostor za ponovnim reagovanjem Odbora u vidu ponovnog konsultativnog.

S obzirom da je dinamika rada već definisana i utvrđena, prilikom glasanja Odbor je jednoglasno odbio predstavku kojom se inicira kontrolno saslušanje ministra održivog razvoja i turizma Pavla Radulovića i ministra saobraćaja i pomorstva Osmana Nurkovića, koju je podnijela NVO „MANS“, u ime NVO „MANS“, NVO „Green Home“ i NVO „Centar za zaštitu i proučavanje ptica“.

On the other hand, according to Simon Ilse, director of the Belgrade office of the Heinrich Böll Stiftung, in the process of joining the European Union, Montenegro will not be able to close Chapter 27, which deals with the environment and climate change, until it ensures proper remediation of the Tara riverbed. Participating in MANS' conference "Will Tara survive the highway construction" in November 2019, Ilse said that *"things are not going in the right direction in spite of Chapter 27 for the EU integration being opened. When I look at this highway project, I am asking myself how the Government is planning to close this Chapter"*.¹¹

⁹ See more at: <https://www.mans.co.me/nvo-iniciraju-kontrolno-saslusanje-ministra-radulovica-zbog-devastacije-tare/>

¹⁰ See more at: [http://www.skupstina.me/index.php/me/radna-tijela/odbor-za-turizam-poljoprivredu-ekologiju-i-prostorno-planiranje-odrzao-56-sjednicu](http://www.skupstina.me/index.php/me/radna-tijela/odbor-za-turizam-poljoprivredu-ekologiju-i-prostorno-planiranje/item/3484-odbor-za-turizam-poljoprivredu-ekologiju-i-prostorno-planiranje-odrzao-56-sjednicu)

¹¹ See more at: <https://www.mans.co.me/izvjestaj-sa-konferencije-da-li-ce-tara-prezivjeti-auto-put/>

This study shows the extent to which the Parliament of Montenegro has a passive role in controlling the work of the Government and fails to use all the mechanisms available to it. In five years since the construction of the highway worth over a billion Euros began, one consultative - and not control hearing was held, and it was done at the initiative of the non-governmental sector.

Back in 2015, after the adoption of the Law on the Bar - Boljare Highway and the conclusion of the Contract on design and construction of the Highway Design and Preferential Loan Agreement from the Chinese EXIM Bank, MANS sent an initiative to the Parliament of Montenegro to form a special working body to monitor the development of large infrastructure projects in country.¹² However, that initiative was rejected on the grounds that the Parliament already has enough committees that can monitor the mentioned topics within their competencies.¹³ Since the beginning of the construction of the highway, no parliamentary committee has held any hearing or meeting on that topic.

¹² See more at: <http://www.rtcg.me/vijesti/ekonomija/98920/hitno-formirati-odbor-za-autoput.html>

¹³ See more at: <https://www.vijesti.me/vijesti/ekonomija/nema-podrske-za-formiranje-odbora-za-autoput>