

3. Weakness of the state - CASE STUDY “LIPCI”

This case study shows that the state is not capable or willing to protect the world cultural heritage in the territory of Montenegro from tycoons’ devastation motivated only by profit.

In the Boka Bay, near the old town of Kotor, in the zone under the protection of UNESCO, there is a site called Lipci. Lipci is known as an archaeological site where drawings from prehistoric period were found. This cultural-historical heritage was devastated in summer 2008 owing to the fact that a number of relevant institutions permanently closed their eyes to the violations of the law.



Devastated shore at the site Lipci

Only when MANS publicly pointed to this case, the contractor was arrested, and then the first trial for illegal construction and devastation of environment turned into a farce. The site Lipci is still devastated, despite the announcements of the Government that they would adopt a plan for its rehabilitation.

3.1. Devastation of the site Lipci

Works on the road Risan-Grahovo, which was supposed to link the north of Montenegro to the Boka Bay, were conducted near the site Lipci. The Directorate for Transport awarded this job to the company “Meganizacija i programat” which hired the company “Tani” as a subcontractor. Owner of the company “Tani” is Ranko Radulović¹.

Mining of the site Lipci was brought in connection with works on the new road until the moment when the company “Tani” began to deposit stones and debris directly into the sea. Thus created dyke was covered in sand and a plateau of 7,000m² was made on top of it.



The investor, unfettered by inspections, during the tourist season conducted works by blocking traffic every day for several hours, although the Decision of Municipality of Kotor on the Prohibition of Construction was in force.

At the beginning of August MANS filed first initiatives to the competent inspections requiring them to react and stop devastation of the site².

Despite MANS's charges and daily media coverage on the devastation of Lipci, numerous inspections did nothing to stop the construction. Instead, they kept arguing who should be in charge of this.

The Building Inspection claims that they are not competent³, because there is no construction of buildings; the Urban Inspection updates the Ministry⁴ about everything, but the Ministry claims it has no jurisdiction to take any concrete steps. Other inspections did

¹ Radulovic is a controversial businessman from Nikšić who was formerly associated with smuggling of cigarettes and other illegal activities conducted mostly with Bosnia and Herzegovina. According to the independent daily “Vijesti” during the last few election campaigns in Nikšić, and in some northern municipalities, Radulović “did the job for the ruling Democratic Party of Socialists, and that is probably why he was spared from the reaction of relevant inspections during the devastation of the site Lipci”, daily “Vijesti”: “Ranko Radulović arrested”, 9th September 2008.

² On 4th August MANS filed the initiatives to the Republican Inspection for Construction, Ecological and Water Management Inspection, Urban Inspection and Kotor Building Inspection and the Communal Police

³ Decision no. 1301/210-177/02 on 15th August 2008.

⁴ Decision no. 1004-1113/4-09 on 30th July 2009.

not reply at all even though, according to the law, they are obliged to inform each applicant about its initiative outcome.

Identity of the owner of the company that conducted works was unknown to the public at the beginning of the case. Only on 12th August, after filing the initiative to the inspection, MANS found out that it was a controversial businessman Radulović.



The daily "Vijesti" as of 12th August 2008

On the same day when we placed this information in media, the police of Herceg Novi stopped further construction for "security reasons", while the Basic Prosecutor's Office in Kotor announced that they had initiated the investigation of the case.

In early September, MANS and "Expeditio" informed UNESCO about the devastation at the site Lipci and requested their support in solving this problem.

3.2 Arrest and trial

The Police Administration announced an arrest warrant and on 9th September 2008 they arrested Rajko Radulović as a responsible person of the company "Tani" which was mining the hill at the site Lipci.

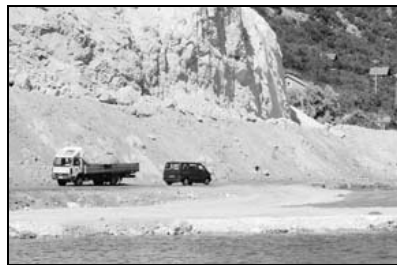
A month later, in early October 2009, the Basic Prosecutor in Kotor filed charges against Ranko Radulović for committing criminal offenses of unlawful seizure of land, natural goods destruction and damaging, which are sanctioned by three to five years in prison⁵.



Policija privodi Ranka Radulovića

⁵ The Criminal Code prescribes that the offense of "unlawful occupation of land in the extended period" is punishable by imprisonment of up to three years, while for the environmental damage prescribed sentence is five years of imprisonment.

The Prosecution did not charge Radulović for a criminal offense of building of objects without a building permit, nor did it consider the motives of erection of the dyke in the sea, although it was obvious that it was made in order to build a facility.



Dyke in the sea at Lipci

The indictment included a Head of the Service for Planning, Development, Construction and Control in the public company “Morsko Dobro” (“The Coastal Zone Management Agency”) Rajko Radulović and a Water Management Inspector Biljana Jončić; they were accused for a criminal offense of negligent work in service. Also, the indictment included a Head of the construction site in Lipci, Miloš Marković, employed by the company “Tani” for ordering the workers to deposit excess material in the sea. According to the Criminal Code of Montenegro, for the offenses these defendants were accused of the prescribed sentence is up to five-year-imprisonment⁶.

The case was assigned to the judge Suzana Čelanović from Kotor, who only two days after the indictment abolished detention to the first accused Radulović.

The trial began half a year after the indictment, on 9th April 2009. The defense claimed that the devastation was an inevitable consequence of works conducted on the route of the road Risan-Žabljak, and that the company “Tani” disposed a controversial dyke in the sea in order to restore the consequences after the hill mining.

Several expert witnesses and specialists claimed in court that filling the stones into the sea did not endanger the environment, and that it is a “tradition” to deposit construction debris “at the nearest place the investor can find”, although according to a number of regulations a special permit for disposal of construction materials is needed.

At the trial against the Chief of the Kotor Harbor, Nikola Drakulović said in his testimony:

“Radulović is not guilty for throwing the excess construction material from the route Lipci- Kežev Laz into the sea. This is done very often and I am very well familiar with this practice since I have seen it many times during my service as a harbor captain. Take a walk along the coastline and you'll see countless even worse examples of filling the sea and devastation”.
Nikola Drakulović, Head of the Kotor Harbor, 29th May 2009.

⁶ Criminal offense of negligent work in service under the Code is punishable by imprisonment of up to five years.

Hydraulics expert, Božidar Batinić, explained that during the construction of the road along the coast, the excess material is usually thrown into the sea. He said that “it is surprising that apart from the stones small sand was also thrown on top of it and a stable plateau of 80 centimeters above sea level was formed, which was not supposed to be filled”.

Regarding the case Lipci at the end of June 2009 the Supreme State Prosecutor Ranka Čarapić stated that the devastation occurred because the competent inspections did not react in time, and that representatives of the state obstruct the work of Prosecution.

“Representatives of the state are obstructing our work in the trial by proving that the accused is innocent. The problem is that the prosecutors and judges are blamed for everything and actually the inspections should have prevented this from occurring”⁷.

Ranka Čarapić, the Supreme State Prosecutor 25th June 2009.

Finally on 22nd September 2009 the Basic Court in Kotor reached a verdict and Ranko Radulović was sentenced to a four-month imprisonment.

Civil servants Rajko Radulović and Biljana Jončić were sentenced to six months probation, while the Head of the construction site Miloš Marković was sentenced to three months probation in prison.

3.3. Chronology of the events in the case Lipci

Mid July 2008 - A company “Tani” from Nikšić intensifies its works at the site Lipci and starts mining of the hill and depositing stones in the sea.

22nd July 2008 - A Public Company “Morsko Dobro” (“The Coastal Zone Management Agency”) put on their website the information that they had reported the case of devastation to the Republican Water Management Inspector.

4th August 2008 - MANS filed first initiatives to state authorities; this case becomes a hot issue in the local media.

12th August 2008 - For the first time MANS publicly identified Ranko Radulović and the company “Tani” as contractors in Lipci, while the police of Herceg Novi “stops the works on the site Lipci” on the same day for security reasons.

⁷ Article “At the trial - Lipci” - some persons are obstructing our work, the daily “Vijesti”, 25th June 2009.

15th August 2008 - The Republic Building Inspection stated that the Directorate for Transport had permissions for construction works, based on which construction of the road Risan-Grahovo was initiated but that the indentation of the slope and depositing of the material in Lipci is performed separately from construction works on the road.

18th August 2008 - The Communal Police in Kotor stated that they had ordered the responsible person in AD “Mechanizacija i programat” from Nikšić, and the company “Tani” from Nikšić as a subcontractor, to remove a large amount of stones that they had deposited at a location in Morinj, but that a relevant body of the Ministry of Agriculture, Forestry and Water Management is competent for backfilling of the sea.

18th August 2008 - The Ministry of Tourism and Environmental Protection stated that they were not in charge of construction works, unloading of debris and construction material in the sea at the site Lipci but that the Inspection for Waters of the Ministry of Agriculture, Forestry and Water Management was.

9th September 2008 - Owner of the company “Tani” Ranko Radulović was arrested.

6th November 2008 - The Basic Prosecutor in Kotor brought indictments in the case Lipci against Ranko Radulović, Rajko Radulović, Biljana Jončić and Miloš Marković.

9th April 2009 - Trial in the case Lipci started in the Basic Court in Kotor.

22nd September 2009 - The Basic Court in Kotor pronounced the verdict against the actors of the affair.