



CASE STUDY

WILL TARA SURVIVE THE HIGHWAY CONSTRUCTION?

October, 2019.



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Abstract

One year after the issue of the environmental impact of the construction of the Bar-Boljare highway (priority section Smokovac-Mateševu) was internationalized through the campaign of the local civil sector, there is still no precise answer to the question - Will Tara survive the highway construction?

In part of construction of the subsection along the Tara River to Mateševu loop, the riverbed is still completely devastated, while warnings from local and international public have yielded very little results so far. Main contractor - China Road and Bridge Corporation (CRBC), in cooperation with domestic subcontractors, continues to unimpededly devastate the environment, while there is undue and inefficient inspection by state authorities.

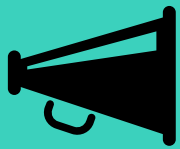
Over the past year, the European Parliament, the European Commission and UNESCO have repeatedly warned the Government of Montenegro of what is happening at the highway construction sites along the Tara River, and in each comment confirmed that it is undoubtedly about devastation of the river that is under international protection.

Inspection of environmental protection and implementation of the Environmental Impact Assessment Study is still largely inefficient and does not prevent contractors from continuing the devastation. The practice of withholding the results of such inspection have continued, records and prescribed measures are still being declared as classified documents. No information is available on the fines imposed and charged for the devastation.

Other competent institutions in possession of relevant public documents, in addition to numerous pre-concealed funding data for this project, also withhold environmental data, which is contrary to international instruments ratified by Montenegro.

When it comes to determining responsibility, there is still not enough political willingness to at least examine the key facts and actors of this years-long devastation of protected natural asset such as the Tara River. Control hearings before the Parliamentary Committee on Tourism, Agriculture, Ecology and Spatial Planning have so far failed to produce any results, and there was also no willingness to hold the Ministers of Transport and Sustainable Development accountable.

In addition, the criminal charges filed by the civil sector have still not been seriously investigated, and the previous dealing of the competent Prosecutor's Office with this issue does not encourage us to believe that the institution could soon be expected to protect public interest to end the devastation of Tara. Unfortunately, the Prosecutor's Office sends the same message to the Government of Montenegro and its partners in the construction of the highway, which, we believe, is one of the key reasons why the devastation of the Tara River has not stopped.



Introduction

In 2014, the Government of Montenegro signed a contract with Chinese company China Road and Bridge Corporation (CRBC) to design and build the first of three planned sections of the Bar-Boljare highway. Work on the 41 km-long so-called priority section Smokovac-Mateševo began in May 2015, with the deadline for completion of four years. According to the contract, estimated value of works on this section was €809 million.

Four years after that, in May 2019, it was clear that China's CRBC would not complete the construction of the section within the deadline defined by the contract, so the deadline for completing the work was prolonged for one year.

Breaking of deadlines for completion of works on this section was not the only problem with the construction of the priority section. In October 2018, just over half a year before the deadline for completion of works, which was defined by the original contract, the public had the opportunity to get acquainted for the first time with the extent of devastation of the Tara River at the construction site of a subsection near Mateševo, the Municipality of Kolašin.

In the past year, in addition to domestic public, most of the relevant international institutions, including the European Parliament, the European Commission and UNESCO, have highlighted the issue of devastation of the Tara River area that is under international protection.

This document gives an overview of key events that have taken place in the last year since the revealing of actual extent of devastation of the Tara River caused by the construction of priority section of the Bar-Boljare Highway.

First part of the document gives a detailed description of all forms of devastation recorded by non-governmental organizations through one-year monitoring of the situation and regular visits to the terrain along the Tara River.

Second part of the document addresses the key recommendations of the international community regarding warnings to the Government of Montenegro and the finding that the works on the highway construction have devastated the Tara riverbed.

Third part provides information on legal steps taken so far by the NGO sector to inform and encourage public authorities to enforce environmental laws, as well as initiatives to determine individual responsibility for devastation of the natural resource under international protection.

The last part of the document deals with the issue of access to information on the implementation of the project for the construction of the highway, especially in the part related to environmental protection and supervision over the performing of works.



DEVASTATION OF TARA

Tara River, as natural resource with special values of world importance, was twice inscribed on the UNESCO World Heritage List. The Convention concerning the Protection of World Cultural and Natural Heritage protects the Tara River Canyon, while the Tara River Basin is registered in the network of biosphere reserves under the UNESCO's "Man and the Biosphere" (MAB) programme.

The Tara River was also particularly protected by the Declaration of the Parliament of Montenegro adopted in 2005, which permanently prohibits any interventions or works in the canyon of this river. There is a significant concentration of endemic species of plants and insects in the area, while in the canyon itself there are over 80 known caves that have not been thoroughly explored so far. The Tara Canyon and the river have met as many as three conditions to become part of the UNESCO World Heritage Site – geological, hydrological and biological phenomenon.

Despite this, since the beginning of construction of the priority section Smokovac-Mateševo, part of the Tara River and its tributaries have been severely impacted by the works being performed, and the most visible impact is the illegal disposal of huge amount of construction waste onto the banks and into the Tara River, as well as discharging of untreated wastewater into the river and its tributaries.

Illegal landfills

After drone footage in October 2018 showed the Montenegrin public the level of devastation of the Tara river, [1] NGO MANS' Investigative Centre revealed in November 2018 that Chinese company CRBC, under pretence of the Tara River regulation, was uncontrollably disposing huge amounts of waste into its riverbed. [2]



One of the illegal landfills along the Tara River

Specifically, Chinese company used the alleged necessity of regulating the riverbed to protect the surrounding households and their residents from its pouring out in order to

[1] Look at: <https://www.youtube.com/watch?v=MfAwRSCjaQI&t=1s>

[2] NGO MANS' Investigative Story: <https://www.mans.co.me/deponije-ili-regulacija-tare/>



DEVASTATION OF TARA

avoid opening two prescribed landfills for waste disposal.[1] Instead, CRBC has for some time been disposing the construction waste created by the excavation and drilling of tunnels directly on the banks of Tara.

However, the fact is that opening two landfills at a significantly greater distance from the construction site would greatly increase costs of the contractor, who would have to take the waste much further. Additionally, the Environmental Impact Assessment Study, drafted in 2015, bans the disposal of materials into the Tara River and on its banks.[2]

Only 2016 Tara River Regulation Plan envisages regulating the riverbed by disposing excess material from the excavation on the riverbanks.[3] Finally, the latest Construction Waste Management Plan from 2018 no longer mentions the two unopened landfills, which were present in the original plan.[4]

In June 2019, MANS revealed that CRBC had opened another illegal landfill for disposal of construction waste at Tara's tributary – Drcka. Aerial footage showed thousands of tons of construction waste being disposed onto privately owned agricultural land. Also, none of the documents listed above envisaged the opening of a landfill on Drcka.

Illegal disposal of excavated rock and gravel from the tunnel and opened route of the highway is also the most visible impact on the Tara River, and despite numerous warnings from the domestic public and relevant international institutions, CRBC has never ceased this practice, or has the Government of Montenegro taken any measures to sanction and stop further devastation.

Wastewater

By excavating one of the projected tunnels on the highway route near Jabuka stream, CRBC discharged the wastewater generated during the process directly into the tunnel, which was thus untreated discharged into Tara. This was one of the findings of the NGO MANS' Investigative Centre in November 2018, when discharging of unfiltered water into a river under international protection was also documented.



Photo of the place where Jabuka stream flows into the Tara River, taken on November 13, 2018

[3] Construction Waste Management Plan developed by CRBC, No. ET/008-02/2015/V7 of July 8, 2015

[4] p. 355 of the Environmental Impact Assessment Study for the construction of the Bar - Boljare highway, section Smokovac - Matešev

[5] Tara River Regulation Plan of September 2016

[6] Management Plan for Non-Hazardous Construction Waste, September 2018, no 101/2-02-1691/1



DEVASTATION OF TARA

On the other hand, reports on the quality of the water issued quarterly by the Institute of Public Health and the Institute for Hydrometeorology and Seismology showed that during 2017 and 2018, in as many as 26 cases, the water sample was defective.

KOMENTAR ANALIZE

Uzorak odливne vode iz tunela SJEVER - JABUČKI KRŠ, područje Jabuke - Mateševo, gdje izvodi radove firma **China Road Bridge Corporation** - Sekcija 4, uzet je jednokratnim zahvatom, sa odvodne cijevi, posle prolaska kroz cjevovodni sistem i tri seperaciona tanka, dana 20. 10. 2017. god. u periodu od 10.20 -10.30 sati.

Ovaj uzorak je pokazao da voda NE ODGOVARA uslovima Pravilnika o kvalitetu i sanitarno - tehničkim uslovima za ispuštanje otpadnih voda u recipijent i javnu kanalizaciju (Sl. list CG, br. 45/08, 09/10 i 26/12, 59/13).

Voda pri uzorkovanju imala je bjeličastu boju, znatnu mutnoću, odnosno srednju do slabu providnost, bila je bez mirisa i u tragu vidljivih otpadnih materija. Voda posle taloženja ide u prirodni recipijent (kanal koji se ulijeva u rijeku Taru) i tumačenje rezultata analiza je vršeno po toj skali.

From one of the reports on water quality control

Institutions have been silent on this fact, despite the clear obligation laid down in the Impact Assessment Study - that all institutions in possession of water quality reports must share them with the public. In addition, the Ministry of Transport had a special obligation of this kind, which was obliged to inform the public at least once a year via its website.

Failure to comply with construction procedures

In 2018, the State Commission for Technical Inspection issued several reports stating that the contractor, Chinese company CRBC, did not comply with construction procedures. The reports of the Commission pointed to a series of omissions and during construction of facilities on the highway route, during construction of bridges "Tara 1" and "Tara 2" and several facilities on "Mateševo" loop.

The Commission thus determined that geological reports had not been signed by the supervising engineer, but by a person without the necessary authority for the job, which is why Commission members repeatedly insisted that the practice must be changed. Also, the Commission repeatedly stated that "The concrete design and construction methodology for the construction of the pillars of the bridge Tara 2 have not been officially adopted - approved by Engineers/Supervision, although pillars are under construction," according to a report from September 2018.

ZAKLJUČAK

Dolje potpisani Izvjestioci konstatuju da se, saglasno važećoj Zakonskoj regulativi, **ne poštuju u potpunosti procedure** prilikom izvođenja radova na predmetnom objektu, **iz razloga što se radovi na izgradnji stubova izvode bez predhodno usvojenog-odobrenog, od strane Inženjera/Nadzora, „Projekta betona za oporce i stubove”.**

Conclusion of one of the reports on supervision of works



DEVASTATION OF TARA

The project of concrete structure, according to the valid regulations of the Ministry of Sustainable Development and Tourism, contains technical description, calculation of the load capacity and usefulness of the concrete structure, and a programme of control and assurance of the quality. In cases where a construction product is delivered without a declaration of performance and marking in accordance with special regulation, it cannot be installed into the concrete structure. [7]

Most often, CRBC did not perform ongoing testing of concrete and reinforcement materials, did not present concrete designs to the commission, while there was no evidence on the site of the origin of the materials they installed.

On the section of the highway route that was particularly problematic due to the impact on the Tara River, CRBC did not present to the Commission solutions for selecting responsible engineers for the individual stages of construction. In addition, the construction works on the Mateševo loop were not carried out in accordance with the regulations, which is why CRBC had to additionally compress the material within the loop construction at that facility.



Photos from a section of a highway construction site (regulation of the Tara River flow)

[7] Rules on technical requirements for concrete structures ("Official Gazette of Montenegro", no. 020/18 of 30/0/2018)



RECOMMENDATIONS OF THE INTERNATIONAL COMMUNITY

At the end of November 2018, the European Parliament adopted a Resolution on Montenegro emphasizing the need for the public to have access to information on the impact of the construction of the highway on the Tara River. The Resolution emphasizes that waste disposal and changes in the Tara riverbed should be stopped immediately, in accordance with Montenegro's obligations to preserve areas under special national and international protection.

Such conclusions were adopted in response to the specific problems revealed to the public by non-governmental organizations MANS, Green Home, Expeditio, the Center for Protection and Research of Birds, Ozon, Durmitor Development Center and Breznica.

This was followed by reactions of the European Commission and UNESCO, who confirmed in their reports on Montenegro that it was indisputably a devastation of the protected natural property and indicated the need to address the issue.



Landfills on Tara doubled despite EU messages

Resolution of the European Parliament

In its resolution on Montenegro, adopted in November 2018, the European Parliament reminded those responsible of the commitments made by the state by signing international agreements when it comes to preserving the Tara River as a specially protected area. [8] It was the first serious warning that came from a significant international address concerning the environment regarding uncontrolled construction of the most expensive infrastructure project to date.

The resolution states that it is of utmost importance to regularly monitor the situation on the construction site of the Bar - Boljare highway, while the EP stresses the need for timely and accurate information on the impact of the highway construction on the river Tara to be made available to a wide public. Finally, the resolution stressed to Montenegrin authorities the need for cessation of all activities of waste dumping and riverbed alteration, in line with the commitments entered into by Montenegro to preserve areas having special national and international protection.

[8] EP Resolution on Montenegro: https://www.europarl.europa.eu/doceo/document/TA-8-2018-0482_EN.html



RECOMMENDATIONS OF THE INTERNATIONAL COMMUNITY

European Commission Progress Report on Montenegro

The progress report on Montenegro's EU accession process, published in May 2019 by the European Commission, also addressed the impact of the construction of the Bar - Boljare highway on the Tara River. It was then emphasized that the Tara River must be protected from the possible negative impacts of the construction of the Bar - Boljare highway, and that the state of Montenegro must take urgent measures to preserve and improve the ecological value of protected areas, such as Skadar Lake, Ulcinj Salina and the Tara River. [9]

- accelerate implementation of the national strategy for transposition, implementation and enforcement of the EU *acquis* on environment and climate change, especially in the waste, water and nature protection sectors;
- take urgent measures to preserve and improve the ecological value of protected areas and potential Natura 2000 sites such as Ulcinj Salina, Lake Skadar, the Tara river and other river courses;
- develop its National Energy and Climate Plan in line with the Energy Community recommendations;

Part of the European Commission's Progress Report on Montenegro's EU Accession Process, published on 29 May 2019

The European Commission has emphasized the need to increase transparency in the implementation of infrastructure projects, but also the need for concrete results of the implementation of anti-corruption measures in this area.



Photo from part of the construction site of the Bar-Boljare highway

[9] 2019 EU Report on Montenegro: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-montenegro-report.pdf>



RECOMMENDATIONS OF THE INTERNATIONAL COMMUNITY

UNESCO mission reports

In November 2018, UNESCO mission visited Montenegro and Durmitor National Park, which forms part of the World Heritage Programme. [10] During that visit, members of the mission also visited the construction site of the Bar - Boljare highway, since in the days before that there was a strong controversy over which part of the river located upstream is under protection.

The main conclusion of the UNESCO mission, published in a report in June 2019, is that the construction of bridges, exploitation and disposal of gravel and sand have severely devastated the Tara riverbed, all within are protected by the UNESCO Man and Biosphere Programme. [11] According to the mission, the biggest negative impact of construction are planned ramps and inclusions/exclusions from the highway to the so-called flood area, which will destroy the flooding feature of the river. As the mission report states, such feature is crucial to maintaining the ecological value of the river. [12]

The mission then notes that there are several landfills, gravel and sand landfills in the flood area, but also in the riverbed itself. In addition, it is stated that monitoring of compliance with environmental and biological standards during the construction of the highway is inadequate and that all parameters are not met. This is particularly emphasized in the light of the fact that monitoring results with instructions for necessary improvements are not immediately communicated to the contractor and supervising authority, which could avoid the negative impact of highway construction on the river. UNESCO then warned that while it is clear that certain problems can be remedied after the completion of construction, it is clear that the consequences will remain visible even after the highway is put into operation. In addition, it is concluded that river flow regulation would not have been necessary if there had been no construction in this area, and that the impact on the river's ecology would have been significantly less in that case.

Recommendations and findings of the mission visiting Montenegro were also noted by the UNESCO World Heritage Committee, which noted in its July 2019 report serious impact that the highway has on the Tara River. In addition, the Committee expressed concern about the impact that construction work on the Tara River basin has on the upstream river, which the authorities are required to assess. [13]

[10] Look at: <https://whc.unesco.org/en/list/100>

[11] Look at: <http://www.unesco.org/new/en/natural-sciences/environment/ecological-sciences/biosphere-reserves/europe-north-america/>

[12] Report available at: <https://whc.unesco.org/en/documents/174707>

[13] Conclusions of the World Heritage Committee can be found at: <https://whc.unesco.org/archive/2019/whc19-43com-18-en.pdf>



LEGAL PROCEEDINGS

One of the key causes for the continued devastation of the Tara River is the almost complete absence of responsibility for it, which stimulates contractors to continue the same practice.

Together with MANS, NGOs participating in the process of monitoring the situation on the Tara River along the highway construction site have taken several legal actions to hold the key actors of the devastation accountable and thus prevent its continuation and ensure full rule of law in this area.

For this purpose, NGOs have initiated concrete inspection on the ground, filed criminal charges and demanded both control and consultative hearings of the most responsible individuals of the executive power.

The result of the previous legal proceedings is still limited due to the lack of political willingness to sanction in an adequate and sustainable manner all those responsible for devastation of the Tara River.

Criminal complaints

In October 2018, on behalf of six NGOs, MANS filed a criminal complaint with the Supreme State Prosecutor's Office against those responsible at the Ministry of Transport and the Ministry of Sustainable Development and Tourism, as well as environmental and water inspections, members of the Commission for Supervision of works on the highway and the very contractor CRBC, all because of the revealed devastation of Tara. [14]

The complaint was submitted by MANS, Green Home, Montenegrin Ecologists Society, Center for Protection and Research of Birds (CZIP), EXPEDITIO and Our Action.

Criminal offenses for which suspects were charged for are abuse of office, malpractice and environmental pollution. In the criminal complaint, responsible persons are accused that, by violating regulations and international conventions, they have unlawfully used their official position and allowed the contractor to obtain the benefit by performing criminal offense of devastation of the riverbank of Tara and causes great damage to the environment and natural resources. Inspectors of the Administration for Inspection Affairs and members of the state commissions for supervision are subject of the criminal complaint because they have not performed official duties of supervision in accordance with the law.

In June 2019, when after several visits of the terrain near Tara it became clear that the devastation of the Tara River and its bank continued without any obstacles, in the form of continuous disposing of construction waste into the riverbed, NGOs filed a supplement to the previously described criminal complaint, with new evidence. [15]

[14] Criminal complaint no. 24865/10, filed with the Supreme State Prosecutor's Office on October 29, 2018

[15] Supplement to criminal complaint no. 25476/06 of 21 June 2019



LEGAL PROCEEDINGS

At the end of June 2019, MANS filed another criminal complaint with the Special State Prosecutor's Office, this time against the Minister of Sustainable Development and Tourism and the Minister of Transport and Maritime Affairs – Pavle Radulović and Osman Nurković, because of discovery of the third illegal landfill of construction waste, this time on the bank of Tara's tributary Drcka.

The criminal complaint also includes Nikola Medenica, director of the Agency for Nature and Environment Protection, and Alija Košuta, director of the Administration for Inspection Affairs, together with responsible persons from CRBC. At the time, an illegal landfill was discovered on Drcka, where on the riverbed made up of agricultural land, CRBC had been disposing construction waste for months. [16]

The offenses that Radulović, Nurković, Medenica and Košuta are charged with are abuse of office and non-performing their official authorities, while CRBC is charged with multiple offenses in relation to pollution and environmental damage.

To the date of completion of this document, neither competent prosecutor's offices has acted on any of the described criminal charges, nor have the applicants received any response.

Initiatives for inspection

In October 2018, after documenting high impact of the construction of the highway on the Tara River, NGO MANS submitted initiatives for the inspection supervision to the Sector for Environmental Inspection and the Sector for Water Inspection within the Administration for Inspection Affairs. [17]

The initiatives targeted CRBC, and it was to determine, in accordance with the Law on Inspection Supervision, the extent to which the law, by-laws and other legislation in the field of environmental protection were applied, all in connection with the performing of works on the Tara River.

U dijelu nadležnosti Odsjeka za inspekciju za vode obilaskom terena konstatuje se da se izvode građevinski radovi na izgradnji mostova Tara 1 i Tara 2, kao i radovi na izgradnji petlje Mateševo. Takođe se izvode radovi na regulaciji rijeke Tare, na način što je izvršeno produbljivanje i proširenje korita rijeke po trasi definisanoj glavnim projektom. Takođe izvode se radovi na izgradnji obalnih

Part of the response of the Administration for Inspection Affairs, Sector for Water Inspection, no. 0304 / 2018-8836-2 of November 29, 2018

[16] Criminal complaint no. 25483/06 of June 25, 2019

[17] NGO MANS Initiatives no. 24863/10 and 24864/10 of October 29, 2018



LEGAL PROCEEDINGS

Minutes from the site on the completed inspection control was then requested by a separate request for free access to information, which was rejected by the Administration for Inspection Affairs on the grounds that disclosing of the requested minutes would cause adverse consequences for the interest of greater importance than the interest of the public to know the information requested. It is also added that disclosing of the minutes before the completion of the project of construction of the Bar - Boljare highway would jeopardize the planning and further inspection. [18]

On November 22, 2018, the Chief Inspector of the Sector for Environmental Inspection visited the highway construction site, and on that day ordered CRBC to sample water from several locations and send it to the Institute of Public Health of Montenegro for analysis. On the other hand, in response to the initiative, it was stated that the inspector would make a decision to carry out monitoring of the remediation of the Tara River, and that the environmental inspection was not competent to control works of the river regulation. [19]

[1]Response to request for free access to information of the Administration for Inspection

ovlašćenom sakupljaču. U trenutku pregleda radnici CRBC su čistili, održavali put R19. Inspektor će donijeti rješenje da se izvrši monitoring brzine rijeke Tare, shodno planu remedijacije. Zaštita kosina i njihovo osiguranje dužinom regulisanog korita je data u Glavnom projektu regulacije korita rijeke Tare. Kao što smo već rekli, ekološka inspekcija nema nadležnosti u kontroli radova na Projektu regulacije rijeke Tare.

Part of the response of the Administration for Inspection Affairs, Sector for Environmental Inspection, no. 0303/2017-8835/2 of November 30, 2018

In 2019, in cooperation with NGO MANS, other environmental organizations have also submitted a number of initiatives to the competent inspections, all related to the regulation of the flow of Tara, disposing of waste on its banks, the operation of a crushing plant for sand and gravel treatment without a permit etc. However, none of the initiatives submitted resulted in a more serious control and possible punishment of main and auxiliary contractors.

Inicijative za kontrolno saslušanje

In November 2018, in cooperation with several environmental organizations, MANS submitted to the Committee on Tourism, Agriculture, Ecology and Spatial Planning at the Parliament of Montenegro an initiative for the control hearing of the Minister of Sustainable Development and Tourism, Pavle Radulović, and the Minister of Transport and Maritime Affairs, Osman Nurković, all because of the problematic status and protection of the Tara River during construction of the highway.

[1]Response to request for free access to information of the Administration for Inspection Affairs No. 0801-03/2018-112/11 of December 28, 2018

[1] Response of the Administration for Inspection Affairs, Sector for Environmental Inspection, No. 0303/2017-8835/2 of November 30, 2018



LEGAL PROCEEDINGS

The initiative, in cooperation with NGO MANS, was submitted by Environmental Movement Ozon, Ecological Society Breznica, Green Home and the Center for Protection and Research of Birds (CZIP). [20] However, the session scheduled for December 26, 2018 was cancelled due to unexplained reasons.

However, more than four months after the initiative was submitted, the Parliamentary Committee held a meeting attended by Ivana Vojinovic, Director General of the Directorate for Environment of the Ministry of Sustainable Development and Tourism, Rina Ivančević, Director General of the Directorate for Inspection and Licensing at the Ministry of Sustainable Development and Tourism, Momčilo Blagojević, Director General of the Directorate for Water Management, Ministry of Agriculture and Rural Development, and Damir Gutić, Director of the Water Directorate.

The line ministers were not present at the sessions, while representatives of the competent bodies denied the responsibility of the institutions for the damage done to Tara. Ivana Vojinović said at the time that "the construction of large infrastructure facilities can always lead to environmental damage, depending on the intensity of the works, thus constant attention of the competent authorities at all levels is necessary." [21]

In July 2019, after the final UNESCO World Heritage Committee report recognizing the serious encroachment of the highway into the level of environmental protection of the Tara River, NGOs MANS, Green Home and CZIP once again requested the same parliamentary committee to organise hearing of the line Ministers Radulović and Nurković. This was done because the environment on Tara had been continuously threatened since October last year, with estimates from the European Parliament, the European Commission and UNESCO saying that the impact of the highway construction on the Tara River was clear while the relevant institutions were "silent".

However, the Committee on Tourism, Agriculture, Ecology and Spatial Planning, led by DPS MP Petar Ivanović, this time rejected the initiative on the grounds that it was agreed at a preliminary consultation hearing that committee members must visit the site and determine the level of compliance with regulations that accompany highway construction. However, as this was not done, the committee decided to reject NGOs' initiative. [22]



The landfill is in the river bed and on the banks of the Tara River

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

[21] The minutes of the session of the Committee on Tourism, Agriculture, Ecology and Spatial Planning of the Parliament of Montenegro, held on April 3, 2019, can be found at: <http://zakoni.skupstina.me/zakoni/web/dokumenta/sjednice-radnih-tijela/2281/6014-.pdf>

[22] Statement of the Committee of 25 July 2019 can be found at: <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-odrzo-56-sjednicu>



ACCESS TO INFORMATION

Despite Montenegro ratifying the Aarhus Convention, an international document that guarantees, among other things, the availability of all environmental information, state institutions are breaching that convention. [23]

Despite this, after the release of the data and the first footage of devastation of the Tara River, the institutions began to declare confidential even information on the state and measures of environmental protection, which is in complete conflict with the obligations of Montenegro assumed by ratification of the Aarhus Convention.

Declaring even the most basic information on the state of the environment secret greatly limits the civil control the impact of the works performed has on the state of the environment, but also the efficiency of the competent authority to effectively ensure full rule of law in this area.



The photos testify to the doubling of the number of landfills and the regulation of the river flow

[23] See more at: <https://ec.europa.eu/environment/aarhus/>



ACCESS TO INFORMATION

Hidden data on the environment

The special unit for project management of the construction of the Bar - Boljare highway has thus rejected a series of free access to information requests regarding many environmental issues. [24]

Some of the data that Monteput withholds from the public on the grounds that it is "internal data" are:

- CRBC's monthly reports on complaints from the locals;
- programme with measures to mitigate the impact on the Tara River during construction relating to the collection and treatment of sanitary wastewater;
- Action Plan for the protection of the Tara River;
- Conceptual design of the river Tara regulation on the Uvač-Mateševu section, with an emphasis on slope stabilization by using materials from the excavation from Smokovac - Mateševu section;
- CRBC reports regarding construction works on subsection 4.4.1;
- CRBC reports regarding the implementation of environmental measures on the Tara River;
- reports of Monteput on performing of works on subsection 4.4.1;
- reports from the Ingerop - Geodata Consortium on works on subsection 4.4.1.

Although it would greatly contribute to locating responsibility for the damage done to the Tara River and prevent further devastation in other areas, the Main Design of the Bar-Boljare Highway, Smokovac-Mateševu section is still hidden from the public, as well as all major subsection projects, on the grounds that this protects the safety of the project.

Confidentiality of inspection work and results of the work

In August and September this year, the Administration for Inspection Affairs, which brings together all inspections under its auspices, once again rejected requests for free access to information, which required inspections to provide information on what and how much they worked on the highway construction site.

The Administration, on the grounds that this protects the official duty and further planning and carrying out of the inspection, continues to refuse to provide any information on:

- documents adopted by its inspections regarding the construction of the highway;
- the minutes made by its inspections on that occasion;
- reports on the implementation of environmental measures on Tara River;
- conclusions on imposing of fines for noted irregularities on the site;
- requests for initiating misdemeanour proceedings for irregularities identified. [25]

[24] See more at: <https://ec.europa.eu/environment/aarhus/>

[25] More detailed information is provided in the 2nd NGO MANS Report, which deals with the construction of the highway in Montenegro: <http://www.mans.co.me/wp-content/uploads/2019/04/AutoputME-fin.pdf>



ACCESS TO INFORMATION

Article 8 of the Law on Inspection Supervision guarantees the public oversight, which essentially means that everything that inspections in Montenegro deal with must be communicated to the public, as well as disclosed at the request of third parties. [26]

On the other hand, the aggregate data of the Administration for Inspection Affairs for 2015, 2016, 2017 and 2018, since the beginning of construction of the highway, shows a very negligent and irresponsible attitude of inspections towards the most significant and expensive infrastructure project in Montenegro.

Thus, since the beginning of construction of the highway, the Sector for Environmental Inspection has made a total of 68 site visits, which means that on average, they have visited the field 17 times a year, according to a document from the Administration for Inspection Affairs submitted to MANS. Construction of the Bar - Boljare highway began in May 2015. [27]

Based on the Law on Free Access to Information, MANS requested the Administration for Inspection Affairs to provide it with information on total number of inspections carried out at the highway construction site and the number and amount of fines imposed for non-compliance with environmental regulations at the construction site.

In addition to the number of visits to the highway construction site, it was also disclosed that two decisions were adopted on administrative enforcement of fines in the amount of three and three thousand Euros. In addition, since the start of the construction of the Bar - Boljare highway, 17 requests for misdemeanour proceedings have been filed, and in the meantime the courts have issued only three rulings per filed requests - totalling € 11,000 for a legal entity and € 1,600 for a responsible person.

In comparison, as shown by the data of the Administration for Inspection Affairs presented in its annual reports, the Sector for Ecological Inspection performed a total of 9242 inspections in four years, from 2015 to 2019. This means that on average, environmental inspectors have visited the highway construction site once out of 136 times, i.e. that the share of ecological control over the construction of the highway represents 0.74% of the total control of ecological inspection in Montenegro. [28]

Out of 200 requests for misdemeanour proceedings filed by the Administration for Inspection Affairs for four years, 17 were filed in respect of non-compliance with regulations at the highway construction site.

[26] Law on Inspection Control (Official Gazette of the Republic of Montenegro 39/2003 and Official Gazette of Montenegro 76/2009, 57/2011, 18/2014, 11/2015 and 52/2016)

[27] Response of the Administration for Inspection Affairs no. 0801-03/2019-39 2 of 14 June 2019, upon request for free access to information submitted by NGO MANS

[28] Annual Reports of the Administration for Inspection Affairs for 2015, 2016, 2017 and 2018, available at: <http://www.uip.gov.me/biblioteka/dokument>



GOVERNMENT OF MONTENEGRO AND DEVASTATION OF TARA

The public of Montenegro is generally ill-informed about the construction of the country's first highway, and official information is limited to occasional announcements by the Government of Montenegro and visits to only one construction site - the one on the Moračica Bridge, near Podgorica.

Before the first footage taken by the MANS Investigative Centre were released to the public, citizens were not able to imagine the extent of the impact of highway construction on a protected natural resource such as the Tara River.

Representatives of the Government in charge of the construction and control of the performance of works have generally denied the existence of large-scale devastation, or argued that it was a temporary situation. Others trusted the rule of law and promised that the institutions would do their job and the law would be fully enforced on everyone equally.

However, one year after the first footage of the devastation and quite worrying assessments from relevant international addresses, the situation on the highway construction sites along the Tara Riverbed is unchanged, and in certain parts, it is even much worse.

What they said on devastation of Tara...

DUŠKO MARKOVIĆ

Prime Minister of Montenegro



"Bridging the Tara River near Mateševo cannot endanger its canyon and the quality of the Tara River. These are construction works in the riverbed that imply a certain type of devastation, but the corresponding projects also envisaged the rehabilitation of this area upon completion of that project. Thus, the stories that it will endanger Tara, that it will destroy its wildlife are the stories of lay persons, not to be rude" (November 28, 2018). [29]

[29] See more at: <http://www.predsjednik.gov.me/press-centar/intervju/194199/Premijer-Markovic-povodom-dvije-godine-Vlade-Poceli-smo-u-najtezoj-godini-nase-novije-istorije-danas-je-Crna-Gora-stabilnija-neg.html>, interview on the occasion of two years of the Government of Montenegro, published on November 28, 2018



GOVERNMENT OF MONTENEGRO AND DEVASTATION OF TARA

PAVLE RADULOVIĆ

Minister of Sustainable Development and Tourism



"There is no riverbed displacement, there is regulation of the Tara riverbed, and the part of the Tara where works are being carried out is within transition zone" (October 27, 2018). [30]

"Neither Tara is devastated, nor is the protected part of Tara touched, nor does this have any influence on it" (October 30, 2018) [31]

"Tara riverbed has not been displaced and the river is not completely threatened by the construction of the Bar-Boljare highway" (04 July 2019). [32]

OSMAN NURKOVIĆ

Minister of Transport and Maritime Affairs



"Regardless of the size and technical complexity of the construction of the highway project, the Ministry has an unambiguous attitude towards the contractor as well as the supervising authority for uncompromising compliance with applicable regulations, standards and rules of the profession and any failure to comply with them which could have a negative impact on the environment, must be sanctioned" (January 3, 2019). [33]

[30] RTCG show broadcasted on October 27, 2018

[31] See more at: <https://www.youtube.com/watch?v=JDw5puE1rsE&t=2832s>. TV show Reflektor, broadcasted on October 30, 2018

[32] See more at: <https://www.antenam.net/drustvo/125497-radulovic-sacekati-zakljucke-i-odluke-eksperata-o-tari>

[33] See more at: <https://www.vijesti.me/vijesti/drustvo/nurkovic-petlja-na-smokovcu-nije-jedina-raspetljavamo-i-druge>



GOVERNMENT OF MONTENEGRO AND DEVASTATION OF TARA

MILUTIN SIMOVIĆ

Minister of Agriculture and Rural Development



"The construction of such capital infrastructure projects during the very construction process leaves some larger or smaller scars on nature, but there are remediation projects, projects that imply temporality of certain measures, followed by a return to the nature of what belongs to it" (13 November 2018) [34]

"Final epilogue to what triggered the launching of this topic will not be of benefit to those who initiated the topic or those who tried to provide parts of response to the current state, instead, it will be of benefit to Tara River, its sustainability and the need to remain the "tear of Europe" in the future as well" (March 22, 2019). [35]



Photo from the highway construction site

[34] See more at: <https://fosmedia.me/infos/politika/simovic-tara-i-autoput-su-suza-i-put-do-evrope>

[35] See more at: <http://standard.co.me/index.php/drustvo/item/44359-simovic-tara-nije-devastirana-tara-ce-ostati-suza-evrope>