



ENVIRONMENTAL CRIME IN MONTENEGRO

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ENVIRONMENTAL CRIME IN MONTENEGRO

I SITUATION ANALYSIS

1 Hazardous waste

Hazardous waste includes expired chemical waste, heavy metals and dangerous fats, electronic products, oil and its derivatives, as well as cyanides, pharmaceutical and oily waste. Within the meaning of the Waste Management Law, hazardous waste is understood to include used products that contain elements or compounds with one or more dangerous properties that have serious consequences for human health: carcinogenic, irritant, harmful, toxic, mutagenic, teratogenic. Polychlorinated biphenyls (PCBs) are particularly notorious for their harmful effects and serious impact on health: acute toxic effect, appearance of cancerous cells, increased risk of cardiovascular diseases, negative effect on hormone secretion, increased risk of asthma and others. The largest quantity of these compounds is present in old industrial equipment.

The most important projects that have been implemented in Montenegro in recent years in relation to the disposal of hazardous waste are the Industrial Waste Management and Cleanup Project and Comprehensive Environmentally Sound Management of PCBs in Montenegro Project.

The Industrial Waste Management and Cleanup Project is being implemented since 2014 in cooperation with the World Bank with the objective of remediating “ecological black spots”: the former shipyard Bijela, the ash and slag landfills Maljevac and the Gradac flotation tailings in Pljevlja, the solid waste landfill on the site of the Aluminium Plant. The remediation of Maljevac and Gradac was completed in 2021, which is very significant considering that these two sites were serious sources of pollution in Pljevlja and suburban settlements. As for the red mud and solid waste landfill located on the site of the Aluminium Plant, the Project’s budget envisages funds for the preparation of technical documentation for remediation. The main remediation project has been developed and approved by the World Bank in accordance with the procedure and is being implemented by the Environmental Protection Agency.

The Comprehensive Environmentally Sound Management of PCBs in Montenegro Project was implemented by the UNDP Office with funds received from the Global Environment Facility (GEF). UNDP collaborated on the Project with relevant institutional and industrial entities (Ministry of Ecology, Spatial Planning and Urbanism, Institute of Public Health, Montenegrin Distribution System - CEDIS, Uniprom/Aluminium Plant, Port of Bar, Pljevlja Coal Mine, Railways of Montenegro, etc.). The objective of the Project was to provide support to the country in the form of necessary technical and financial assistance in order to identify and dispose of all remaining PCBs in the country.

At the beginning of the Project, the estimate was that at least 900 tons of equipment, waste and land containing PCBs should be adequately disposed of. An important step, taken in cooperation with the owners of the equipment and CETI, was to sample and analyse around 5000 pieces of equipment, waste and land, because there was no inventory of PCBs. The most important results of this Project include the removal and permanent disposal of about 555 tons of PCB equipment and waste and about 1,050 tons of highly contaminated land around the PCB warehouse in the Aluminium Plant. In addition, this warehouse was reconstructed so that it meets national and international standards for the storage of hazardous chemicals. Most of the waste containing PCBs was found in transformers and condensers in industrial plants and the electrical distribution network. The stocktaking exercise had showed that the most of this equipment is found in the Aluminium Plant, followed by CEDIS, Politropus Alternative (a part of Aluminium Plant that has been separately privatised) and Pljevlja Coal Mine. The biggest challenges during the Project were as follows: 1. Sampling of equipment which was part of the electrical distribution system and was "scattered" throughout the country, often in inaccessible places, 2. Obtaining of all necessary permits for export and transit of hazardous waste, 3. Securing involvement of the owners of hazardous waste with the Project and awareness raising about the importance of adequate treatment of such waste, because the removal of contaminated equipment meant considerable investment in a new one (Maja Kustudić, UNDP Montenegro, personal communication).

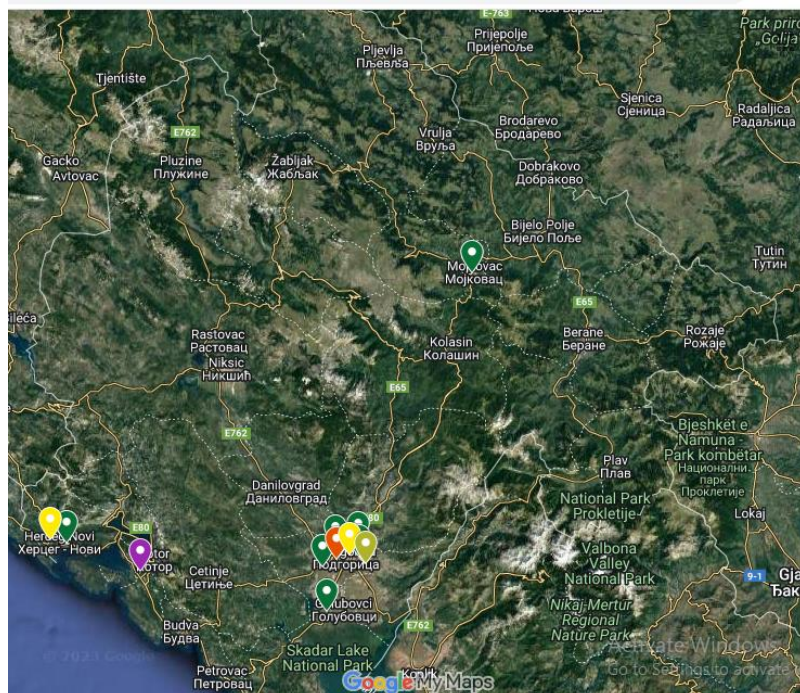
The Institute for Public Health also took part in the Project by analysing urine and blood samples of individuals who worked with PCB equipment. The results showed that there were no traces of PCBs in the urine and blood samples.

A Bar-based company Hemosan is the only company specialised for export of hazardous waste. This company collects hazardous waste in Montenegrin municipalities and the quantities collected depend on the industrial capacity of the municipality. It then exports all types of hazardous waste, with the exception of radioactive waste, for which CETI is responsible. Hemosan exports waste to EU countries (Germany, Austria, Switzerland), where it is destroyed in an adequate manner. According to their data, in recent years there has been an upward trend in the quantity of hazardous waste exported from Montenegro. Thus, in 2021, **817.5** tons of hazardous waste were exported, most of which was PCB-contaminated waste, while in 2022, 1,400.66 tons were exported, with the largest share being that of PCB-contaminated land (Source: Hemosan, Bar).

According to Zoran Nikitović, CEO of the company, the owners/producers of the largest amount of hazardous waste are the Steelworks Factory, Aluminium Plant, mobile operators. A major challenge in solving the issue of hazardous waste is "historical waste" which includes waste stored in factories that are under bankruptcy and for which it is difficult to establish by whom and how permanent disposal should be paid. Another serious problem is also the lack of recycling yards, where hazardous waste from households (computers, batteries, electronic waste, old accumulators...) would be temporarily disposed of until it is collected and further treated in an

appropriate manner (Zoran Nikitović, personal communication). Few municipalities in Montenegro have recycling yards (Map 1).

In Montenegro, the separation of hazardous and non-hazardous waste is not organized, so they often get mixed up. This means that all residents of Montenegro contribute to the production and inadequate disposal of hazardous waste. Batteries, including vehicle batteries, which we use every day, are treated as hazardous waste under national (as well as under the EU) law. Batteries can contain dangerous substances such as lead, cadmium and mercury. Heavy metals have far-reaching negative effects on the environment and human health, because they reach the soil, groundwater and get included in food chains. Although about 50 tons of batteries enter and are used in Montenegro annually, only a few hundred kilograms are exported abroad through by authorized companies for recycling or safe disposal. According to the Department for Waste Management of Cistoca DOO Podgorica (municipal solid waste disposal company), awareness of waste disposal is not sufficiently developed. According to their data, only 62 kg of batteries were disposed of in 10 months of 2020, whereas Hemosan took over only 291 kg of batteries during the same year.



Map 1: Recycling yards sites in Montenegro

1.1 Media review

As regards informing the public about hazardous waste, the media most often report about "ecological black spots" in Montenegro (ash and slag landfill Maljevac and Gradac flotation tailings in Pljevlja, solid waste landfill at the location of the Aluminium Plant). The level of

information about other producers of hazardous waste in Montenegro is insufficient and informative texts about types of waste and dangers to human health are also lacking.

According to Milan Gazdić, Director of the Environmental Protection Agency (Daily newspaper Vijesti, issue of 9 July 2023), it is difficult to obtain precise data on the quantity of hazardous waste in Montenegro. The Agency is in possession of information that certain quantities of hazardous waste are located in the former pulp and paper factory in Berane, but it is not known how much waste there is and what its chemical composition is. In Montenegro, mechanisms for permanent disposal of waste are not in place, meaning that waste must be exported in accordance with national and international standards. Construction of a landfill for disposal of this type of waste is a very complex and expensive process and Mr Gazdić has no information as to whether the landfill will be built soon.

The process of setting up a high-quality database, i.e. 3R waste register and the polluter cadastre, is about to be finalised. This is a very significant step towards the monitoring of flow of hazardous waste and digitalization and automation of processes that are carried out during the issuance of permits and consents for waste management. It is expected that the base will be operational by the end of the year.

The Ministry of Ecology, Spatial Planning and Urbanism has been reported by the media as stating that the legal regulations in Montenegro are exceedingly clear regarding the management of hazardous waste (Daily newspaper Pobjeda, issue of 12 December 2021). Among other things, the Law requires every waste generating to undertake characterisation and classification of waste depending on its nature and to ensure its legally required treatment.

Mr Goran Nikitović, CEO of the only specialized company for export of hazardous waste from Montenegro, has pointed out that there are several methods of destroying this type of waste. Some of these are incineration, remediation, solidification, recycling (Daily newspaper Pobjeda, issue of 12 December 2021). The most common form is incineration, which is how pharmaceutical and chemical waste is treated, but not all types of waste are burned at the same site. Mr Nikitović believes that Montenegro has no commercial interest to develop the incineration system, because the quantities exported in one year measure at a few hundred tons. The company headed by him provides packaging, transport and storage of hazardous waste until export, as well as its selection and choice of incinerator to which each type of waste will be directed.

Biologist Vuk Iković of the Centre for Investigative Journalism of Montenegro warns (18 February 2021), that dumping alkaline batteries or motor oil packaging in bins with municipal waste leads to contamination of all the waste in the bins, making it hazardous. Fines for mixing and improper disposal of hazardous waste range from EUR 1,000 to EUR 40,000, but the Environmental Inspection does not have precise data on the imposed fines. Fines are mostly imposed for illegal collection and handling of batteries for motor vehicles and other purposes.

The media informed the Montenegrin public about the existence of a sizable amount of waste, including hazardous waste, within the Toščelik Ironworks Factory site: 3,800 tons of metal dust, 31,000 liters of waste, non-chlorinated, hydraulic oil, 155 barrels (Daily newspaper Dan, issue of 3 September 2022). According to the Administration for Inspection Affairs, the plan was to export these toxic substances by the end of 2020; however, to date the export has not taken place.

Recent information that carcinogenic asbestos material, removed from the roof of part of the Clinical and Hospital Center of Berane during the reconstruction of this health facility, was deposited and then set on fire close to the town's centre caused alarm to the public (Daily Newspaper Vijesti, issue of 20 August 2023). According to Danijela Raičević, who reported the case to the police, the asbestos burned for days and the workers did not know how to handle this hazardous substance. The manager of the construction site stated that he was not aware that it was a hazardous substance, given the fact that the town where he lives has asbestos water pipes. Asbestos was much used in construction during the 20th century but developed countries have long since put it out of use, as it was found to be carcinogenic.

1.2 Conclusions and recommendations:

- Awareness raising on the sources and types of hazardous waste, ways of managing such waste, on the legal regulations governing this issue (lectures, trainings, printed material).
- Promote the importance of selective waste collection (e.g. separating batteries, accumulators, fuel oil packaging from municipal waste and handing it over to recycling centres), so that as many citizens of Montenegro as possible dispose of waste in this way. This would reduce the amount of hazardous waste in the country.
- Increasing the temporary storage capacities (recycling yards) and capacities for export of hazardous waste. In every municipality, there should be at least one recycling yard (although the real needs are greater), where residents would hand over the hazardous waste that they have separated from municipal waste.
- Educate citizens about the importance of reporting inadequate treatment of hazardous waste.
- Legislation is harmonised with the EU Directives, but mechanisms for control and sanctioning are not adequately developed. The most important step on the way to solving this problem is to increase the capacity of the Environmental Inspection. It is also necessary to improve the mechanisms for control/sanctioning and to keep records on the imposed fines (for which offenses the fines have been imposed and the amount of fines).

2. Illegal logging

With 60% of its territory covered by forests, Montenegro ranks among the very top of the European countries in terms of the share of land under forests. However, in recent decades, numerous deficiencies in the forest management system have been recorded; these are dominantly related to illegal logging and problematic concession contracts.

Illegal logging is the most common criminal offense against the environment in Montenegro and it causes thousands of trees to be cut down every year. In 2019 alone, 6500 m³ of wood mass was illegally cut down, predominantly in state forests, thus inflicting a significant financial damage to the State. According to estimates of Plav-based NGOs, concession management of forests has cost the state budget 20 billion euros! Financial losses are only one of the consequences of illegal exploitation of forests. Logging of the forest, especially if whole-tree logging is carried out, leads to fragmentation of the habitat of animals, which in turn can lead to the disappearance of a species from a certain territory. Unplanned logging can result in increased erosion (especially on large slopes), appearance of landslides, changes in the hydrological regime and a lack of drinking water in the affected territory.

Under the Law on Forests, logging control is carried out by foresters and forestry inspections, who, if they notice irregularities, notify the competent authorities. When illegal logging is carried out in a private forest, misdemeanour charges are filed. Corruption at various levels is recognized as a serious problem in the functioning of the control mechanisms. Compared to other forms of ecological crime, here we have the greatest number of vulnerable spots for corruption: 1. a person who carries out the marking of trees for felling, 2. a local forester, who reports irregularities in felling, 3. Police officers, who perform control during the transport of trees or firewood, 4. Forest Directorate, to which irregularities are reported (by foresters / policemen), 5. Directorate for Inspection Affairs – Department for Inspection of Forestry, Hunting and Plant Protection, whose task is to control illegal activities (upon the report of the Forest Directorate) and initiate procedures before the competent authorities, 5. Prosecution Service. Centralization of inspections in the Administration for Inspection Affairs is recognized as an error when it comes to protecting forests from illegal exploitation. Previously (about 15 years ago) the forestry inspection worked within the Forest Administration, it had larger capacities than now and controlled all phases of forest exploitation: marking of trees for felling, logging, transport, use.

Illegal logging is present in all municipalities in Montenegro, and one cannot single out the municipality where this type of environmental crime is the most intense. In terms of the number of criminal charges for illegal logging in state forests in 2022, Berane (127) and Kolašin (86) are the leaders, while the most complaints for logging in private forests were filed in Kolašin (44) and Rožaje (26). However, these data are not relevant, as a large number of illegal activities remain unreported. Based on the field experience of the author, in 2022 there were numerous irregularities in the forests of the Municipality of Pljevlja, such as those concerning non-compliance with the

rules of removal of felled trees and Forest Rules. However, based on the presented data of the Ministry of Agriculture, Forestry and Water Management, only one misdemeanour complaint was filed for illegal logging in private forests in Pljevlja during 2022 and there were no misdemeanour charges for illegal logging in state forests and usurpation of forest land in that year.

There are numerous indications that concessionaires have exploited forests to an extent greater than their contracts allow. In this way, they contributed significantly to the increase in illegal logging over the last decade. They abused sanitary felling, which involves the removal of sick or fire-damaged trees, by cutting down healthy, large trees. The locals of several municipalities from the north of Montenegro (Plav, Rožaje, Bijelo Polje, Pljevlja, Berane, Andrijevica and Mojkovac) pointed to failures in the concession management of forests, but due to the corruption, control and prosecution were lacking.

It should be noted that the Strategy with the Forest and Forestry Development Plan 2014-2023 does not deal with the issue of illegal logging and includes no proposals for activities that would lead to the reduction of this type of forest exploitation. Still, available data suggest that there was more focus on control and prosecution of illegal logging in the past four years. In 2019, the Action Plan for the prevention of illegal activities in forestry for the period 2019-2021 was developed. Unfortunately, there is no precise information as to what extent the number of prosecuted cases of illegal logging has increased and how many activities from the this plan have been implemented.

A significant step in the fight against illegal logging was made in February 2023. Based on the conclusions adopted at the second session of the National Council for the Fight Against Corruption, Acting Director of the Directorate for Forest Management and Hunting Grounds, Mr Armin Mujević, passed a set of measures of the Forest Management and Hunting Grounds Directorate for the prevention of illegal activities in forestry. The measures refer to the increased control of all illegal activities in the forest and include control of: felling, timber traffic, wood processors, export of wood, contractual obligations of current users of state forests, etc. The obligation of an urgent response to cases of suspected illegal activities was emphasised. Such response includes a tour of the terrain, drawing up of a detailed report and filing the report with the Forest Administration. Whether the adopted measures will give the expected results will be known next year after an analysis of the number of prosecuted cases of illegal logging and non-compliance with Forest Rules.

The announcement of the Government of Montenegro that by the end of year the company “Montenegro Forests” will be established to manage forests in the country, is a cause for hope that the situation in forestry will be improved. Progress can be expected in this sector, given that Article 3 of the Draft Law on Amendments to the Law on Forestry (16/08/2023, Ministry of Agriculture, Forestry and Water Management) provides that “Forest management and management activities may be entrusted to a state-owned forest management company by an act of the Government”; this

would lead to abolishment of concessions, which, according to all estimates, had a very negative impact on the forestry sector.

2.1 Media overview

The media often reports to the public about the state of forestry. An analysis of the articles suggests that there is great dissatisfaction in Montenegro about the situation in forestry, both on the part of the citizens and on the part of the experts dealing with this issue. Jelena Lazarević, a professor at the Faculty of Biotechnical Engineering of the University of Montenegro, at the training held within the framework of the Project “Sustainable Forest Management for All” (NGO Society of Young Ecologists Nikšić), points out that nowadays, when managing forests and exploiting them, we do not take into account the change and respect of biological and breeding measures (08/06/2021, daily newspaper Vijesti). Excessive and illegal logging, as well as forest fires, are the main factors that threaten forests. Professor Lazarević states that over 50% of the area under forests consists of devastated forests, which is why experts identify Montenegro as a country that is rich in poor forests. Ranko Kankaraš, MSc, Head of the Forestry Directorate, expressed his dissatisfaction with the situation in forestry at the same round table. Kankaraš believes that it was strategically bad to leave the exploitation of forests exclusively to the private sector and concessionaires.

Irma Muhović, a member of the Association of Young Ecologists, emphasises the lack of supervision by the Forest Directorate over the work of concessionaires as a problem in combating illegal logging (15/02/2021, RTV Cetinje). Concession documents are not subject to the obligation of previous strategic impact assessment, which can lead to problems when establishing an ecological network of protected areas. In the areas of the current nature parks, forest concessions were previously issued, and logging is carried out in farm units outside the scope of sanitary harvesting, which is not in accordance with the regulations in the field of nature protection. Also, there is no database of concessions that include information on contracted and realized logging and collected concession fees.

In accordance with the data available to Vuk Iković from Kod, between 5000 and 10,000 cubic meters of forest are illegally cut down annually in Montenegro, which amounts to one million euros of direct damage, while the total damage is estimated at 5 to 10 million per year (10/12/2020, daily newspaper Pobjeda).

According to Srđan Pejović, who was acting director of the Forest Directorate two years ago, 13 years ago, when the system of long-term concessions was created, the “Forestry Mafia” appeared (26/11/2021, Radio Free Europe). The “Forestry Mafia” abused concession management of forests, and as a result we now have destroyed forests and damage of tens of millions of euros to the state budget. This is a very corrupt system, which is not present anywhere in Europe. Pejovic believes that concession management in forests is legalized corruption, since the concessionaires paid very little compensation to the state under their contracts.

Armin Mujević, current director of the Forest Management and Hunting Grounds Directorate of Montenegro, showed determination to increase the effectiveness of the fight against illegal logging. He adopted a set of measures and informed the heads of management units about these, demanding from them strict adherence: "In this regard, in order to effectively and proactively combat illegal use of forests and prevent illegal activities in forestry, in cooperation with other control and supervision institutions, in the coming period it is necessary to fully engage all available personnel from your organizational units in the field of forest protection and conservation, supervision and control of the use of forests, as well as control of the turnover of wood assortments in order to prevent the placement of illegally cut wood on the market." Mujović stated this in a letter addressed to heads of management units (16/02/2023, Vijesti Daily).

A recent protest of the residents of the Local Community of Bijela (Municipality of Šavnik), organised with the aim of combating illegal logging in their municipality (19/08/2023, RTV Nikšić) demonstrates that the adopted measures have not yielded the expected results. The Municipality of Šavnik is quite rich in forests, and illegal logging in the territory of the Municipality has been present for years. Locals sent requests to the competent institutions, demanding an urgent response to combat illegal logging. They announced the continuation of protests if the competent institutions and the Government of Montenegro fail to respond to their demands.

2.2 Conclusions and recommendations

- Raising awareness about the common responsibility for the preservation of forests in Montenegro (target groups: population as whole, police officers, foresters)
- The penal policy for illegal logging is provided for in the legislation, but in practice it is insufficiently applied. A serious problem is corruption at different levels.
It is necessary to implement actions to combat corruption in forestry and extraordinary controls on the ground as a coordinated effort of the police, inspection and forest protection services. It is important to emphasize that in the fight against corruption in forestry, it is crucial that all links function well (inspection on the ground, police, forest protection service, judiciary and prosecutor's office). If one link does not function as it should, despite great efforts, adequate results are lacking.
- It is evident that each institution believes that responsibility lies with another institution. The Forest Directorate believes that the Directorate for Inspection Affairs is not doing its job as it should, while forestry inspectors indicate that the Forest Directorate does not provide valid documentation (evidence). It is necessary to strengthen cross-sectoral cooperation, by organizing joint working meetings.
- Since corruption is possible on several levels, it would be desirable to periodically change the person who performs the work of marking a forest in one territory/local forester/forestry inspector for one area. If one person works longer in the same area, he is more likely to forge closer relations with the local population and be more susceptible to corruption.

- In practice, it has been proven that the forestry inspection played a stronger role in combating illegal actions in forestry while working within the Forest Directorate, compared to the current situation, when this inspection is part of the Directorate for Inspection Affairs. Previously, the inspection was involved in the control of the exploitation of the forest from the first moment (marking of trees for felling), through felling, extraction of trees from the forest and transport, up to the use of felled trees. Today, the inspection is gets involved on when an irregularity is reported, and many cases of illegal exploitation remain unreported. In addition, forestry inspections have fewer inspectors compared to the previous period. It is necessary to return the forestry inspection to operate within the Forest Directorate and strengthen its capacities as this would certainly contribute to the quality of control of illegal activities in forests.
- The Forestry Strategy for the period 2023-2032 should provide for (and later in practice apply) measures to prevent illegal activities related to forestry.
- Organizing trainings to present methods of preventing illegal activities in the forestry sector
- Training of employees in the forestry sector in order to ensure collection of quality data and evidence on the ground, better data management and accordingly drawing up of high-quality complaints/reports.
- Police authorities, prosecutors' offices, judiciary, due to being overwhelmed by some other cases that have higher priorities in relation to the forestry sector, do not effectively treat all cases that arise, and are related to corruption in forestry. Raising awareness of police officers about the importance of combating illegal logging.
- Training of police officers about the fight against illegal logging, non-compliance with the Forest Rules and transport of wood.

3. Illegal construction

Illegal construction and the issue of legalisation of such construction are problems that most Balkan states have been struggling with in recent years. This type of ecological crime has an extremely negative impact on biodiversity and the nature as a whole, because this impact is most often irreversible, without the possibility of repairing damage. Illegal construction has multiple negative consequences as it inflicts damage on the nature, the state and citizens. In most cases, buildings constructed without a construction permit are not subject to verification of the application of standards, both during the design and during the execution of works, which can be very dangerous from the perspective of seismic risk. Numerous analyses of devastating earthquakes in recent times confirm that the consequences are most tragic in zones of informally developed buildings, those where observance of modern architectural and construction standards was lacking.

Numerous studies have shown that illegal and poorly planned (excessive urbanization) construction are major factors that threaten biodiversity in Montenegro. Also, the analysis of

criminal proceedings related to environmental crime, which was carried out for the purpose of drafting this report, has shown that the largest number of cases relates to the criminal offense "Construction of a structure without registration and construction documentation". A specific aspect of environmental crime is also present during legal construction, when the measures envisaged to reduce the impact on the environment are not observed, as well as when excessive urbanization takes place. The situation in the country in terms of urbanization is best illustrated by the fact that Montenegro has not had a spatial plan for 3 years, which is a framework document defining the use and arrangement of space.

According to unofficial estimates, there are over 100,000 illegal buildings in Montenegro! Illegally built buildings often manage to secure water, electricity and road connections, due to political calculations and corruption. This means that illegal objects can still be used freely and that no sanctions are applied. The problem of illegal construction is particularly pronounced in the coastal region and in the Municipality of Podgorica. The coastal region also has the problem of mass legal construction, with the Municipality of Budva holding the first place on the "blacklist". Excessive construction results in a traffic collapse during the season and problems with water and electricity supply.

Of particular concern are excessive urbanization and illegal construction in protected areas. Twenty years ago, UNESCO warned that excessive urbanization had also affected the city of Kotor, which is on the UNESCO Heritage List. According to the data published by the Government of Montenegro in the Report on Spatial Planning and Development in 2022, 70 cases of illegal construction and other unauthorized changes in these areas were registered in five national parks. The highest number of cases – 45, was recorded in the Skadar Lake National Park. Illegal urbanization has struck areas that were until recently completely intact, such as the Prokletije National Park, in which 14 cases of illegal construction were recorded. According to official data from 2022, more than 570 prefabricated buildings were recorded on the banks of the River Bojana, which were built and installed without the approval of the competent state authority. According to unofficial data, there are probably about 100 more. These facilities have a very negative impact on the rich biodiversity of the Bojana Delta.

In order to take the first step in the fight against illegal construction, in 2018, a call was issued for the legalization of the already constructed buildings, but this process is still ongoing and there is no end in sight. According to the Ministry of Ecology, Spatial Planning and Urbanism, 56,000 applications were submitted last year (2022) and only 2722 buildings were legalized. New applications are still coming in and the municipalities do not have the sufficient capacities to process them.

The extent to which the politics and corruption are entangled with the issue of illegal construction and excessive construction, is evidenced by the fact that MANS filed criminal

complaints against a Municipal President in 2020 and 2021 (illegal construction in the area of Krimovica – Budva)

3.1 Media Overview

Information about illegal construction can often be found in the media.

Daily newspaper Vijesti reported that illegal construction on the bank of the River Bistrica in Bijelo Polje was continuing, despite the fact that the competent institutions had stopped the construction after the submitted complaints (25/08/2023). Activists of the NGO “Euromost” express suspicion that individuals from the competent institutions are connected with the perpetrators of criminal offenses of illegal construction. In their opinion, this is the only way to explain the fact that the works continued despite complaints being made to inspectors, police, prosecutors. The same NGO points out that the construction of illegal facilities disturbs the riverbeds and increases the danger of threatening consequences when rivers swell (Vijesti, 23/08/2023)

The Ministry of Ecology, Spatial Planning and Urbanism claims that the urban-construction inspection actively performs inspections of informal construction throughout the year, both ex-officio and on the basis of submitted initiatives. Also, the Ministry notes that the inspection is taking the necessary measures and actions prescribed by law, in order to combat illegal construction. However, according to the assessments of numerous bodies, it cannot be confirmed that the inspection work is effective – illegal facilities are being constructed throughout the country and even apartments are sold in these facilities.

(<https://www.bankar.me/2023/08/20/gradi-se-bez-kontrole-pa-se-nelegalni-objekti-prodaju>, 20.04.2023). Prof. Svetlana Perović (Dean of the Faculty of Architecture in Podgorica) believes that the problem of informal construction is continuous and complex, and that systematic and consistent activism is needed for its detection and mitigation.

Media from the surrounding countries also write about illegal construction in Montenegro. Thus, Croatian Television carried the statement of Mustafa Čanko, a freelance journalist from Ulcinj, that there were about 7000 illegal buildings in the Municipality of Ulcinj (12.04.2023). In the village of Pinješ, near Ulcinj, houses are built in pine forests, which represent internationally important habitats.

3.2 Conclusions and recommendations:

- In Montenegro for 3 years there has been no Spatial Plan, a framework document that regulates the use of space
- With regards to illegal construction and other forms of environmental crime, there is also a problem of unclear lines between different institutions. Namely, in some cases of illegal construction, representatives of the urban-construction inspection informed the Police

Directorate, but the Police Directorate asserted that they lacked authority to proceed even though illegal construction is a criminal offense. The Police Directorate referred the representative of the urban-building inspection to the Municipal Commission. Police officers need to be trained on their responsibilities in the field of environmental crime

- In Montenegro, there is insufficient awareness of the importance of preserving the spatial environment, as well as of the seismic risks that informal construction gives rise to. Education of the public and the staff in the relevant institutions is needed in this direction.
- Lack of human resources in the Cadastre and State Property Administration as the number of employees in this institution has not increased after the call for legalization, although they need to conduct verification and produce surveys of illegal facilities. Human resources need to be strengthened
- Municipalities do not have sufficient number of employees dealing with cases of legalization of facilities
- Inadequate penalties for owners of illegal buildings. For example, the Basic State Prosecutor's Office imposed EUR 200 fines, payable to charitable causes, on the owners of illegal facilities on Ada Bojana using the so-called institute of delayed prosecution. It is necessary to toughen the penal policy.

4. Illegal Exploitation of Gravel

Direct damage from illegal exploitation of gravel is measured in tens of millions of euros and if indirect damage added to this the sum increases significantly. In addition, the remediation project will be extremely expensive and time-consuming.

Illegal exploitation of gravel is the most intensive on the shores of Morača, but the rivers of Cijevna, Tara, Lim, Grnčara are not spared either... The most endangered section is the lower course of Morača, from Botun to Ponar, where for years there were several separations, with none of the entities having a license issued by the Water Administration. Although Montenegro introduced a moratorium on gravel exploitation in 2017, there have been no major breakthroughs in the fight against this type of environmental crime.

Skadar Lake and its catchment area are characterized by a very rich biodiversity, with a considerable number of endemic, endangered and critically endangered species. Extraction of gravel seriously threatens river ecosystems. On one side, it accelerates erosion, and on the other side it affects the biological system. Extrapolation of sediment destroys habitats, eradicates organisms and creates a sterile bottom free of bacteria and other organic matter, thus breaking down the food chain. Restoration of degraded bottom can last for years, and the recovery of self-treatment capacity even decades due to the bottom presents the main biological filter in the process of self-treatment. A number of experts believe that the return of the bottom fauna community to its former state is almost impossible and that some rare species have disappeared forever from the diversity of Morača. The exploitation of gravel adversely affects the fish fauna, which is a

significant natural resource in this area and an important source of economic gains for the local population: there is turbidity of water, habitats suitable for spawning and habitats of species that fish feed on are destroyed.

In addition to the impact on biodiversity, illegal exploitation of gravel had a negative impact on the quality of life of people living nearby, especially residents of Botun and Grbavci settlements, who suffered noise and dust from the plant for years. This type of environmental crime has far-reaching consequences on the water regime, because it changes both surface and terrestrial flows, which in turn has a significant impact on the profusion of springs in the wider environment. According to studies, illegal exploitation of gravel has seriously affected the water supply of Bolje sestre, i.e. regional water supply that services Montenegrin coastal area, the profusion of which has decreased more than 10 times since the beginning of its operation. Between 2013 to 2021, the Regional Waterworks Company continuously notified the competent inspection authorities about illegal actions in the second zone of protection of the Bolje sestre spring, i.e. in the riverbed of Morača, but there was no adequate reaction of the authorities. Thus, due to illegal exploitation of gravel, regular water supply for six coastal municipalities is threatened.

In the opinion of many, the weak link in the fight against illegal exploitation of gravel is the judiciary. According to the Montenegro Centre for Investigative Reporting, out of 25 criminal proceedings initiated before the Podgorica Basic State Prosecutor's Office for illegal exploitation of gravel in the last 5 years, only 5 have been completed. Two were dismissed, in one case a fine of EUR 800 imposed, in another one a slightly higher one (EUR 1700), while one offender was sentenced to a suspended sentence of 3 months. Even in these three completed cases, the penalties are below the legally stipulated minimums. It is apparent that there adequate judicial sanctions are lacking, but the prosecutors put blame for inadequate handling of cases on inspectors, who have to identify the owner of the machine found in the riverbed and request the assistance of the police. They point out that after the police it is necessary to immediately notify the prosecutor's office, because it often happens that months pass between the inspection audit and the filing of a criminal complaint, which makes proving difficult. On the other side, the Administration for Inspection Affairs claims that they have no feedback from prosecutors that they have not done something right and that something additional needs to be done. Inspectors point out that poor results in handling cases make their work meaningless. According to them, sometimes there is an acquittal despite all the evidence they have gathered.

The state has tried several times to solve the problem of illegal exploitation of gravel, but not decisively and strongly enough. Finally, on 13 February 2023, the plant of one of the companies was demolished as a serious warning for the others, so that there are almost no machines of large construction companies on the banks of Morača and Cijevna. Only sporadic cases are recorded, these being carried out by owners of small family businesses, who predominantly work during the night. Some individuals have been issued decisions ordering them to rehabilitate the land, which they use as cover to perform works on their land, but instead of rehabilitation they

continue with exploitation. The success in preventing the exploitation of gravel is evidenced by statistical data, which show that the import of gravel from Albania is on the rise.

4.1 Media overview

Reports of illegal gravel exploitation have been relatively frequent in all media in recent years. In the period when a gravel exploitation plant belonging to a large company was demolished on the Morača coast, Prime Minister Abazović announced that the State was entering into a serious fight against illegal exploitation. “The Government plans to declare the complete zone of the Bolje sestre water spring, but also a part of the Morača riverbed from which gravel was illegally exploited for years, an environmental catastrophe, so that the State could seek compensation for the damage (14/02/2023, daily newspaper Vijesti).

Vuk Iković from the organisation KOD spoke for Vijesti Portal about the serious consequences that illegal exploitation of gravel has had on the Morača ecosystem (15/02/2023). “The exploitation of gravel and sand that has been happening for the past 30 years has completely destroyed the visual and spatial identity of the lower course of the River Morača. For many years exploitation was continuously changing the water regime, so animals could not adapt to the new conditions. This has negatively affected the flora and fauna, not only of Morača, but also of the wider area.”

According to Irma Muhović, a member of the Society of Ecologists of Montenegro, the key factors in solving the problem of illegal exploitation of gravel are: the resolve of the State to fight this type of environmental crime, strict application of laws, strengthening of institutions and improving coordination between them, as well as harmonization with international laws (18/06/2023, daily newspaper Vijesti). Muhovic insists that a small number of convictions, as well as insufficiently severe sentences, will not discourage offenders. State institutions blame one another and have poor coordination in curbing illegal exploitation.

4.2 Conclusions and recommendations:

- The main problem in solving decades of illegal exploitation of gravel (as well as other natural resources) is corruption, since this problem was visible to everyone and was not solved. In order to prevent illegal exploitation of natural resources, a coordinated action by the Directorate for Inspection Affairs, the Ministry of Internal Affairs, the Environmental Protection Agency, the Ministry of Agriculture and the Prosecutor's Office is necessary.
- Strengthening the system of detection and control of gravel exploitation.
- Education of inspectors and police on how to act correctly during the inspection audit of gravel exploitation and how to report to the prosecutor's office
- Improve cooperation between the Ministry of Environmental Inspection and the Prosecutor's Office

- Penalties imposed for the criminal offenses of gravel exploitation are below the legal minimums and are therefore a very weak deterrent for the offenders. Those who illegally exploit gravel earn hundreds of thousands of euros, and the fine imposed is a few hundred euros. It is necessary to toughen the penal policy.

5. Illegal hunting, smuggling and unauthorized possession of protected species

The illegal killing of animals is not only an environmental, but also a socio-economic problem. Accordingly, the solution should be sought through a multisectoral, systematic approach, with raising environmental awareness of the importance of conservation and sustainable use of natural resources and finally strict application of penal policy for perpetrators.

With regards to the strategic framework, better integration of nature protection and hunting policies is needed and the protection segment also needs to be strengthened. Institutional responsibilities are scattered, because the matters of poaching and hunting fall within the domain of nature protection, the domain of hunting and the domain of agriculture and forestry. Institutions often blame each other and claim that the problem does not within their area of responsibility.

The Ministry of Agriculture, Forestry and Water Management should play an important role in combating poaching, but citizens, NGO activists, as well as international organizations are not satisfied with the performance of this Ministry. According to nature lovers, the fight against poaching is near the end of the priority list of this ministry. According to estimates by the international organization Birdlife, up to 195,000 birds are killed annually in Montenegro by poaching (2021 estimate). Information about the killing of protected species has also reached the public: griffon vultures, bears, pelicans, chamois. Many crimes of poaching remain unreported, in many cases the identity of the person who committed poaching is not established, and when these cases are prosecuted, the sentences are lenient and do not represent an adequate deterrent for the future.

Fishing with explosives is a major problem that has not been given enough attention in the country. It is present both in freshwater ecosystems and at sea. It represents a serious devastation of the ecosystem, because in this way all species (not only the economically interesting ones which are targeted) of all age stages are killed and the habitat is destroyed. In addition to the impact on biodiversity, this type of hunting poses a danger to the local population and tourists, and it has also been recorded during the tourist season. Fishing with explosives holds the first place on the scale of poaching activities, while the second place is occupied by hunting of protected species and their distribution to restaurants. This year (2023), has seen tightened control of restaurants that offer protected species of animals has been.

Of particular concern are cases of poaching within the boundaries of national parks. The infamous first place is held by fish poaching on Skadar Lake. This year (2023), between 15 March, when the fishing ban came into force, and 4 May, 5 vessels, hundreds of kilograms of fish and

fishing gear were seized. The prosecutor's office received criminal complaints against several people and fines were also collected. In addition to the fact that fishing is carried out on Skadar Lake at the time of the ban, in the period when fishing is allowed, an unauthorized tool is used – electric generator (electricity hunting). Numerous families, who are natives on the shores of Lake Skadar, have been living off fishing for centuries, which makes the fight against poaching in this National Park more difficult. Cases of killing of deer in Biogradska Gora National Park and of bears and chamois in Durmitor National Park were also recorded.

Wildlife smuggling is a serious threat to biodiversity, which has put some species on the threshold of extinction. Official data on smuggling of protected animal species in Montenegro are very scarce. According to the data of the border police of Montenegro: 1. In January 2006, the border police found a tiger in a car, 2. In 2011, there was one case of seizure of cages with parrots and finches (130 pieces) at the border crossing Dobrakovo, 3. Officers spotted an exotic snake near the same border crossing; it was probably thrown by someone afraid of border control, 4. In 2019, 18 turtles were seized at the same border crossing, 5. In January 2022, illegal animal traffic was prevented in Brodarevo. However, in reality, the number of cases of smuggling of CITES (Convention on International Trade in Endangered Species) species in Montenegro is significantly higher than the official data suggest. Smuggling of lions, kangaroos, African turtles, tigers has been recorded... According to data from the last 10 years, birds, reptiles and plants are the most smuggled.

In addition to animal trafficking, there are also cases of illegal keeping of various species in Montenegro. According to 2022, there are 6 illegal zoos in Montenegro, in which over 20 endangered species and 200 individual specimens have been recorded, both indigenous species and tropical species that are on the CITES list. The spatial conditions and food in these zoos are poor and there are also dangerous animals that are kept in inappropriate conditions and which can cause consequences for the health and lives of people. By way of example, at the end of January 2022, a lion cub disappeared from a part of Budva, which posed danger to people and domestic animals in that zone. The lion was found by a police officer after a two-week search.

5.1 Media overview

According to Aleksandar Stijović, former Minister of Agriculture, Forestry and Water Management, the problem of poaching is very complex, and the level of organization is multi-layered. (07/12/2021, www.standard.co.me). Stijovic stated this at the conference “Poaching in Montenegro – Challenges and Solutions to Problems”, organised by the Centre for Protection and Study of Birds (CZIP). A CZIP representative stressed the alarming situation in poaching: “We have become a source of Crime and Courts news when it comes to protected species. Every day, strictly protected species are culled in Montenegro. This is the last moment to get serious, to do an audit of what has been done, for the Hunting Association to be functional and to start from good grounds. First, we need to define the baseline, and then develop programs. There is no track-record,

we have to go to the field and define the baseline, and when we do that every document and program will be much better.” Marija Stanišić (CZIP) spoke about illegal means for hunting “Over the past three years, we discovered 55 illegal lures. We recorded about 456 illegal shootings in areas where there should be no hunting. One of the problems that is being continuously repeated is the nets that the owners of estates in the Zeta area set up to protect crops, and the victims are mostly protected bird species.” “In the last three years, we filed 26 criminal complaints with the Prosecutor's Office and the police, and we have had 18 initiatives for inspection supervision under the Law on Game and Hunting and the Law on Nature Protection. Half of the criminal charges we filed were dismissed. For the other half, we never got a response.” (07/122021, www.standard.co.me).

According to Vladimir Martinovic, director of National Parks of Montenegro, poaching on Skadar Lake is a decades-old problem, well devised and planned. The fight against poaching must be continuous and it is necessary that all instances – the NPCG protection service, the police, inspection authorities, the prosecutor's office and courts - be involved. The project “Stop Poaching”, which began in March 2023, is giving excellent results and illegal actions of exploitation of biodiversity from Lake Skadar have been reduced by 70% compared to last year. Martinovic also noted good response of citizens, who report cases of illegal hunting and fishing. (23/04/2023, daily newspaper Vijesti).

Recently, several admirable actions have been implemented aimed at combating dynamite hunting (within the umbrella action “Dynamite”) in the Bay of Kotor. Border police officers from Tivat and Herceg Novi, in cooperation with marine fisheries inspectors, found a PVC bag with two explosive devices in the coastal part of Krimovica. Officers of the General Hospital Kotor and officers of the Directorate for Protection and Rescue were informed about the incident, went to the scene and took further actions (12.08.2023., facebook Stop Poaching). Clearly, explosive devices posed a serious danger to locals and tourists.

NGO CZIP (Centre for The Study of Birds) has been fighting illegal hunting, smuggling and illegal keeping of animals for years. In 2022, they organized a round table titled “Smuggling and illegal keeping of wild animals – challenges and the current situation in Montenegro, possible solutions to problems, examples of practice from the region and the EU”, where it was concluded that the lack of wildlife shelters and insufficiently precise competences of state authorities are key problems in this area. CZIP recently (August 2023) made a plea to the citizens of Montenegro and tourists not to pay for photos with animals that are on the promenades in Montenegrin cities including birds, snakes, monkeys, because they are indirectly partaking in the criminal offense. “We also addressed the Prosecutor’s Office with the hope that they would respond to the obvious criminal offenses, however, solving the problem did not go much further than the statement that it exists and the passing of the authority over the matter from one institution to another.”

5.2 Conclusions and recommendations

- Inadequate punitive policy; it is important to toughen penalties against poaching.
- Training gamekeepers to better perform their role in preventing poaching
- Education of police officers on case detection and the importance of prosecuting complaints for poaching, smuggling and unauthorized possession of protected species
- It is necessary to revise the list of hunting species and the duration of hunting seasons, and strengthen the capacity of hunting inspections
- Raising public awareness of the importance of reporting poaching and unauthorized possession of protected species
- Insufficient engagement of state institutions and society as a whole in the fight against illegal keeping of wild species and lack of personnel in relevant institutions to deal with this problem
- Imprecise legal provisions, inadequate laws and bylaws, lack of functional mechanisms for solving the problems, lack of an official register of keepers of animals kept in captivity, marking of animals. It is necessary to develop an action plan that would define the obligations of all stakeholders, regarding the smuggling and illegal keeping of animals, from the Police Directorate, through Customs to inspections and Prosecutor's Offices.

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II ANALYSIS OF ENVIRONMENTAL PROTECTION AGENCY CASES RELATING TO THE LAW ON LIABILITY FOR ENVIRONMENTAL DAMAGE

The Environmental Protection Agency is responsible for initiating the procedure of determining damage or immediate risk of environmental damage. This institution may initiate proceedings *ex officio* or upon an application. Below is an overview of the documentation, provided by the Agency, covering the period 2021-2023.

Date: 02/12/2020 – 03/03/2023.

Case: China Road and Bridge Corporation DOO from Podgorica caused environmental damage by works on deepening of the Tara River in the length of about 500 m and depth of about 3 m

Decision/Report: China Road and Bridge Corporation DOO ordered to remediate the Tara Riverbed in the bridge zones 26 and 27 and monitor the environment after remediation.

Date: 15/12/2022

Case: Request to initiate the procedure for determining environmental damage against several legal entities in relation to illegal exploitation of gravel and inadequate disposal of sludge from the depositor (the sludge was deposited on the clay surface from there the rain washed it into Morača).

Decision/Report: After the inspection, the removal of illegally installed machines and facilities was ordered.

Dates: 24/12/2022; 10/05/2023; 15/05/2023

Case: Complaint by the Regional Waterworks Company for the Costal Region against unidentified persons for illegal exploitation of gravel in the zone of protection of the Bolje Sestre water spring; Request for removal of all illegal objects from the riverbed of Morača; Request for damage assessment

Decision/Report: Response of the Police Directorate: During 2021 (December) officers of the Podgorica Criminal Police Station for combating economic crime conducted a raid of 12 gravel exploitation sites and 6 criminal complaints were filed. During 2022, 14 criminal complaints were filed; in 8 of these cases the prosecutor found that there are were elements of a criminal offense, while in 6 cases the proceedings are ongoing. During 2023, Podgorica police officers had 22 raids and filed 6 criminal complaints. In 10 cases the prosecutor found that there were no elements of a criminal offense, while in 6 cases proceedings are ongoing.

Date: 10/03/2023

Case: Information about the status of engineering facilities-plants: asphalt bases, concrete bases and crushing plants

Decision/Report: The Chief Urban Construction Inspector informed the Environmental Protection Agency about the activities carried out with the aim of controlling asphalt and concrete bases and crushing plants. During 2023, the following decisions were issued concerning the area of the banks of Morača and the immediate surrounding area: 12 decisions on demolition of a building/part of a building and termination of the legalization procedure, 1 decision on the prohibition of construction of the building, 3 decisions on the prohibition of the use of the facility.

Also, 2 demolition decisions were enforced. At the location of Lastva Grbaljska (Municipality of Kotor), the measure prohibiting the use of the facility was issued. At a site in the municipality of Rožaje, the measure prohibiting the construction of the building was issued. At a Kuće Rakića site, the measure prohibiting the construction of the building was issued.

Date: 28/03/2023 – 03/05/2023

Case: Initiating the procedure regarding imminent hazard of damage due to waste chemicals which are owned by the Municipality of Berane and are located the premises of the former pulp and paper factory in Berane.

Decision/Report: The procedure is still ongoing.

Date: 19/05/2023

Case: Information on the status of the case conducted before the Environmental Protection Agency for determining environmental damage due to the gravel exploitation from the River Morača, and upon the complaint of the Waterworks Company for the Coastal Region

Decision/Report: It is necessary to implement URGENT MEASURES through a strict ban on the exploitation of gravel, both from the bed and outside of it, within the zone of sanitary protection of the Bolje Sestre water spring.

Date: 13/06/2023

Case: The Environmental Protection Agency has initiated proceedings on its own motion against Budva Wastewater Company, because the technological process of wastewater treatment has been functioning for more than three months without the expulsion of by-products (sludge) from the system.

Decision/Report: Internal analysis has shown that all parameters of the output water have been exceeded. Further proceedings are ongoing.

Date: 28/06/2023

Case: Initiating the determination of environmental damage due to years of illegal gravel exploitation on Himđa (Municipality of Žabljak).

Decision/Report: The Environmental Protection Agency has sent an initiative to establish the facts to the agricultural inspector, in order to determine the degree of devastation of the pastures.

Date: 26/06/2023

Case: Response to the initiative of the Directorate for Inspection Affairs, Department of Water Inspection

Decision/Report: The report presents the activities of the Department of the Inspection for Waters, regarding the exploitation of gravel and sand from the Morača riverbed. According to the report, continuous field controls are being carried out in 2023 on the riverbed section in question. Six cases were prosecuted in that year. In the period between 2020 and 2022, 5 misdemeanor charges and 9 criminal complaints were filed by the Water Inspection, in more than 20 cases the files were submitted to the Police Directorate (in order to assess in cooperation with Prosecutor's Office whether there are elements of criminal offenses prosecuted *ex officio*). It was noted that the Prosecutor's Office and the Police Directorate has not informed the Water Inspection Department about the results of the investigations conducted.

Date: 28/06/2023

Case: Response of the Administration for Inspection Affairs on the number of controls concerning exploitation of gravel in the riverbed of Morača.

Decision/Report: From the beginning of 2021 until 26 June 2023, the ecological inspection carried out a total of 88 controls involving 18. Only one entity was fined a total of EUR 3,500.

Date: 17/07/2023

Case: Determination of facts concerning actions and activities caused by fire. Complaint filed by a concerned citizen due to the burning of a large amount of waste in a wild landfill.

Decision/Report: The Environmental Protection Agency has initiated the process of determining damage.

Date: 20/07/2023

Case: Establishing facts and irregularities at a site in the II zone of protection of the National Park Durmitor – Black Lake. The irregularities are attributed to the national restaurant “Black Lake” and concern sewage spills and increased noise levels.

Decision/Report: An inspection was carried out. The procedure for resolving the irregularities is ongoing.

The analysis shows that until the end of 2022 only one case of determining damage or imminent threat of environmental damage was prosecuted, while from the end of 2022 to date (September 2023) over 20 cases have been initiated. Among the cases, illegal exploitation of gravel in the lower reaches of the Morača River absolutely dominated the reports. One case is related to the management of hazardous chemicals and the ignition of waste in an illegal landfill, while 2 reports refer to the outflow of inadequately treated wastewater.

III LEGAL PROTECTION OF THE ENVIRONMENT IN MONTENEGRO

with an overview of Institutional protection practice through criminal and misdemeanor law protection (for the period 2018-2022) and suggestions for improvement

Environmental protection in Montenegro is declaratively of great importance, given that the umbrella state document, the Constitution, in Article 1 (one) defines Montenegro (among other) as an ecological state. Following the hierarchy of the Montenegrin judiciary system, the other instruments of legal protection have an "equal" character - criminal, misdemeanor, civil and administrative law.

The environment in Montenegro is protected by a series of following domestic regulations: Law on the environment¹; Law on environmental impact assessment²; Law on Strategic Environmental Impact Assessment³; Law on integrated prevention and control of environmental pollution⁴; Law on Industrial Emissions⁵; Law on Waste Management⁶; Law on chemicals⁷; Law on Air Protection⁸; Law on Liability for Environmental Damage⁹; Law on protection against noise in the environment¹⁰; Law on protection against ionizing radiation and radiation safety¹¹; Law on Confirmation of the Convention on the Availability of Information, Public Participation in Decision-Making and the Right to Legal Protection in Environmental Matters¹²; Law on Nature Protection¹³; Law on National Parks¹⁴; Law on Forests¹⁵; Law on game and hunting¹⁶; Law on Protection of Animal Welfare¹⁷; Law on Sea Fisheries and Mariculture¹⁸; Law on the Protection of the Sea from Pollution from Vessels¹⁹; Law on protection against non-ionizing radiation²⁰; Law on Ratification of the Convention on International Traffic in Endangered Species of Wild Fauna and Flora (CITES)²¹; Law on Protection from the Negative Effects of Climate Change²²; Law on

¹ Official Gazette of Montenegro nr. 52/2016, 73/2019

² Official Gazette of Montenegro nr. 75/2018

³ Official Gazette of Montenegro nr. 80/2005, 40/2011, 59/2011, 52/2016

⁴ Official Gazette of Montenegro nr. 80/2005, 54/2009, 40/2011, 42/2015, 54/2016, 55/2018.

⁵ Official Gazette of Montenegro nr. 17/2019

⁶ Official Gazette of Montenegro nr. 64/2011, 39/2016

⁷ Official Gazette of Montenegro nr. 51/2017

⁸ Official Gazette of Montenegro nr.25/2010, 40/2011, 43/2015, 73/2019

⁹ Official Gazette of Montenegro nr. 27/2014, 55/2016

¹⁰ Official Gazette of Montenegro nr. 28/2011, 28/2012, 1/2014, 2/2018

¹¹ Official Gazette of Montenegro nr. 56/2009, 58/2009, 40/2011, 55/2016

¹² Official Gazette of Montenegro nr. 3/2009

¹³ Official Gazette of Montenegro nr.54/2016, 18/2019

¹⁴ Official Gazette of Montenegro nr.28/2014, 39/2016

¹⁵ Official Gazette of Montenegro nr.74/2010, 40/2011, 47/2015

¹⁶ Official Gazette of Montenegro nr. 52/2008, 40/2011, 48/2015

¹⁷ Official Gazette of Montenegro nr.14/2008, 40/2011, 47/2015

¹⁸ Official Gazette of Montenegro nr.56/2009, 40/2011, 47/2015

¹⁹ Official Gazette of Montenegro nr. 20/2011, 26/2011, 27/2014

²⁰ Official Gazette of Montenegro nr. 35/2013

²¹ Official Gazette of Montenegro nr. 11/01

²² Official Gazette of Montenegro nr. 73/2019

Freshwater Fisheries and Aquaculture²³, but also by sources of international law (which according to Article 9 of the Constitution of Montenegro²⁴ have primacy over domestic legislation, i.e. the obligation to apply when relations are regulated differently from the internal legal order).

In addition to the listed laws, the provisions of the Criminal Code²⁵ also provide direct protection of the environment, through 30 criminal offenses, given in the table below for easier navigation in the rest of the document.

article mark (as in code)	article
303	Environmental pollution
303a	Environmental pollution by waste
303b	Ozone layer depletion
304	Failure to take measures to protect the environment
305	Illegal construction, commissioning and operation of facilities and plants that pollute the environment
306	Damage to facilities and devices for environmental protection
307	Environmental damage
307a	Abusing genetically modified organisms
308	Plant destruction
309	Killing and torture of animals and destruction of their habitat
310	Destruction and damage to a protected natural asset
311	Theft of a protected natural asset
312	Export and import of protected natural goods and specially protected plants and animals and their trading
313	Carrying out and bringing in hazardous materials
314	Unauthorized handling of hazardous materials
315	Unauthorized construction of nuclear plants
316	Failure to implement the decision on environmental protection measures
317	Violation of the right to information about the environment
318	Transmission of infectious diseases in animals and plants
319	Malpractice in rendering veterinary care
320	Superveterinary
321	Production of harmful means for animal treatment
322	Contamination of food and water for animal nutrition
323	Forest devastation
324	Forest theft
325	Illegal hunting

²³ Official Gazette of Montenegro nr. 17/2018

²⁴ Official Gazette of Montenegro nr. 1/2007, 38/2013

²⁵ Official Gazette of Montenegro nr. 70/2003, 13/2004, 47/2006, 40/2008, 25/2010, 32/2011, 64/2011, 40/2013, 56/2013, 14/2015, 42/2015, 58/2015, 44/2017, 49/2018, 3/2020, 26/2021, 144/2021, 145/2021.

326	Illegal fishing
326a	Construction of an object without registration and construction documentation
326b	Construction of a complex engineering facility without a construction permit
326c	Illegal connection to the infrastructure

Table 1: Overview of criminal acts that protect the environment in the Criminal Code of Montenegro

Listed regulations, i.e. their violations sanctioned by inspections and judicial authorities through their powers, represent misdemeanor and criminal protection of the environment.

A misdemeanor is defined as an act that represents a violation of public order that is established by law or another regulation and for which a sanction is prescribed²⁶, and a criminal offense is defined as an act that is provided for in the criminal code as a criminal offense, which is illegal and conducted²⁷. Such definitions diversify protection through misdemeanor and criminal proceedings.

Misdemeanor proceedings are regulated by the Law on Misdemeanor²⁸, and it is possible to start it by issuing a misdemeanor order by an authorized body (inspection) or by submitting a request to initiate misdemeanor proceedings to the competent court of first instance (Misdemeanor Court). The request for initiation of the procedure is submitted by the inspectorate, or the state prosecutor, who is responsible for prosecution in criminal proceedings, which are conducted before the competent court (Basic Court). The state prosecutor, either ex officio or after a criminal complaint, if he assesses that he has well-founded suspicions about the commission of a criminal act, initiates criminal proceedings.

What is particularly important to emphasize is the fact that regardless of who is authorized to submit a request, initiate a procedure and prosecute, any person can report a violation of the regulations, an illegal activity that he notices. A citizen can turn in the initiative to the inspection, submit a misdemeanor or criminal report to the prosecutor or the police, after which the state authorities will take actions within their competence. Citizens cannot be expected, and this is not the intention of the legislator, to know all regulations and all jurisdictions, which is why it is the duty of state authorities to forward the report to the competent authority if they are not competent to act.

The data below represent a statistical representation of the actions of competent state authorities. For the sake of brevity and better understanding, first will be explained competences and possibilities of the prosecutor's office regarding the initiation and conduct of criminal

²⁶ Law on Misdemeanor - Official Gazette of Montenegro nr. 1/2011, 6/2011, 39/2011, 32/2014, 43/2017, 51/2017 (article 2)

²⁷ Criminal Code - Official Gazette of Montenegro nr. 70/2003, 13/2004, 47/2006, 40/2008, 25/2010, 32/2011, 64/2011, 40/2013, 56/2013, 14/2015, 42/2015, 58/2015, 44/2017, 49/2018, 3/2020, 26/2021, 144/2021, 145/2021 (article 5)

²⁸ Official Gazette of Montenegro nr. 1/2011, 6/2011, 39/2011, 32/2014, 43/2017, 51/2017

proceedings, then the actions of the courts in criminal proceedings, after which the actions of inspections and misdemeanor courts will be explained.

It should be also noted that there is an auxiliary state body in terms of conducting these procedures, the police, whose competence is to provide professional assistance to citizens, legal entities and other state bodies in exercising their rights, receive reports, inform the competent prosecutor.

Criminal proceedings are initiated and conducted on the charge of an authorized prosecutor²⁹. The prosecutor submits the accusation on his own initiative or on the basis of a submitted report. In the procedure that precedes the submission of the charge to the competent court, the prosecutor may reject the report if it follows from the report itself that the reported offense is not a criminal offense, or is not a criminal offense for which is prosecuted *ex officio*, if the statute of limitations has expired or the offense is covered by amnesty or pardon, or if there are other circumstances that exclude prosecution, i.e. when it cannot be judged from the report itself whether the allegations in the report are probable or if the data in the report do not provide sufficient grounds for issuing an order to conduct an investigation or if there is no reasonable suspicion that the suspect has committed a criminal offense for which is prosecuted *ex officio*.

It is important here to separate the power of the prosecutor to reject the report (for criminal offenses for which a fine or imprisonment up to three years is prescribed) if the suspect, due to genuine remorse, prevented the occurrence of damage or has already compensated the damage in full, and the state prosecutor, according to the circumstances of the case, assessed that the imposition of a criminal sanction would not be fair. As well as the prosecutor's authority to (for criminal offenses for which a fine or imprisonment up to five years) apply the institute of deferred prosecution, i.e. when he finds that it would not be purposefully to conduct criminal proceedings, given the nature of the criminal offense and the circumstances under which it was committed, the previous life of the offender and his personal characteristics, if the offender accepts the fulfillment of one or more of the obligations provided for by law (to remove the harmful consequence or to compensate for the damage caused; to fulfill obligations; to pay a certain amount of money for the benefit of humanitarian purposes; to perform certain socially useful or humanitarian work) dismiss the criminal complaint.

The basic state prosecutor's offices are responsible for prosecuting and conducting proceedings for the criminal offenses that are the subject of this work, of which there are 13 in Montenegro according to the Law on the State Prosecutor's Office³⁰, and their actions in the observed period are given in the table below (Table 2).

²⁹ Law on criminal procedure- Official Gazette of Montenegro nr. 57/2009, 49/2010, 47/2014, 2/2015, 35/2015, 58/2015, 28/2018, 116/2020, 145/2021

³⁰ Official Gazette of Montenegro nr. 11/2015, 42/2015, 80/2017, 10/2018, 76/2020, 59/2021

The purpose of the research was also to separate the number of rejections by applying the institute of deferred prosecution, considering that this represents some kind of sanction against the perpetrator, and especially due to the percentage ratio of rejected reports in relation to accusations. However, since it is not possible to find such data for all prosecution offices individually in the annual reports (in some reports they exist and in others not), and requests for free access to information were mostly not met in this part, it was not possible to perform a more detailed analysis.

article	rejections						accusations					
	'18	'19	'20	'21	'22	total	'18	'19	'20	'21	'22	total
303	1	0	3	3	0	7	0	0	2	2	0	4
303a	0	0	0	3	0	3	0	0	0	0	0	0
305	0	0	0	2	0	2	0	0	0	0	0	0
307	5	1	1	0	0	7	0	0	4	0	0	4
309	9	6	12	7	5	39	12	4	0	6	3	25
310	0	0	0	0	0	0	0	0	1	0	2	3
311	0	2	0	0	1	3	0	0	0	0	0	0
312	1	0	0	1	1	3	0	0	0	0	1	1
314	0	0	2	0	0	2	0	0	0	0	0	0
316	0	0	1	0	0	1	0	0	0	0	0	0
320	0	0	0	0	0	0	0	1	0	0	0	1
322	0	0	0	1	0	1	0	0	0	0	0	0
323	0	1	0	0	2	3	0	2	2	1	0	5
324	47	38	47	54	42	228	54	70	90	68	63	345
325	10	6	14	3	5	35	3	0	5	5	0	13
326	16	7	10	9	5	47	14	9	11	9	12	55
326a	67	54	97	43	40	301	15	51	90	77	77	310
326b	6	0	1	1	0	8	1	0	0	0	0	1
326c	0	1	0	2	0	3	0	2	0	0	0	2
total						693						769

Table 2: Overview of the actions of the prosecutor's offices for individual criminal offenses that protect the environment in the researched period (relate to Table 1).

Notes: (1) The data for the year 2022 excludes 4 out of 13 prosecutor's offices, given that their annual reports do not contain the requested data, and requests for free access to information were rejected or not even answered by those offices.

(2) For criminal offenses listed in articles 303b, 304, 306, 307a, 308, 313, 315, 317, 318, 319, 321, there were no cases (relate to Table 1).

The indictment proposal is submitted to the competent court by the prosecutor for further proceedings. At the end of the proceedings, the court makes a judgement rejecting the accusation (if the prosecutor has waived the charge, if the accused has already been given a final decision in relation to the specific case, or if the accused has been released from prosecution by amnesty or pardon, or criminal prosecution cannot be undertaken due to statute of limitations or some other circumstances that permanently exclude criminal prosecution), the accused is acquitted of the accusation (if the offense for which he is accused by law is not a criminal offense or if it is not proven that he committed the offense for which is accused) or the accused is declared guilty. Also, during the course of the proceedings or at the end of it, the court will dismiss the indictment proposal, if it determines that the court is not competent or that the proceedings were conducted without the accusation of the authorized prosecutor, without the approval of the competent state body or the competent state body has given up the given approval, or there are other circumstances that temporarily prevent prosecution.

If at the end of the proceedings the court makes the judgement declaring the accused guilty, it may impose a prison sentence, a fine, a sentence of community service, or a warning measure in the form of a court warning or a suspended sentence. It should be noted that a fine can be imposed both as a main (independent) and as a secondary (additional to the already imposed main fine). In addition to this, in order to remove conditions or conditions that may influence the perpetrator to commit criminal acts in the future, the court also imposes security measures.

The table below provides a comparative overview by year of final condemning convictions or unsuccessful charges (collectively: dismissed, rejected and acquitted), while the tables below will provide an overview of the statistics of unsuccessful charges, i.e. the type of criminal sanctions imposed, by criminal offense, and for the entire researched period .

Year →	2018		2019		2020		2021		2022		total
	C.	U.	C.	U.	C.	U.	C.	U.	C.	U.	
Criminal offense ↓	C.	U.	C.	U.	C.	U.	C.	U.	C.	U.	
303	0	2	0	0	0	0	0	1	0	0	3
303a	1	0	0	0	0	0	0	0	0	0	1
304	0	0	0	0	0	0	0	1	0	0	1
307	0	0	0	0	0	0	0	0	1	0	1
309	7	0	6	2	6	0	4	1	6	0	32
310	0	0	0	0	1	0	0	0	2	0	3
312	0	0	0	0	0	0	0	0	2	0	2
316	1	0	0	0	0	0	0	0	0	0	1
320	0	0	1	0	0	0	0	0	0	0	1
323	2	0	0	0	0	0	0	0	1	0	3
324	38	14	60	6	42	7	58	5	50	3	283

325	3	0	0	0	3	0	5	1	4	0	16
326	9	0	10	1	14	0	7	0	8	0	49
326a	11	14	42	10	75	7	74	4	61	0	298
326b	2	0	0	0	0	0	0	0	0	0	2
<u>total</u>	74	30	119	19	141	14	148	13	135	3	696

Table 3: Overview of condemning convictions (C.) and unsuccessful charges (U) for individual criminal offenses (Table 1)

Note: For criminal offenses listed in articles 303b, 305, 306, 307a, 308, 311, 313, 314, 315, 317, 318, 319, 321, 322 and 326c, there were no legally concluded cases (see Table 1).

Criminal offense	dismissed	rejected	acquitted
303	2	1	0
304	0	1	0
309	0	2	1
324	13	14	8
325	1	0	0
326	0	0	1
326a	17	10	8
<u>total</u>	33	28	18

Table 4: Overview of results for unsuccessful charges before basic courts.

Criminal offense	prison sentence	fine	community service	suspended sentence	court warning
303	0	0	0	0	0
303a	0	1	0	0	0
307	0	0	0	1	0
309	1	2	1	21	0
310	0	0	3	0	0
312	1	0	0	1	0
316	0	1	0	0	0
320	0	0	0	1	0
323	0	1	0	2	0
324	58	3 (+152)	28	145	14
325	5	0	3	6	1
326	10	1 (+1)	7	30	0
326a	5	2 (+2)	13	242	1
326b	0	0	1	1	0

<u>total</u>	<u>80</u>	<u>11(+155)</u>	<u>56</u>	<u>450</u>	<u>16</u>
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Table 5: Overview of type of condemning convictions.

Notes: (1) in fines (+) are fines pronounced as a secondary penalty (additional to the already imposed main fine)

(2) Table does not show data for 4 condemned convictions for criminal offense article 309 in year 2021, because no data has been submitted about type of sanction.

Previously mentioned about the misdemeanor procedure and its initiation, that it is initiated by the issuance of a misdemeanor order by an authorized body or by submitting a request for the initiation of a misdemeanor procedure to the competent court of first instance. The authority authorized to issue a misdemeanor order is the inspection, and in relation to violations of the law in the focus of this work, within the Directorate for Inspection Affairs - Sector for Environmental Protection, Safety and Human Health and Protection of State Resources, the following exercise their competence: Health and Sanitary Inspection; Forestry, Hunting and Plant Protection Inspection; Ecological Inspection; Water Inspection; Geodesy Inspection; Geological Inspection; Mining Inspection; Hydrocarbon Inspection; Electric Power Inspection and Thermal Power Inspection. Of the regulations listed in the focus of this work, the Inspectorate of Forestry, Hunting and Plant Protection is responsible for Law on National Parks; Law on Forests; Law on game and hunting, and Ecological Inspection for other Laws previously mentioned, as well as a series of by-laws adopted in order to apply them.

Considering the aggregated data in the annual reports for most inspections, and the failure to comply with the request for free access to information, it was not possible to perform a more detailed analysis of the procedures in relation to them, so the tables below will provide an overview of the procedures of the Inspection of Forestry, Hunting and Plant Protection.

<u>forestry</u>	<i>total reviews</i>	<i>identified irregularities</i>	<i>initiations of misdemeanor</i>	<i>criminal charges</i>
2018	1305	336	28	23
2019	1404	379	6	19
2020	1180	347	10	35
2021	1431	406	11	25
2022	1362	227	13	17
<u>total</u>	<u>6682</u>	<u>1695</u>	<u>68</u>	<u>119</u>
<u>hunting</u>				
2018	261	55	8	2
2019	246	36	7	1
2020	307	47	6	3

2021	448	73	10	4
2022	352	136	1	1
total	1614	347	32	11

Table 6: Overview of the procedures of the Inspection of Forestry, Hunting and Plant Protection

	2018	2019	2020	2021	2022	ukupno
issued indication measures	258	242	267	290	301	1358
issued decisions	43	32	-	46	23	144
issued misdemeanor warrants	74	120	71	82	136	483
the total amount of misdemeanor orders	30.600,00€	54.730,00€	22.830,00€	26.300,00€	55.300,00€	163.460,00€

Table 7: Overview of the procedures of the Inspection of Forestry, Hunting and Plant Protection.

Note: Data on issued warning measures or solutions to entities, as well as issued misdemeanor orders, are given collectively for both forestry and hunting, because it was not possible to get separate data

By submitting a request to initiate misdemeanor proceedings (which, as stated above, can be submitted by inspections but also by the prosecutor, the injured party or the defendant), misdemeanor proceedings are initiated before the Court for Misdemeanors, which, after the evidentiary proceedings, end with a court decision acquitting the defendant (if the offense for which the charge is not a misdemeanor or it has not been proven that the defendant has committed a misdemeanor for which a request to initiate misdemeanor proceedings has been filed against him or a misdemeanor order has been issued or there are circumstances that exclude the defendant's misdemeanor liability), a decision declaring the defendant guilty (when the existence of misdemeanor and the defendant's responsibility for that misdemeanor) or a decision to suspend misdemeanor proceedings (if it is determined that the court is not actually competent to conduct misdemeanor proceedings, or that the proceedings were conducted without the request of the authorized applicant or the request was not submitted within the deadline, or that the defendant is in the process of of the misdemeanor proceedings died, or that the defendant has immunity, or that the applicant has given up the request from the beginning to the end of the trial, as well as when the defendant has already been given a final decision for the same misdemeanor, or the statute of limitations for conducting misdemeanor proceedings has expired, or when there are other circumstances that exclude conducting misdemeanor proceedings).

Similar to the criminal procedure, in case of a decision declaring the defendant guilty, a punishment (prison sentence, fine, community service), or warning measures (suspended sentence and court warning) may be imposed, and also protective measures in order to eliminate the condition or conditions that may be from influence that the perpetrator commits violations in the future.

The table below (Table 8) represent the actions of the misdemeanor courts that submitted information in relation to the requested data, and given the extremely small number of cases, the data are given collectively for the entire researched period.

Law	<i>punishment</i>	<i>warning measures</i>	<i>acquittals</i>	<i>suspendings</i>
Law on the environment	3	0	1	1
Law on environmental impact assessment	17	1	3	7
Law on integrated prevention and control of environmental pollution	0	0	1	0
Law on Waste Management	27	3	3	6
Law on chemicals	3	0	0	0
Law on protection against noise in the environment	11	8	11	22
Law on protection against ionizing radiation and radiation safety	1	0	0	0
Law on Liability for Environmental Damage	2	0	0	0
Law on Nature Protection	8	0	0	1
Law on National Parks	2	0	4	7
Law on Forests	9	0	0	2
Law on game and hunting	15	0	9	10
Law on Protection of Animal Welfare	4	0	0	1
Law on Sea Fisheries and Mariculture	1	0	0	1
total	69	12	23	49

Table 8: Overview of the actions of the misdemeanor courts

Note: For other laws listed earlier in paper, there were no legally concluded cases.

Analyzing criminal proceedings, it is noticeable that in terms of the variety of cases (all criminal offences), the number of proceedings in prosecutions (19) differs from one before the basic courts (15). Also, it is noticeable the extremely small number of cases for individual criminal offenses (for the majority below 5 in the five-year observed period). The most cases are concerning criminal offences: Construction of an object without registration and construction documentation with a total of 298 judgments; Forest theft with 283; followed by Illegal fishing with 49, then Killing and torture of animals and destruction of their habitat with 32; Illegal hunting with 16, and all others with a total of 18 judgments (Chart 1).

Percentage ratio of judgements for individual criminal offences

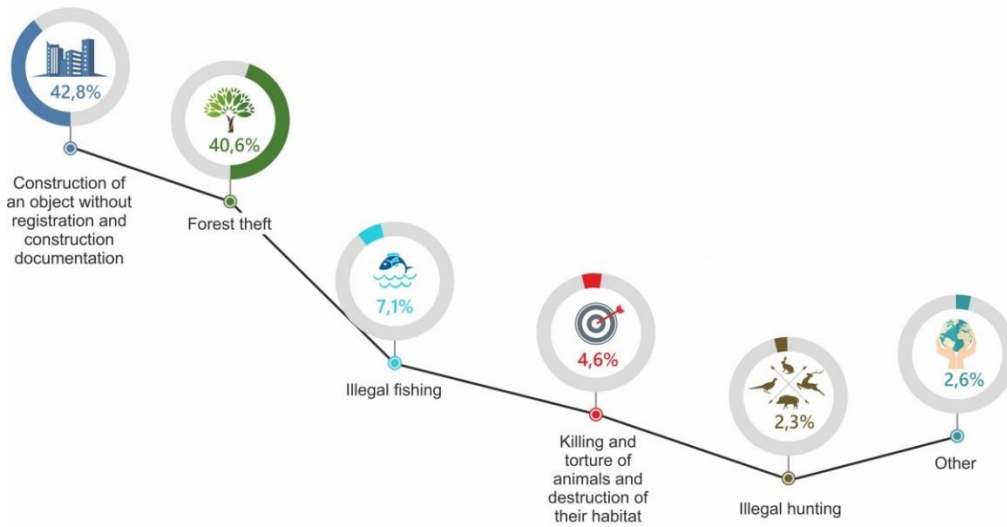


Chart 1: Percentage ratio of judgments for individual criminal offences

From the collected data, it can be concluded that out of 696 legally concluded proceedings in the relevant period for criminal offenses under Chapter XXV, 88.65% (617) were concluded with condemning convictions.

Analyzing the type of sanctions imposed by the courts in the respective period, it is concluded that in 73% of all convictions a suspended sentence was imposed (450 cases), in 80 cases a prison sentence, 56 convicts were sentenced to work in the public interest, in 16 cases a court warning was issued, and in 11 cases there was a fine imposed (Chart 2, Table 4).

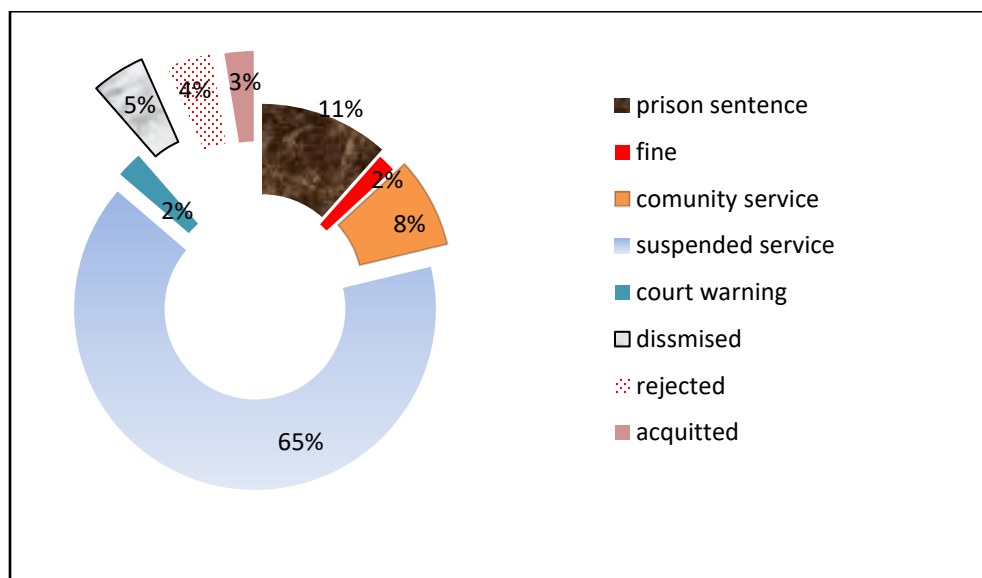


Chart 2: Overview of the percentage of types of judgments in the field of environmental protection in the analyzed period

Now looking the type of sanctions in relation to criminal offenses (Chart 3), it is noted that the imposition of a prison sentence was significant only in the case of verdicts for the criminal offense of Forest theft from art. 324.

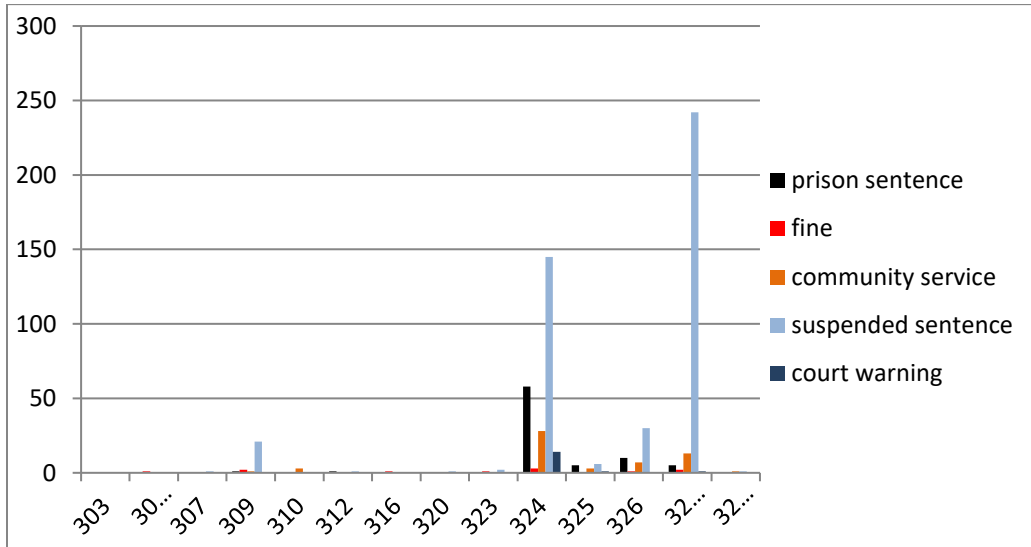


Chart 3: Overview of types of sanctions in relation to criminal offences

Comparing the analysis of the data obtained on environmental protection through criminal law protection, between basic courts and prosecutor's offices, the ratio of finally convicted offenders in relation to the number of proceedings conducted is high (89%), while on the other hand, there is a small difference in prosecutor's offices (only 6%) between dismissed reports (rejections) in relation to those in which indictments were submitted (accusations) (Chart 4).

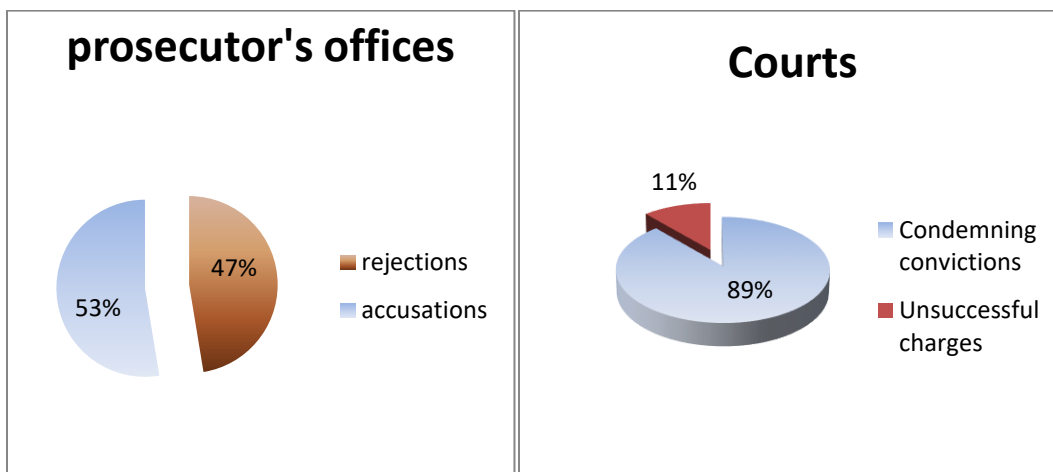


Chart 4: Overview completion of proceedings in environmental protection cases before prosecutor's offices and the basic courts

Due to the limitations of the submitted data, drawing conclusions about the misdemeanor legal protection of the environment in Montenegro represents a great challenge. In fact, what is evident from the obtained data is a small number of cases before the courts for violations of laws that protect the environment, and as a recommendation for improving such a situation, the need to promote laws that protect the environment in Montenegro, in cooperation with competent inspections on the importance of misdemeanor protection in the overall system of environmental protection. What is noticeable as a difference between the proceedings before the basic courts, is that in the case of the misdemeanor courts, there is a much smaller difference between the percentage of decisions that end with a sanctioning decision compared to those that can be considered "failed prosecutions" (Chart 5, related to Chart 2).

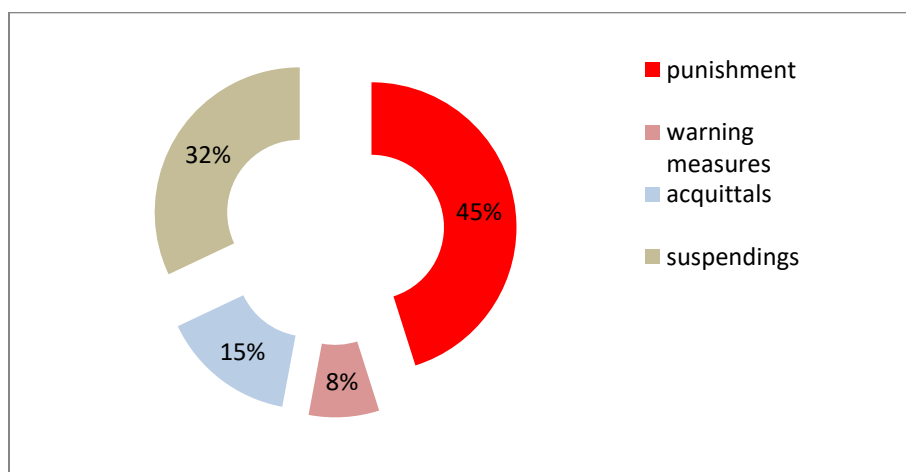


Chart 5: Percentage ratio of Misdemeanor courts decisions

The general conclusion of the conducted analysis speaks for itself on the extremely small number of cases, i.e. completed cases before the competent authorities, confirms the thesis about the expression of the "dark number" of environmental offenses (unrecorded criminal acts), the direct consequence of which is the perception of irrelevance and statistical insignificance, and therefore the actual neglect of detection activities and especially on the processing of these offenses, which still enables and even produces a "dark number" (Grumić S, 2016)³¹, and which ultimately represents the greatest threat to environmental protection in Montenegro.

Reasons for the "dark number", as well as potential solutions, should be sought in raising the awareness of both the general and professional public about the presence and harmfulness of environmental threats, in order to influence the reduction of environmental crimes in its totality. It is necessary for the competent authorities to work on the detection and prosecution of these

³¹ Grumić S. -Geoprostorni nivo analize ekološkog kriminala, Bezbjednost – Policija – Građani, godina XII broj 3-4/16

offenses through self-initiative activities, in which direction the institutions need to be strengthened both in terms of capacity (extremely small number of environmental inspectors), but also education of the holders of judicial functions on the importance of sanctioning environmental crimes.

Certainly, the specificity of environmental crime indicates that significant activities should be implemented for the prevention of environmental crime, because it is a delayed reaction when this problem is found in the courtroom. When forecasting environmental crimes, one should start from the maxim that knowledge of the past is a basic condition for knowledge of the present and a vision of the future. In this sense, the state of the legislative framework needs to be improved, and above all in the area of biodiversity protection, where the biggest problem is evidently the fact that there are no relevant data on the state and number of game populations, that is, according to the existing Law on Game and Hunting, but also according to the amended Draft³², which is in the adoption procedure, the exclusive competence of the users of the hunting grounds (hunting societies) is the collection of data and the estimation of the number of populations. This is problematic both from the point of view of the validity of the methodology they use, and also from the point of view that the direct "users" by providing figures on population estimates indirectly determine the quotas for hunting. Hunting organizations submit data to the Ministry of Agriculture, Forestry and Water Management that have not been independently verified, and there is also the phenomenon that many catches are not reported. In general, hunting is not well organized and gives cause for concern about the endangerment of hunting (and other) species that are present in 40 Montenegrin hunting grounds that occupy an area of 1,198,000 ha. There is very little or no data on the catch or collection of other animal species, whether marine (shells and other invertebrates) or in the continental part (snails, frogs), as well as recreational species (pets). (Marić and Rakočević, 2010)³³.

Also, the problem is the inconsistency of national legislation with international documents, primarily the CITES Convention, but also the Birds Directive. Namely, the Proposal for the Law on Amendments to the Law on Game and Hunting³⁴ foresees the deletion of currently "unprotected" game, which represents the proper transposition of the Directive on Birds. On the other hand, some species, although they are on Annex IV (a) of the directive which includes the prohibition of any kind of killing, injury or harassment of animals (in all periods of life) in the natural environment, still remain on the list of hunted species. Earlier recommendations for certain gardens, for example the Rock Partridge (*Alectoris graeca Meissn.*) due to the unfavorable state of conservation on the IUCN list in the "near threatened" category, and bearing in mind that hunting pressure on the resident partridge population is widespread in Montenegro, and that apart

³² Predlog zakona o izmjenama i dopunama Zakona o divljači i lovstvu, retrieved 30.08.2023.

<https://www.gov.me/dokumenta/1f6bfb61-4b47-4fed-9f45-5ce5614b21f5>

³³ Marić, D., Rakočević, J. (2010) Biodiverzitet u: Burić M. Životna sredina i održiv razvoj, Podgorica: Crnogorska akademija nauka i umjetnosti, str. 113-150

³⁴ Predlog zakona o izmjenama i dopunama Zakona o divljači i lovstvu, preuzeto 30.08.2023. sa <https://www.gov.me/dokumenta/1f6bfb61-4b47-4fed-9f45-5ce5614b21f5>

from legal hunting pressure, also quite widespread poaching of this species which, in combination with weak law enforcement, can lead to significant population reductions at the local and state level. In what sense should the case of Black Grouse extinction in Montenegro during the second half of 20th century be taken as a very important warning (Rubinić et al. 2019)³⁵.

In terms of biodiversity, it should be emphasized the necessity of changing the existing Decision on the protection of certain plant and animal species³⁶, which would comprehensively list the species protected by international regulations and facilitate their application in practice. This, in addition to the above, bearing in mind the fact that the national legislation currently does not regulate the protection of other animal species, primarily reptiles, poisonous snakes, for which there are frequent cases in practice of being illegally exported from the country and being the subject of trade³⁷. An example of a harmonized bylaw of this kind is the Rulebook on Strictly Protected Species of the Republic of Croatia³⁸.

In the analyzed period for the criminal offense from Article 312 of the Criminal Code of Montenegro, for the first time, and also bearing in mind the earlier period (Iković, J. 2019³⁹), two legally concluded cases of the previous year (2022) appeared before the courts, and in one of the cases a prison sentence was imposed. On the other hand, it is evident that there is continuous illegal transfer of caught protected species across the border, as well as that there is a problem of insufficient training of customs officers to recognize protected species. Every year, the Customs Administration in Bar seizes more than 100 shot birds (even permanently protected species) that are trying to be smuggled out of the country. In the case of confiscation, the problem is also the lack of by-laws in terms of disposal of shot wild animals (Coalition 27, 2017)⁴⁰.

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³⁵ Rubinić, B., Sackl, P. & Gramatikov, M. (2019): Conserving wild birds in Montenegro. A first inventory of potential Special Protection Areas. Podgorica, Montenegro. 328 pp , 134

³⁶ Rješenje o stavljanju pod zaštitu pojedinih biljnih i životinjskih vrsta ("Sl. list CG", br. 76/2006)

³⁷ <http://tvteuta.com/crvenog-poskoka-sa-ade-prodaju-na-evropskim-sajtovima-jedinke-prodaju-i-do-100-eura/>
30.08.2023.

³⁸ Pravilnik o strogo zaštićenim vrstama („Narodne novine“ broj 80/2013)

³⁹ Iković J. - Zaštita divlje faune u zakonodavstvu i praksi Crne Gore sa pregledom tužilačko-sudske i inspekcijско-prekršajne prakse u periodu od 2013-2018

⁴⁰ Koalicija 27: Poglavlje 27 u Crnoj Gori Izvještaj iz sjenke, Podgorica, 2017 preuzeto 15.08.2023. sa <https://koalicija27.me/wp-content/uploads/2017/07/Izvjestaj-iz-sjenke-jun.2017..pdf>, str 21

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IV QUESTIONNAIRE

4.1 Questionnaire Analysis

The questionnaire was filled out by 18 people. The list of respondents and the institutions they represent is attached to the analysis. The analysis of the questionnaire follows.

- 1. Next to the mentioned types of environmental crime below please enter a number so that you rank them from the most significant to the least significant.**
 - a) Illegal logging _____
 - b) Illegal exploitation of gravel _____
 - c) Irresponsible handling of hazardous waste _____
 - d) Illegal waste disposal _____
 - e) Poaching _____
 - f) Smuggling of protected animals _____
 - g) Illegal construction _____

When analyzing the answers to this question, we considered the types of crime that ranked 1st, 2nd, or 3rd on the list of the most significant. In as many as 89% of the completed questionnaires,

one of these three places is occupied by illegal logging, in 61% of the mentioned places there is illegal exploitation of gravel, while the illegal waste disposal and illegal construction are in the same percentage (56%).

Half of the respondents believe that the most significant form of environmental crime in Montenegro is illegal forest cutting, 22% gave primacy to illegal construction, while 11% put irresponsible handling of hazardous waste in first place. According to one questionnaire, illegal waste disposal, poaching and smuggling of protected animals were rated as the most significant type of crime.

2. If you think there is another type of environmental crime that is not mentioned in Question 1, please list it here.

The most significant type of environmental crime that is not mentioned in the first question, is the intentional starting of a fire. Forest fires, especially in combination with climate change, are becoming the biggest problem today because they destroy huge areas of land, along with damage to the entire plant and animal world. The following types of environmental crimes are also listed: burning grass in rural areas, discharge of untreated wastewater from slaughterhouses and farms, inadequate use of pesticides in agriculture and illegal cross-border movement of waste.

3. Briefly explain the answer to the first question.

The most common explanations are summarized below: Illegal cutting of forests causes great material damage to the state and has great consequences for the living world. It is difficult to remedy the consequences, to discover and prosecute those responsible.

Illegal logging, construction and exploitation of gravel destroy and degrade habitats, so that not only populations of individual species decrease (as in the case of poaching), but there are consequences for entire ecosystems. Illegal construction represents the greatest danger, because it is an irreversible process, irreparable damage. This type of environmental crime is often accompanied by others: illegal management of waste and wastewater, illegal exploitation of forests and gravel.

Irresponsible handling of hazardous waste permanently endangers the environment and can cause ecocide along with permanent pollution of land and groundwater. This way of treating/non-treating hazardous waste has a serious health and environmental risk.

Exploitation of gravel threatens water sources as well as river banks, and the consequences can be much more serious for the population and nature in the case of torrential flows, floods, and erosion. But, in contrast to the irresponsible management of hazardous waste, these processes can naturally be remedied in a certain period.

The illegal exploitation of gravel has led to a direct negative impact on the Bolje Sestre water source, which has the consequence of jeopardizing the water supply of the Montenegrin coast.

Illegal logging presents a double threat to forest ecosystems. The first refers to felling without implementing protective measures to combat bark beetles, on illegally cut trees without establishing forest order, leaving behind hotspots of the same, which threaten further spread. On the other hand, the concentration of logging on small areas, the so-called "clear cutting", in the future, creates space for soil erosion and the occurrence of landslides.

4. List the areas in Montenegro where, according to your knowledge, these aspects of environmental crime are the most represented.

- a) **Illegal logging** _____
- b) **Illegal exploitation of gravel** _____
- c) **Irresponsible handling of hazardous waste** _____
- d) **Illegal waste disposal** _____
- e) **Poaching** _____
- f) **Smuggling of protected animals**
- g) **Illegal construction** _____

The analysis of the answers showed that the following locations/regions are most often mentioned (bold areas/zones mentioned in more than 50% of the questionnaires)

- a) **Northern region, central region, Komovi**, surroundings of Rožaj, Berane, Zeletin, Durmitor;
- b) **Rivers Morača, Tara, Cijevna, Grnčar**, Lim, Podgorica municipality, **central region**, mountain rivers in Montenegro;
- c) The surroundings of former economic giants such as Aluminium Plant Podgorica , Bauxite mine Nikšić and Bijela shipyard, the central region, the entire country; Pulp and paper factory Berane, landfill "Livade";
- d) **Throughout the country**, especially in the vicinity of rivers and streams, along roads;
- e) **In national parks, zones near national parks, Lake Skadar, northern** and central regions, Komovi, Dragišnica, Komarnica, coastal areas (for marine species); in the north, especially the hunting territories of the municipalities of Berane, Mojkovac, Rožaje and Plav;
- f) At border crossings;
- g) **Coast, central region; widespread phenomenon throughout Montenegro**, Podgorica; Especially in suburban areas of urban centers. Protected areas; significant devastation in the Durmitor National Park zones, and near Bjelasica in attractive winter tourism zones; Ada Bojana;

5. List the most important consequences of environmental crime in Montenegro.

Answers present in more than 50% of the questionnaires are bolded.

Bad reputation of the state.

Land degradation; **loss of plant and animal habitats, biodiversity**, agricultural areas (especially illegal construction), landscape values; **erosion processes**, occurrence of landslides, destruction of natural resources, **negative impact on people's health** (especially inadequate treatment of hazardous waste) and quality of life (pollution of water, air, land), reduction of yield of water sources.

Reduction of ecosystem services.

Raising the level of arrogance of eco-criminals due to impunity, the collapse of the value system of society and the rise of the gray economy.

Animal smuggling leads to endangering the lives of animals, reducing their populations, and in certain situations endangering the lives of people, as well as the spread of invasive species.

Corruption.

6. What measures should be taken to combat environmental crime? Please list general measures, which should be taken against all forms of environmental crime, and special measures for some of the specific types.

General measures:

Strengthen the administrative and technical capacities of competent institutions for the fight against environmental crime.

Strengthen the independence of institutions.

Ensure that competent authorities have practical and technical means to fight against this type of crime.

Ensuring that these measures are further strengthened by better cooperation, exchange of information and coordination between competent institutions.

Ensuring the support of the public in the fight against crime by sending a clear message to the public about the need to suppress this type of crime.

Improvement of the legal framework and by-laws in accordance with the phenomena on the ground. Consistent application of existing laws and harmonization of regulations with the EU acquis where necessary. Respect for the recommendations of the European Commission, strengthening of institutional capacities, especially ecological inspection.

In the neighboring country, a special unit for combating environmental crime and environmental protection was established within the Police Directorate, so it would be useful to do this in Montenegro as well. This recommendation was mentioned by several respondents. A team that would be dedicated to the fight against environmental crime should have adequate training.

Constant inspection supervision.

Harsh, fast and indiscriminate criminal policy that progressively increases towards returnees in the execution of crimes against nature.

It is necessary to strengthen the capacity within the prosecutor's office and the judiciary itself, in order to understand the problem of environmental crime, because there is a large and insurmountable barrier in the lack of prosecution of persons.

Raising awareness of the importance and methods of preserving the environment and nature from the earliest age and permanent education.

Promoting environmental activities as the best form of social activism, involving different groups in volunteer actions to record environmental crime, raising awareness of the importance of reporting this type of crime.

Specific measures:

- a) Illegal logging _____ **Creation of planning documentation for all forests, with a strengthened protection segment.** Introduction of logging system monitoring (barcode system or similar), strengthening of the inspection service and control of work in the forest, stricter punishment for illegal logging, confiscation of work tools as the most productive method (chainsaws and vehicles, which makes the risk greater than the benefit), increasing the authority of engineers and foresters (because they are in the best position to identify illegal logging in the forest). Better cooperation, coordination and exchange of information between competent institutions. Networking of the information system with the traffic police, because it would be easier to control the origin and quantity of timber on public roads.
- b) Illegal exploitation of gravel _____ Prohibition of issuing concession contracts for river flow regulation to private companies; the same should be done by the state. Strict ban on exploitation on the surface of sanitary protection on Morača river. Control of contracts, cooperation of inspection services, unannounced and permanent supervision and control in the field.
Strict penal policy.
- c) Irresponsible handling of hazardous waste _____ Acquaintance of citizens with the process of treating hazardous waste. Strict control of hazardous waste management procedures. Drafting of legal solutions and construction of hazardous waste management facilities. Raising awareness about the dangers of exposure to hazardous waste. Harsh punitive measures. Providing assistance to the largest "producers" of hazardous waste.
- d) Illegal waste disposal _____ Arrangement of municipal infrastructure managed by waste and its further processing; increasing the level of selective waste collection and recycling. Rehabilitation of existing landfills. Mapping of illegal landfills and their remediation, campaigns to raise awareness from an early age and permanent media presence, rigorous criminal policy.
- e) Poaching _____ Networking of data on registered hunters and weapons. Better control in the field, installation of cameras with the aim of better surveillance. In

case of poaching, punitive measures should be confiscation of weapons, vehicles or vessels and ban on hunting. Education of hunters in the direction of hunting ethics, strict control of issuing weapons.

- f) Smuggling of protected animals _____ Increased control at border crossings. Rigorous penal policy. Establishment of a system for taking care of smuggled animals, education of customs officers, education of veterinarians for different types of animals.
- g) Illegal construction _____ Increased inspection control, rigorous criminal policy, demolition of illegal buildings; promotion of planned environments as positive solutions. Simplify procedures for obtaining construction permits (where it is realistic to obtain a permit). Revision of the Tourism Development Strategy and the Energy Development Strategy.

7. What are the obstacles in solving environmental crime in Montenegro? Please list the obstacles that are common to all forms of crime and some that are specific to particular types.

Common obstacles (the most frequently cited answers are bolded):

Corruption.

The lack of funds, personnel and technology makes it difficult to efficiently detect, prevent and suppress environmental crime. **The lack of staff in the Directorate for Inspection Affairs is particularly noteworthy.**

Weak awareness of the importance of preserving the environment and lack of education about environmental crime can contribute to disobeying the law.

Inconsistency in law enforcement and the state's lack of interest in solving the issue of environmental crime.

Insufficient commitment of competent institutions to solve the issue of environmental crime and poor cooperation between them.

Great influence of interest lobbies on decision makers.

Weak interest of the professional public and citizens.

Some types of environmental crime are low on the agenda of decision-makers.

Irresponsibility of citizens.

Specific obstacles

- a) Illegal logging _____ Because of the very low wages, forest rangers are not motivated to control the legality of logging and are more susceptible to corruption. Difficulties in monitoring large forest areas, given the number of employees and the funds allocated for forest tours. Insufficient cooperation of institutions (forestry sector-inspection-Police Directorate) and poorly defined responsibilities. Interests of the forestry lobby. Untimely response of inspection

services. Poor social conditions of the population (maintenance of social peace by not prosecuting illegal logging). **Corruption.**

- b) Illegal exploitation of gravel ____ Issuance of work permits without adequate control by the Directorate for Inspection Affairs. Overlapping of responsibilities of different inspections, inadequate cooperation of institutions, slow system of stopping illegal works. **Corruption.**
- c) Irresponsible handling of hazardous waste ____ **Lack of infrastructure for disposal and treatment of hazardous waste.** Inadequate control of purchase and treatment of hazardous waste. Insufficiently trained personnel for the safe treatment of hazardous materials. Deficient knowledge about the impact of waste on nature, poor waste management system, insufficient involvement of state authorities in solving this problem.
- d) Illegal waste disposal ____ **Lack of recycling centers and regulated landfills throughout the country.** Lack of human and financial resources at the municipal levels. Insufficient information about the impact of waste on nature.
- e) Poaching ____ The Line Ministry does not take any action to prevent poaching. Lack of resources and trained inspectors to supervise hunting, difficulties in identifying and prosecuting poachers. Too many hunters. Illegal game trade on the black market. Selective and insufficiently harsh criminal policy.
- f) Smuggling of protected animals ____ Insufficient training and inadequate engagement of the border police. Weak cooperation with international partners in the fight against smuggling. Lack of funds for border control checks. Insufficiently harsh penal policy.
- g) Illegal construction ____ **Corruption. Inefficient inspection control.** Non-compliance with the law by construction entrepreneurs. The absence of general and state urban plans and other existing planning documentation at the state and local self-government level and the system's unprincipled and indiscriminate response in all cases of illegal construction.

8. How can these obstacles be overcome?

The majority of respondents believe that the tightening of criminal policy would be a good mechanism for overcoming obstacles on the way to solving environmental crime. The following suggestions were also mentioned: By investing in infrastructure, personnel and general education, by adopting regulations that can be applied. Enactment of stricter laws and their consistent application.

Clearly defined legal solutions, preparation of planning and project documentation, definition of criminal policy and court practice for all cases of environmental crime,

awareness raising, permanent and persistent action of all responsible administrative bodies, inspection services and judicial authorities.

Stronger support from the Government, larger budget, capacity building, involvement of educational institutions in expanding the impact of defined activities, greater involvement of NGOs. Establishment of ecological police (e.g. there is an ecological police in Serbia). Quality cooperation of all competent institutions. For example, when it comes to the smuggling of protected animals, close cooperation between the Environmental Protection Agency, the Natural History Museum, the Police, Customs and the Prosecutor's Office is necessary. The formation of intersectoral teams would also be very useful.

9. Which type of crime will be the hardest to eradicate, i.e. against which type of crime the fight is/will be the most difficult and results most uncertain?

The analysis of the completed questionnaires showed that it is expected that the types of environmental crime that are behind interest lobbies, such as illegal construction, forest cutting and gravel exploitation, will be the most difficult to eradicate. The largest number of respondents believe that the most difficult crime to eradicate is illegal construction. This is followed by: illegal logging, irresponsible handling of hazardous waste, illegal waste disposal and smuggling of protected animals.

10. Briefly explain the previous answer.

Illegal construction - Due to the poor response of citizens to legalization and insufficient administrative capacity for legalization. The problem of illegal construction has existed for a long time in a large part of the country, it has an economic and social component, it affects the wider social community and entire families, which increases the complexity of solving it. A big problem is the absence of the Spatial Plan of Montenegro and the General Regulation Plan.

Illegal logging - A large number of citizens who illegally cut down the forest are on the verge of poverty and this is their only source of finance. In addition, illegal logging is not easily detected and is unknown until someone reports it, or until it becomes apparent due to the massive loss of trees or until the results become visible from satellite images - when much of the damage has already been done.

Illegal waste disposal - because of the large financial resources needed to solve the problem and because of the bad habits of citizens. Irresponsible handling of hazardous waste - large investments are needed in providing adequate infrastructure for adequate treatment of this type of waste, lack of monitoring and control on the territory of the entire country.

Smuggling of protected animals - Smuggling of animals is carried out covertly, using different methods to avoid surveillance and detection.

11. Is there high-quality cooperation between institutions working to combat environmental crime? If the answer is no, which link is the weakest?

The answers to this question are very diverse. From denying cooperation between institutions, through declaring that cooperation exists but that it needs to be improved, to emphasizing quality cooperation in the part of joint activities on specific subjects. According to the opinion of the majority, there is communication between institutions, but joint action is missing and working on networking institutions with a synergistic approach to solving problems is necessary. Also, several respondents drew attention to the fact that recently the cooperation of institutions on solving some specific types of environmental crime, such as the suppression of poaching on Lake Skadar and the exploitation of gravel on the Cijevna River, has improved.

12. How can collaboration be improved?

In the questionnaires, the following suggestions for improving cooperation between institutions were presented:

A clearly defined action plan/competence of individual institutions and a better networking of them.

The improvement of cooperation should move in the sense of understanding the problems in the field of environmental crime by the judiciary, the prosecution and the bodies responsible for conducting the investigation. By implementing joint and coordinated actions in the fight against environmental crime.

Mutual respect for expertise.

We see the improvement of cooperation in better quality and timely exchange of data between competent institutions.

Establishment of common platforms and protocols of action at the highest level.

13. What institutions/individuals would benefit from training dealing with environmental crime issues?

According to the results of the survey, training is necessary for all institutions that could directly influence the suppression of environmental crime. The prosecutor's office and the judiciary are apostrophized, because the current statistics show that the judiciary in Montenegro shows very little interest in dealing with cases related to environmental crime. Joint trainings were proposed for the judicial authorities, the Prosecution, the Police, the Directorate of Inspection Affairs, the Environmental Protection Agency, the Ministry of Ecology, the Forestry Directorate, the Water Directorate, the Directorate for Food Safety, Veterinary and Phytosanitary Affairs, and managers of protected areas. It is important that everyone attends the training together, so that they clearly understand the responsibilities and authorizations, but also the advantages of the model of joint action against environmental crime.

14. What should be the focus of training?

It is suggested that the focus of training should be:

Practical training on how to properly apply the law.

Methodology of joint work of all institutions with the aim of effective prevention of environmental crime, but also operational action.

Good teamwork practices and coordinated management of control and investigation procedures.

Exchange of experiences, case studies, application of technical means, participation of foreign experts.

Understanding the consequences of environmental crime.

15. Would the experiences of countries from the region/EU countries be useful to combat environmental crime in Montenegro? If the answer is yes, what kind of assistance would you like to get?

All the interviewees agreed that in combating environmental crime in Montenegro, experiences from the neighboring and EU countries, as well as help in technology and equipment, would be significant. Training in countries that are recognized as countries with a low rate of environmental crime, to familiarize ourselves with the way in which they suppressed environmental crime and how they influenced the raising of environmental awareness among citizens. Study visits and familiarization with procedures in concrete examples, but also by hiring experts for certain fields, would be useful. For example the help of experts familiar with the conventions (e.g. Berne Convention) dealing with the suppression of illegal activities in nature, and in the preparation of the necessary documentation - regulations, would be significant. It was stated that training by foreign experts would be useful. Good practices from Croatia were mentioned.

16. What are the shortcomings of the national legislation governing environmental crime in Montenegro? Please state the general shortcomings and shortcomings of laws that deal with different types of environmental crime.

General shortcomings:

Laws in Montenegro are generally harmonized with EU legislation, but some articles of the Law are not applicable in our country. The opinion was also expressed that ignorance and inadequate application of legislation is a bigger problem than the legislative framework in itself. The interviewees expressed the opinion that the responsibility of institutions and individuals for non-processing is often unclear.

Also, several interviewees pointed out the imprecision of the law. In determining the existence of a criminal offense, the problem is the determinants in the laws that stipulate that the damage is of a "larger scale" or to a "significant extent", that is, the problem is the dimensioning of the offense in terms of environmental damage.

Some respondents believe that the laws do not cover all situations of environmental crime that occur in practice, so it would be useful to pass additional regulations. For example, an

ordinance that would define that ATVs may not be driven on meadows/pastures in protected areas. This activity is not sanctioned by existing laws, and it has a negative impact on biodiversity.

Shortcomings of legislation dealing with different types of environmental crime:

- a) Illegal logging _____ Long-term existence of the concession model in the Forest Act;
- b) Illegal exploitation of gravel _____ The law gives the possibility that gravel can be exploited under the "pretext" of regulating the flow of the river;
- c) Irresponsible handling of hazardous waste _____
- d) Illegal waste disposal _____ Laws and strategies are based on the existence of regulated landfills, and there are no landfills regulated according to international standards in the country;
- e) Poaching _____ Lack of professional staff in solving problems in the field of hunting, poor Law on Hunting, insensitivity of the Prosecutor's Office to the problem of poaching and non-prosecution of criminals;
- f) Smuggling of protected animals _____ Montenegro has ratified EU directives, but we have no possibility to implement them. Also, the Nature Protection Act has adequate criminal provisions for smuggling of plants and animals, as well as legal protection of protected species. However, there is a problem with the implementation of this Law.
- g) Illegal construction _____

17. Are there any direct contradictions in the laws? If yes, list them.

Representatives of the majority of state institutions (Police Administration, National Parks, Directorate for Inspection Supervision, Ministry) believe that there are no contradictions in the laws, while the interviewed employees of the Environmental Protection Agency believe that there are contradictions. The latter indicate a serious problem with the Law on Nature Protection, the Law on National Parks, and the Law on Hunting.

All representatives of the NGO sector who filled out the questionnaire believe that some laws are contradictory. The most frequently mentioned "problematic" laws are: Law on National Parks, Law on Forests, Law on Game and Hunting, Law on Protection and Welfare of Animals, and the Law on Liability for Environmental Damage that is often cited as an example of contradictory and insufficiently precise, with plenty of room for different interpretations.

It is a common problem in practice, when citizens turn to an institution to report a problem in the field of environmental crime, and receive an answer that that institution is not competent, without referring to the one that is.

18. Are institutional competences in combating environmental crime clearly defined? If not, where are the problems/overlaps?

The Police Directorate and the Directorate for Inspection Supervision believe that the competences are clearly defined: The Inspectorate performs inspection supervision which, in accordance with the Law on Inspection Supervision, is primarily of a preventive nature. If during the inspection supervision a criminal offense is discovered, a report/notification is submitted to the prosecutor's office. The police and the prosecutor's office conduct criminal investigations both ex officio and on the basis of reports/initiatives. All other respondents believe that competencies are not clearly defined and that there is room for transferring competencies from one institution to another.

The overlap of jurisdiction in the field of water quality was highlighted.

19. List the most important examples of environmental crime in Montenegro (in your opinion) that have been prosecuted.

The following cases of environmental crime were highlighted: several cases of gravel exploitation on Morača, the devastation of Tara during the construction of the highway, several cases of forest cutting and poaching, illegal keeping of animals in Berane. The ecological inspection has submitted notices/applications to the basic state prosecutors' offices, and in the context of the question, in relation to: -fishing of sea cucumbers; - disposal of tires at the municipal waste disposal site; - devastation of biodiversity in the construction site zone; - devastation of protected areas by carrying out works without permits from competent authorities. The ecological inspection is not included in the procedures of processing and dealing with the submission of a notice/initiative to the prosecutor's office.

Action to suppress illegal exploitation of forests; in 2022, 52 criminal offenses were registered (Source: Police Administration).

According to the opinion of some respondents, none of the prosecuted cases received an adequate punishment, according to the extent of damage to the ecosystems.

20. Are the judgments for the prosecuted cases appropriate? If the answer is no, how could the penal policy be toughened?

The dominant opinion is that the verdicts are inadequate, but the representative of the Police Administration does not agree with this. In most cases, if the verdicts are guilty, they are conditional. Several respondents pointed to the importance of increasing the number of processed cases, stating that judgments are so sporadic that it is difficult to analyze them. They also point to the selective application of laws and pronounced corruption in this sector, as well as very long procedures (several years). Some of the respondents believe that the punishments should be more severe (larger amounts of money and imprisonment).

21. Please list examples of environmental crime that should have been prosecuted but that did not take place?

The following examples of environmental crime that have not been prosecuted are listed: the illegal shelter/zoo Blizna, the keeping of wolves in Tološi, the person who smuggled a lion cub into Montenegro has not been found, the devastation within the National Park Skadar lake due to preparatory work for the construction of the "Porto Skadar" tourist complex Lake " (which fortunately was not built), the acquittal of the former director of National Parks of Montenegro who was acquitted on criminal charges for obstructing works at the Ulcinj Salt Lake, exploitation of smuggled animals during the summer season primarily on the coast, numerous cases of poaching (bears, griffon vultures), illegal dumping of hazardous waste produced in Aluminium Plant Podgorica and Steel Plant Nikšić, discharge of untreated wastewater in almost all municipalities in Montenegro, illegal waste disposal, several cases of illegal logging and illegal construction in protected areas, a large number of cases of gravel exploitation in rivers Morača, Cijevna, Tara and Lim.

22. Are the penalties for environmental crime provided in the national legislation adequate? If you feel they are not, please comment?

The answers to this question are very diverse. About 30% of respondents think that the punishments are adequate, compared to other types of crime, while the rest think that they are not. The recommendations refer to the tightening of criminal policy: much higher fines, permanent ban on work, corporate and criminal liability. Many point out that the implementation of the penal policy is a bigger problem than the amount of fines and that fines are rarely implemented in case of violation of the Nature Protection Act.

Several examples were given that it is more profitable for companies to repeatedly pay fines due to environmental crime, than to invest in adequate treatment of waste/wastewater (e.g. companies that are positioned next to a river and are engaged in industry (different types), decide to pay fines periodically because they spend significantly less money compared to the funds they would need to build a wastewater treatment plant). There are numerous examples of repeated acts of environmental crime, due to the fact that prosecutions are rare and the penalties are very low.

23. Are the citizens of Montenegro sufficiently aware of the issue of environmental crime (e.g. which waste should be treated as hazardous waste, what are the consequences of illegal exploitation of gravel, illegal logging... globally). If you think that they are not, which area should be given priority, so that awareness of the consequences is raised?

70% of respondents believe that citizens are not sufficiently familiar with the problem of environmental crime. There are allegations that information is selectively distributed, often being inadequately presented with insufficient information about causes and consequences. A significant part of the population is aware of the consequences of environmental crime,

but the irresponsible part causes significant problems. Sometimes, even citizens who are aware of environmental crimes cannot contribute to solving it due to the lack of infrastructure (eg, a small number of recycling centers, the absence of landfills/disposal sites for hazardous waste, etc.). A large number of interviewees believe that the public protests only when an environmental incident occurs that directly threatens them.

Half of the respondents pointed out that it is difficult for them to single out a priority area, given that all types of environmental crime have a negative impact on people. On the basis of the selected priorities, the most important thing would be for the citizens to become better acquainted with the problems and consequences related to the illegal exploitation of gravel, illegal cutting of forests, and issues related to waste.

24. In what ways could the awareness of the Montenegrin about the importance of fighting environmental crime be raised?

Over 80% of respondents suggest: education, training, constant media campaigns and marketing in order to raise environmental awareness. About 60% believe that a good method of raising awareness would be an adequate criminal policy, strict compliance with the law and repressive measures. The promotion of positive examples is mentioned in about 20% of the questionnaires. It could also be significant to promote the brand of the ecological state to a much greater extent than is currently the case, educate the public about the importance of a healthy environment in the light of personal health and personal well-being, and mark the day of environmental crime.

25. Is the Montenegrin public sufficiently aware of the examples of environmental crime in Montenegro? If not, how could this be improved? What should the public be most informed about?

Around 30% of respondents believe that the public is sufficiently informed about examples of environmental crime and that social networks and activities carried out by the NGO sector play an important role. Others point to insufficient public information, often selective and inadequate. On some topics, such as the smuggled lion cub, the public is informed in detail; Skadar lake national park informs via social networks about stranded catches when poachers are found. Some respondents suggest that the public should be more informed about the consequences and responsibility to which the perpetrator of environmental crime is subject, about punishments and prosecuted cases, and what is being done in the country in the context of the fight against environmental crime.

In 30% of the questionnaires, it is pointed out that the public is sufficiently informed, but that it is inert and that the population is poorly and rarely involved in solving the problem of environmental crime.

4.2 Conclusions and recommendations

- The largest number of respondents identified illegal forest cutting as the most significant form of environmental crime in Montenegro, followed by illegal construction and irresponsible handling of hazardous waste.
- As the most significant type of environmental crime that is not mentioned in the first question, the most often recorded is intentionally causing a fire.
- The most frequently cited consequences of environmental crime in Montenegro are: loss of plant and animal habitats, biodiversity, erosion processes, and negative impact on human health.
- The majority of respondents believe that the following measures should be taken to overcome problems related to environmental crime: strengthen the administrative and technical capacities of competent institutions to fight against environmental crime, improve cooperation between the institutions and clearly define responsibilities, tighten criminal policy and strictly adhere to the law (indiscriminately), a special unit for combating environmental crime and environmental protection was established within the Police Directorate to increase capacities (both human and financial resources) in all institutions that fight against this type of crime.
- The main obstacles in solving the problem of environmental crime are corruption and insufficient capacities of the Directorate for Inspection Supervision and, accordingly, insufficient inspection supervision, the lack of adequate infrastructure for solving the issue of waste, especially hazardous waste.
- The analysis of the completed questionnaires showed that it is expected that the types of environmental crime that are behind interest lobbies, such as illegal construction, forest cutting and gravel exploitation, will be the most difficult to eradicate.
- Problems in the legislation were mentioned, that there are discrepancies in some laws, but the biggest problem in this field is the inconsistency in the implementation of the law. The opinion was also expressed that ignorance and inadequate application of legislation is a bigger problem than the legislative framework in itself.
- The dominant opinion is that there are few prosecuted cases in the area of environmental crime, that the verdicts are inadequate, a significant number of environmental crime cases are listed that the whole public knows about, and that they have not been adequately prosecuted.
- The majority of respondents believe that citizens are not sufficiently familiar with the consequences of environmental crime, and that good methods of raising awareness would be education and an adequate criminal policy. Also, in a significant number of questionnaires, the opinion was expressed that citizens are too inert in the fight against this type of crime.

4.3 List of persons who filled out the questionnaire

1. Zoran Tomović, Chief Police Inspector of the Anti-Corruption Department, zoran.tomovic@policija.me ;
2. Tamara Brajović, General director of the Directorate for Nature protection in the Ministry of Ecology, Spatial Planning and Urbanism, tamara.brajovic@mepg.gov.me ;
3. Arina Maraš, Ministry of Ecology, Spatial Planning and Urbanism ;
4. Aleksandar Stijović, Regional development Adviser to the President of Montenegro, (Former Minister of Agriculture, Forestry and Water Management) ;
5. Milan Gazdić, Director of the Environment Protection Agency of Montenegro, milan.gazdic@epa.org.me;
6. Darko Saveljić, ornithologist, Environment Protection Agency of Montenegro ;
7. Jasmina Janković Mašnić, Independent consultant in the Environment Protection Agency of Montenegro ;
8. Veselinka Zarubica, Chief environmental inspector at the Directorate for Inspection Affairs, veselinka.zarubica@uip.gov.me ;
9. Slaviša Lučić, Director of the Forest Directorate of Montenegro;
10. Zoran Nikitović, Director of the Hemosan, company specialized for export of hazardous waste ;
11. Marija Vugdelić, professor at the UDG University, independent environmental consultant, m.vugdelic@t-com.me ;
12. Maša Vučinić, National Parks of Montenegro, Assistant Director for Protection, Sustainable Development and Tourism, masavucinic@nparkovi.me;
13. Jana Iković, Advisor at the Appellate Court of Montenegro ikovic.jana@gmail.com;
14. Irma Muhović, a member of the Society of Ecologists of Montenegro;
15. Aleksandar Perović, Director of the NGO “Ozon”;
16. Jovana Janjušević ;
17. Aleksandar Perović, NGO CZIP ;
18. Sanja Orlandić, NGO Green Home

V GENERAL CONSLUSIONS AND RECOMMENDATIONS

5. 1 General conclusions

1. Available data reveal that illegal logging takes the top spot on the blacklist of different forms of environmental crime in Montenegro, followed by illegal construction and illegal exploitation of gravel.
2. Corruption at various levels is recognized as the biggest challenge in solving the issue of environmental crime in Montenegro. Major hurdles in the fight against the aforementioned form of crime also include insufficient capacities of the Administration for Inspection Supervision and accordingly insufficient level inspection supervision, lack of awareness

and inadequate application of the law, inadequate cooperation between institutions, lack of adequate infrastructure for solving the issue of waste, especially hazardous waste.

3. The negative effects of environmental crime in Montenegro do not differ from the effects at the global level: loss of habitat of plants and animals, loss of biodiversity, erosion, pollution. All these effects have a cumulative impact on human health.
4. Statistics show that Montenegro prosecutes only a small number of environmental crime cases and that penalties are inadequate.
5. The issue of overlapping institutional competences is present in the fight against environmental crime. Excuses for failure to process offenses are sought by trying to assign competence to other institutions.
6. The data collected on cooperation between institutions involved in various ways in fighting environmental crime are very diverse. From denying cooperation between institutions, through declaring that cooperation exists but that it needs to be improved, to emphasizing quality cooperation in the part of joint activities on specific subjects.
7. According to Zoran Tomović, the chief police inspector in the Department for the fight against corruption, there are enough inspectors in the field, but there is no specialized unit for this area, and that the police has good cooperation with other institutions responsible for the fight against environmental crime, noting that the flow of information between institution could be faster. The chief police inspector in the Department for the fight against corruption points out that the most important competence of the police is in the supervision of traffic on the roads (wood, gravel...).
8. The public in Montenegro is not sufficiently aware of the consequences of environmental crime and a good part of society does not take them seriously enough. This is explained by the fact that the effects of environmental crime do not impact people directly as they primarily impact the environment, while the impact on people is recognized a little later. Citizens are not sufficiently informed about cases of environmental crime in Montenegro, with significant differences in the level of information for different forms. Thus, the media often report on illegal logging, illegal construction, while information on hazardous waste management is rarely covered.

5.2 General recommendations

In order to fight environmental crime as effectively as possible, the following is necessary:

1. Formation of a police unit for the suppression of environmental crime and protection of the environment, whose primary activity will be the fight against those who destroy, illegally exploit and pollute the environment. This unit should be staffed by inspectors who are well acquainted with the problems and causes of environmental crime. It would be noted that such units exist in the surrounding countries (Serbia, Croatia).
2. Opening a hotline for reporting all types of environmental crime. In this way citizens would be encouraged to get involved in the fight as much as possible, because what now happens is that their complaints do not get reviewed due to not being reported the competent authority and without feedback about which institution has competence.

3. Strengthening the administrative and technical capacities of the relevant institutions for the fight against environmental crime, primarily by increasing the number of employees in the Directorate for Inspection Affairs. When planning the budget to strengthen administrative and technical capacities, it should be borne in mind that environmental crime causes a significant outflow of funds from the state budget, so reducing the rate of environmental crime would be very beneficial for the State.
4. Organizing trainings for employees in institutions that have roles in the fight against environmental crime. The focus should be on prosecutor's office and the judiciary, because the current statistics show that the judiciary in Montenegro shows very little interest in dealing with cases related to environmental crime. It is necessary to organize joint trainings for the judicial authorities, the Prosecution, the Police, the Directorate of Inspection Affairs, the Environmental Protection Agency, the Ministry of Ecology, the Forestry Directorate, the Water Directorate, the Directorate for Food Safety, Veterinary and Phytosanitary Affairs, and managers of protected areas. It is important that everyone attends the training together, so that they clearly understand the responsibilities and authorizations, but also the advantages of the model of joint action against environmental crime. The focus of the training should be on practical training on how to properly apply the law, methodology of joint work of all institutions with the aim of effective prevention of environmental crime, but also operational action, good teamwork practices and coordinated management of control and investigation procedures, exchange of experiences, case studies, application of technical means, participation of foreign experts and understanding the consequences of environmental crime.
5. Increasing the number of environmental crime prosecutions and tighten criminal policy.
6. Encouraging joint action of institutions and a collaborative approach to solving environmental crime.
7. Strengthening the awareness of society about the complex negative effects of environmental crime and about common responsibility in the fight against its various forms. In this regard, it would be useful to organize trainings for journalists for purpose of ensuring quality reporting on environmental crime, in a professional and ethical way. It is necessary to encourage investigative journalism in the field of environmental protection and environmental crime, both at the state level and at the level of local (municipal) media. It is important that all forms of environmental crime be covered by the media and that specific cases of violations of the law and concrete examples of prosecutions of these acts be reported.