

acl_dg2_demo_initdpt_rw_world_ro

Strasbourg, 1st February 2023

T-PVS/Files(2023)17

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

43rd meeting

Strasbourg, 28 November - 1 December 2023

Complaint on stand by: 2021/7

**Alleged threat to fauna species and protected sites due to the
proposed construction of a lithium mine in the Jadar River
Valley
(Serbia)**

- GOVERNMENT REPORT -

Document prepared by

the Ministry of Environmental Protection, Serbia

ANNEX I

**REPORT OF THE MINISTRY OF CONSTRUCTION,
TRANSPORT AND INFRASTRUCTURE**



Republic of Serbia

**MINISTRY OF CONSTRUCTION,
TRANSPORT AND INFRASTRUCTURE**

Number: 337-00-00201/2022-01

Date: 16 January 2023

Nemanjina 22-26

Belgrade

11000 Belgrade

Nemanjina 22-26

To Whom It May Concern,

Your Ministry addressed the Ministry of Construction, Transport and Infrastructure, requesting the submission of a Progress Report pertaining to deliberation of Complaint number 2021/7: Complaint on stand-by: Serbia: Alleged threat to fauna species and protected sites due to the proposed construction of a lithium mine in the Jadar River Valley.



Republic of Serbia
MINISTRY OF ENVIRONMENTAL
PROTECTION

Number: 337-00-00127/2022-04

Date: 18 January 2023

Belgrade

Council of Europe
Biodiversity Department
Secretariat of the Bern Convention
F-67075 Strasbourg
Ms. Ursula Sticker, Executive Secretary

Subject: Progress Report on deliberation of Complaint number 2021/7: Complaint on stand-by: Serbia: Alleged threat to fauna species and protected sites due to the proposed construction of a lithium mine in the Jadar River Valley

Dear Ms. Sticker,

On behalf of the Ministry of Environmental Protection, referring to the Request of the Secretariat of the Bern Convention dated 6 May 2022, pertaining to Complaint No. 2021/7: Complaint on stand-by: Serbia: Alleged threat to fauna species and protected sites due to the proposed construction of a lithium mine in the Jadar River Valley, filed to the Secretariat of the Bern Convention by the international non-governmental organization „Earth Thrive” acting on its own behalf and on behalf of the association „Let’s Protect Jadar and Radjevina” and the international non-profit organization „Earth Law Center”, we would like to inform you of the following:

In accordance with the Decision of the Bureau of the Standing Committee of the Bern Convention, the Ministry of Environmental Protection, in its capacity as the competent authority monitoring the implementation of the Bern Convention in the Republic of Serbia, sent Request for Submission of Progress Reports (No. 337-00-00127/2022-04 dated 18. 10. 2022.) to the competent authorities and institutions, namely: the Ministry of Construction, Transport and Infrastructure of the Republic of Serbia, the Ministry of Mining and Energy of the Republic of Serbia and the Institute for Nature Conservation of Serbia, as well as asked for the submission of an internal Report drafted by the competent departments of the Ministry of Environmental Protection.

Based on the reports submitted by the competent authorities and institutions, as well as the internal report of the Ministry of Environmental Protection, we hereby inform you of the following:

I. The Government of the Republic of Serbia passed the Decree Revoking the Decree on Determining the Spatial Plan for the Special Purpose Area for the Implementation of the

Complaint attached to your report request asserts that the Bureau of the Standing Committee of the Bern Convention requests further information from the authorities as to whether the approval of the exploitation field will be confirmed and what would be the next step. A brief overview of national legislation concerning licensing and exploitation is also requested.

In reference to your letter No. 337-00-00127/2022-04 of 18.10.2022, the Ministry of Construction, Transport and Infrastructure states as follows:

The Government of the Republic of Serbia passed the Decree Revoking the Decree on Determining the Spatial Plan for the Special Purpose Area for the Implementation of the “Jadar” Project of Exploitation and Processing of Jadarite Mineral (Official Gazette of the

„Jadar” Project of Exploitation and Processing of Jadarite Mineral (published in the "Official Gazette of the Republic of Serbia", number 8/22, on 20 January 2022).

In accordance with Article 2 of the aforementioned Decree, the competent authorities are to immediately repeal individual acts passed for the purpose of implementation of the Decree on Determining the Spatial Plan for the Special Purpose Area for the Implementation of the „Jadar” Project of Exploitation and Processing of Jadarite mineral („Official Gazette of the RS”, No. 26/20), as well as immediately suspend all procedures initiated based on this Decree.

2. In accordance with the Decree Revoking the Decree on Determining the Spatial Plan for the Special Purpose Area for the Implementation of the „Jadar” Project of Exploitation and Processing of Jadarite Mineral („Official Gazette of the RS”, No. 8/22), the following administrative acts pertaining to the competencies of **the Ministry of Environmental Protection** were passed:

- Decision of Administrative Commission of the Government (14 No. 353-9316/2021-003 of 25 January 2022) **annulling Decision** of the Ministry of Environmental Protection number 353-02-01163/2021-03 of 18 August 2021 determining the scope and content of the Environmental Impact Assessment Study for the project referring to the underground exploitation of lithium and boron deposits in Jadar, ore beneficiation plant and disposal of tailings generated by the mining activities on the cadastral parcels belonging to the cadastral municipalities Gornje Nedeljice, Brnjac, Veliko Selo, Jarebice, Slatina, Stupnica i Šurice on the territories of the City of Loznica and the Municipality of Krupanj which are situated within subzones 1A and 1B that are part of the mining activity zone defined by the Spatial Plan for the Special Purpose Area for the Implementation of the „Jadar” Project of Exploitation and Processing of Jadarite Mineral. The company Rio Sava Exploration d.o.o. from Belgrade filed an appeal against the Decision of the Administrative Commission of the Government. The administrative adjudication proceedings before the Administrative Court referring to the aforementioned appeal have been undertaken and are currently in progress;

- Decision of Administrative Commission of the Government (14 No. 353-1716/2022-003 of 31 March 2022) **annulling Decision** of the Ministry of Environmental Protection (No. 353-02-2102/2021-03 of 8 November 2021) determining the scope and content of the Environmental Impact Assessment Study of the road construction project, state road 27, categorized as an IB-class road, section Brezjak (state road IB 27 Valjevo – Loznica, chainage 16+446 km) - Lipnički šor (state road IB 26 Šabac, chainage 118+394 km), from reference marker 0+000.00 km to reference marker 13 +604.11, L=13.604 km. The company Rio Sava Exploration d.o.o. from Belgrade filed an appeal against the Decision of the Administrative Commission of the Government. The administrative adjudication proceedings before the Administrative Court referring to the aforementioned appeal have been undertaken and are currently in progress;

- Decision of the Ministry of Environmental Protection (No. 353-02-1167/2021 of 14 February 2022), suspending the procedure initiated at the request of Rio Sava Exploration d.o.o. from Belgrade pertaining to determining the scope and content of the Environmental Impact Assessment Study for the project referring to the underground exploitation of lithium and boron deposits in Jadar, ore beneficiation plant and disposal of tailings generated by the mining activities on the cadastral parcels belonging to the cadastral municipalities Gornje Nedeljice, Brnjac, Veliko Selo, Jarebice, Slatina, Stupnica i Šurice on the territories of the City of Loznica and the Municipality of Krupanj which are situated within subzones 1A and 1B that are part of the mining activity zone defined by the Spatial Plan for the Special Purpose Area for the Implementation of the „Jadar” Project of Exploitation and Processing of Jadarite Mineral („Official Gazette of the RS”, No. 26/2020). The geological research company Rio

accordance with the aforesaid Decree, the Ministry of Construction, Transport and Infrastructure issued following Decisions repealing the location conditions previously issued based on the Spatial Plan for the Special Purpose Area for the Implementation of the “Jadar” Project of Exploitation and Processing of Jadarite Mineral (Official Gazette of the Republic of Serbia, No. 8/2022):

ROP-MGSI-1254-LOCH-2/2021;

ROP-MGSI-4675-LOCH-1/2021;

ROP-MGSI-32973-LOCH-1/2020; ROP-MGSI-32973-LOCA-2/2021;

ROP-MGSI-34044-LOCH-2/2022;

ROP-
MGSI-
37455-
LOCH-
1/2020;

ROP-
MGSI-
37456-
LOCH-
1/2020;

Sava Exploration d.o.o. from Belgrade submitted a complaint against the Decision of the Ministry of Environmental Protection. The adjudication proceedings before the Administrative Commission of the Government referring to the aforementioned complaint have been undertaken and are currently in progress.

- Decision of the Ministry of Environmental Protection (No.353-02-2102/2022 of 20 July 2022.), suspending the procedure initiated at the relevant request pertaining to determining the scope and content of the Environmental Impact Assessment Study of the road construction project - state road 27, categorized as an IB-class road, section Brezjak (state road IB 27 Valjevo – Loznica, chainage 16+446 km) - Lipnički šor (state road IB 26 Šabac, chainage 118+394 km), from reference marker 0+000.00 km to reference marker 13 +604.11, L=13.604 km. The geological research company Rio Sava Exploration d.o.o. from Belgrade submitted a complaint against the aforementioned Decision. The administrative adjudication proceedings before the Administrative Commission of the Government referring to the aforementioned complaint have been undertaken and are currently in progress;

- Decision of the Ministry of Environmental Protection (No. 353-02-1931/2021-03 of 24 January 2022.) suspending the procedure relevant for determining whether an EIA is required for the project of constructing a 110 kV overhead power transmission line No.106A/4 TS Valjevo 3 – TS Loznica 2 and of a 110 kV overhead power transmission line No. 106B/4 TS Osečina – TS Loznica, connecting to a 110kV switching station Jadar;

- Decision of the Ministry of Environmental Protection (No. 353-02-1932/2021-03 of 24 January 2022.), suspending the procedure relevant for determining whether an EIA is required for the project of constructing a 110kV switching station Jadar consisting of a facility for connecting a 110 kV overhead power transmission line, a facility building with gatehouse and diesel electric generator, in cadastral municipalities Veliko selo and Brnjac, city of Loznica.

3. The Ministry of Construction, Transport and Infrastructure (hereinafter: MCTI) has submitted a Progress Report (No: 337-00-00201/2022-01 of 16 January 2023.) documenting the repealing of the location conditions previously issued based on the Spatial Plan for the Special Purpose Area for the Implementation of the „Jadar” Project of Exploitation and Processing of Jadarite Mineral („Official Gazette of the RS, 26/20), namely:

- ROP- MGSI -1245-Loc-2/2021;
- ROP- MGSI -4675-Loc-1/2021;
- ROP- MGSI -32973-Loc-1/2020;
- ROP- MGSI -32973-Loc-2/2021;
- ROP- MGSI -34044-Loc-2/2020;
- ROP- MGSI -37455-Loc-1/2020;
- ROP- MGSI -37456-Loc-1/2020;

The report also lists the regulations falling under the competence of the Ministry of Construction, Transport and Infrastructure, which govern the area of issuing permits for the construction of buildings:

- Law on Planning and Construction („Official Gazette of the RS”, No. 72/2009, 81/2009-corr., 64/2010-Decision of the Constitutional Court (hereinafter: CC), 24/2011, 121/2012, 42/2013-Decision of CC, 50/2013-Decision of the CC, 98/2013-Decision of the CC, 132/2014, 145/2014, 83/2018, 31/2019, 37/2019-other law, 9/2020 and 52/2021);
- Decree on Site Conditions („Official Gazette of the RS”, No. 115/2020);
- Rulebook on the process of electronic implementation of the integrated procedure („Official Gazette of the RS”, No. 68/2019);

Attached to this letter are the copies of the aforementioned Decisions.

Please note that in accordance with the national legislation, the licensing procedure, i.e., issuance of building permits within the competence of the Ministry of Construction, Transport and Infrastructure is regulated based on the following acts:

- Law on Planning and Construction (Official Gazette of the Republic of Serbia, No. 72/2009, 81/2009-corr., 64/2010-Decision of the Constitutional Court (hereinafter: CC), 24/2011, 121/2012, 42/2013-Decision of CC, 50/2013-Decision of the CC, 98/2013-Decision of the CC, 132/2014, 145/2014, 83/2018, 31/2019, 37/2019-other law, 9/2020 and 52/2021);
- Decree on Location Conditions (Official Gazette of the Republic of Serbia, No. 115/2020);

- Rulebook on the content, manner and procedure of developing, and the method of controlling the technical documentation according to class and purpose of facilities („Official Gazette of the RS”, No. 73/2019).

4. **The Ministry of Mining and Energy** has submitted a Report (No.310-02-01722/2022-02 of 23 November 2022. and Additional notes from 30 January 2023.) in which it is stated that the procedure initiated by the Request of the Rio Sava Exploration Company Ltd. from Belgrade, dated 6 January 2021, for the issuance of Exploitation field approval pursuant to Article 70 of the Law on Mining and Geological Exploration („Official Gazette of the RS”, No. 101/2015 and 95/18 other law), has not been completed, since the proceedings are before the Administrative Court, according to the lawsuit of the company Rio Sava Exploration d.o.o., still ongoing.

4.1. An Overview of the National Legislation concerning Licensing and Exploitation

Exploitation of mineral resources is carried out in accordance with Article 68 of the Law on Mining and Geological Exploration („Official Gazette of RS”, No. 101/2015 and 95/18 other Law), and based on the following approvals:

- 1) exploitation field approval or approval for exploitation;
- 2) approval for construction of the mining facilities and/or conducting of the mining operations; and
- 3) approval for the use of mining facilities.

Considering the fact that the above request from on 06. 01. 2021 refers to the future underground exploitation of lithium and boron mineral reserves found in „Jadar” deposit area, this request had to be related to the issuance of the exploitation field approval submitted in accordance with the aforementioned article of the Law on Mining and Geological Exploration.

In accordance with article 70. of the aforesaid Law prescribes that together with the request for issuing the exploitation field approval, the following shall be submitted:

- 1) proof of payment the republic administrative fee, i.e., provincial administrative fee when the exploitation activities are carried out on the territory of the Autonomous Province;
- 2) topographic map in a scale 1:25000 or at corresponding scale with drawn-in boundaries of the exploitation field and contours of determined reserves of mineral resources, public roads and other facilities located on the territory of the exploration field concerned and clearly marked cadastral plots in both written and digital form;
- 3) a confirmation on mineral resources and mineral reserves, which is issued on the basis of research conducted in accordance with existing regulations concerning the classification of resources and reserves;
- 4) a certificate of registration and a copy of an appropriate act listing the activity codes for which the applicant has registered, the company registration number and the corresponding licence;
- 5) a feasibility study for the exploitation of mineral deposits; and
- 6) an act issued by the local government unit in charge of urban planning, regarding compliance of the exploitation with the corresponding spatial, i.e. urban plans, stating also possible development of lower rank planning documents where needed.

Prior to developing a *feasibility study on exploitation*, the applicant is obliged to obtain:

- 1) an act on conditions for developing an environmental impact assessment study issued by the competent authority or a nature protection organization;
- 2) an act on conditions prescribed by the institution competent for cultural heritage protection; and

Rulebook on the process of electronic implementation of the integrated procedure (Official Gazette of the Republic of Serbia, No. 68/2019);

- Rulebook on the content, manner and procedure of developing, and the method of controlling the technical documentation according to class and purpose of facilities (Official Gazette of the Republic of Serbia, No. 73/2019);

Concerning the questions whether the approval of the exploitation field will be confirmed and what would be the next step we would like to inform you that the Ministry of Construction, Transport and Infrastructure is not in possession of such information, thus we suggest that

3) an act on conditions prescribed by the ministry in charge of water management.

After obtaining the above stated approval, the company Rio Sava Exploration d.o.o. from Belgrade is obliged to submit a request, in accordance with Articles 101-103 of the Law on Mining and Geological Research („Official Gazette of RS”, No. 101/2015, 95/2018 - other law and 40/2021), for the issuance of an approval for the construction of mining facilities and/or conducting the mining operations.

Upon obtaining the approval for conducting the mining operations and/or constructing the mining facilities, the company is obliged to submit a request, in accordance with Article 109 of the law, for the issuance of an approval for all the operations conducted and the use of all the facilities constructed.

5. **The Institute for Nature Conservation of Serbia** has submitted Report (No.030-3761/2 of 10 November 2022.), which points to the fact that the Institute did not receive a single request regarding this case after the adoption of the Decree Revoking the Decree on Establishing the Spatial Plan for the Special Purpose Area for the Implementation of the „Jadar” Project of Exploitation and Processing of Jadarite mineral.

We should also take into account that nature protection conditions for developing the Spatial Plan for the Special Purpose Area for the Implementation of the „Jadar” Project of Exploitation and Processing of Jadarite mineral (Decision No. 019-2773/2 of 26 December 2017) expired after 2 years, in accordance with Article 9 of the Law on Nature Protection („Official Gazette of the RS”, No. 36/09, 88/10, 91/10-corr, 14/16, 95/18-other law and 71/21).

Please find enclosed copies of the mentioned documents translated into English.

Whilst looking forward to your kind response, we wish to thank the Bureau in advance for their thorough consideration of this report.

contact the Ministry of Mining and Energy, as the competent ministry, regarding the matter at hand.

ANNEX II

REPORT BY THE OF MINING AND ENERGY



Republic of Serbia

MINISTRY OF MINING AND ENERGY

Number: 310-02-01722/2022-02

Date: 23.11.2022

2 Mihajla Pupina Blvd.

11070 Belgrade

In your letter No.: 337-00-00127/2022-04 dated 18.10. 2022 you informed the Ministry of Mining and Energy that the non-governmental organization “Earth Thrive”, acting on its own behalf and on behalf of the association “Protect Jadar and Radjevina” and the non-profit organization “Earth Law Center”, filed a complaint in order to undertake appropriate legal and administrative measures to preserve the habitats of fauna species protected under Appendices II and III of the Bern Convention and protect the protected areas threatened by the proposed construction of a lithium mine in Jadar River Valley.

Enclosed with the letter to the Ministry of Mining and Energy, you submitted the Decision of the Bureau of the Standing Committee of the Bern Convention (Council of Europe), regarding the deliberation of the Report of the Republic of Serbia on the complaint number: 2021/7: New Complaint: Serbia: Alleged threat to fauna species and protected sites due to the proposed construction of a lithium mine in Jadar River Valley, submitted by the Secretariat of the Bern Convention.

In accordance with the aforementioned letter, in which you request the Ministry of Mining and Energy to provide you with a report on the Ministry's competencies and scope of work pertaining to this matter, we inform you of the following:

- Rio Sava Exploration d.o.o. from Belgrade submitted to the Ministry of Mining and Energy on 06.01.2021 a request for the issuance of the approval for exploitation field in accordance with Article 70 of the Law on Mining and Geological Exploration (Official Gazette RS, No. 101/2015 and 95/18 other law).

- Considering the fact that a certain number of complaints were filed by the interested public concerning the Decision of the Ministry of Environmental Protection No. 353-02-1163/2021-03 dated 18.08.2021, determining the scope and content of the Environmental Impact Assessment Study to be developed by the project holder Rio Sava Exploration d.o.o. from Belgrade for the project referring to the underground exploitation of lithium and boron deposits in Jadar, ore beneficiation plant and disposal of tailings generated by the mining activities, as well as the fact that Rio Sava Exploration d.o.o. from Belgrade informed the Ministry on this matter in a letter dated 01.10.2021, as well as requested an extension of the deadline for deciding on the company's request until the Administrative Commission of the Government of the Republic of Serbia issued its decision pertaining to the complaints in question. Taking this fact into account, the Ministry extended the deadline for deciding on the request submitted by the aforementioned company.

- The Decree Revoking the Decree on the Spatial Plan for the Special Purpose Area of the "Jadar" Project for the Exploitation and Processing of the Jadarite Mineral was published on 20.01.2022 in the Official Gazette of the Republic of Serbia, number: 8/2022. Article 3 of the Decree stipulates that the competent authorities shall immediately suspend all procedures initiated on the basis of the Decree on the Spatial Plan for the Special Purpose Area of the "Jadar" Project for the Exploitation and Processing of the Jadarite Mineral (Official Gazette RS 26/20).

- The Ministry of Environmental Protection submitted a letter on 18.04.2022 thus informing the Ministry of Mining and Energy that the Decision number: 353-02-01163/2021-03 dated 18.08. 2021, which, at the request submitted by the company Rio Sava Exploration d.o.o. determines the scope and content of the environmental impact assessment study of the project of the underground exploitation of lithium and boron deposits in Jadar, was annulled by the Decision of the Administrative Commission of the Government 14 number 353-9316/2021-003 of 25.01.2022, as well as that the Ministry of Environmental Protection accordingly adopted the Decision number: 353-02-01163/2021-03 of 14.02.2022, thereby suspending the procedure initiated at the request of the company Rio Sava Exploration d.o.o. for the purpose of determining the scope and content of the environmental impact assessment study of the project of the underground exploitation of lithium and boron deposits in Jadar.

- By letter dated 04.05.2022, the company Rio Sava Exploration d.o.o. informed the Ministry of Mining and Energy that on 29.04.2022, that it filed an appeal against the Decision issued by the Ministry of Environmental Protection, and in subsequent letter dated 02.09. 2022 that a lawsuit was filed with the Administrative Court on 13.05.2022, against the decision of the Administrative Commission of the Government. In accordance with all the above stated, the procedure initiated based on the request by the company Rio Sava Exploration d.o.o. from Belgrade submitted on 06.01.2021, has still not been completed.

Related documents

No related documents

Sign In - Please click here to login and see classified information.