Analysis of Court Decisions in the Area of Environmental Protection in Bosnia and Herzegovina in 2012

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INTRODUCTION

The environment, as a natural surrounding encompassing the air, water, soil, flora and fauna, climate and their overall interdependence and interaction and cultural heritage created by men, including cities and other settlements and infrastructural, industrial and other facilities, requires special protection at both international and state and local levels. Environmental protection and improvement are amongst the most prominent problems faced by modern society. Fast scientific and technological developments, the application of new and powerful energy sources, the construction of a large number of industrial facilities and the creation of large urban areas, have led, particularly in the past several decades, to extremely high levels of pollution of basic natural resources, to a misbalance in the ‘man-environment’ harmony and to serious threats to natural conditions needed for environmental preservation. This ultimately brings into question the survival of men and planet Earth as we know it. This is exactly why the importance of environmental protection imposes a challenge to every society and country including the international community, individual states and Bosnia and Herzegovina (BiH) itself.

The United Nations (UN), the European Union (EU) and the Council of Europe (CoE) have endorsed a spectrum of documents referring to environmental protection, including the UN Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters i.e. the so-called Aarhus Convention which represents one of the core legal instruments in the fight of individuals and the overall public to preserve a healthy environment. The significance of rights set forth in the Aarhus Convention lies in the fact that access to information is key to exercising any right, including the right to protect the environment, for only an informed person can respond adequately in every life situation. BiH is a signatory to most of the international documents pertaining to environmental protection, having joined the Aarhus Convention on 15 September 2008 thus committing to act upon the provisions contained therein. In addition, the provisions of the Aarhus Convention have been largely incorporated into national environment-related legislation.

It is important to stress the EU-level environmental *acquis communautaire* which provides for many directives, decrees and decisions regulating the protection of particular environmental matters, in compliance with the Aarhus Convention. For BiH, the relevance of legislation and the overall *acquis communautaire* lies in the fact that the unique EU membership commitment implies that all countries aspiring to join the EU must consolidate their national regulations, rules and procedures with the *acquis communautaire* in order to uphold the effect of the body of regulations contained therein. BiH, as a country aspiring towards EU membership, signed on 26 June 2008 in Luxemburg the Stabilisation and Association Agreement (SAA) between the EU and its member states, which was ratified by the BiH Presidency on 06 November 2008. This gained BiH the status of so-called “potential candidate”. Though the SAA has not taken effect yet, having in mind that the EU expects BiH to meet additional conditions, its commitment to legislative consolidation, provided for in Article 70 of the SAA, has been in effect since the signing date.

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1 Official Gazette of BiH, No. 8/08.
2 FBiH Law on Environmental Protection (Official Gazette of FBiH, Nos. 33/03 and 38/09); RS Law on Environmental Protection (Official Gazette of RS, No. 71/12) and Law on Environmental Protection of BD BiH (Official Gazette of BD BiH, Nos. 24/04, 1/05, 19/07 and 09/09).
3 EU legal heritage i.e. set of rights and commitments of member states within the EU. Formally, the *acquis* includes: the so-called primary law (founding agreements); international agreements, international customary law and EU general legal principles; secondary law, i.e. legislation passed by EU institutions (Rules, Directives and Decisions); EU Court of Justice case-law; all other commitments of the member states within the EU activities.
4 At the horizontal sector level – rules applicable upon all other sectors – a total of 7 directives were passed; air quality sector – 8 directives and 1 decree; waste management sector – 12 directives and 1 decree; water quality sector – 18 directives; nature protection – 3 directives and 2 decrees; industrial pollution – 9 directives and 3 decrees; chemicals – 5 directives and 3 decrees; noise – 3 directives; and EU emissions trading system – 6 decisions, 4 directives and 4 decrees.
5 Official Gazette of BiH, No. 10/08.
6 The European Court of Human Rights judgment in the *Sejdic and Finci against Bosnia and Herzegovina* case.
The deadline for BiH to consolidate its regulations with the EU acquis commenced in 2008 and by 2014 the consolidation would have expanded to include all elements of the acquis, including the environment. In that regard, we should particularly emphasise directives to be consolidated with the BiH legislation pertaining to environmental protection, specifically the Directive 2003/4/EZ on Public Access to Environmental Information, Directive 2003/35/EZ on Ensuring Public Participation in the Development of Certain Environmental Plans and Programmes, Directive 2008/99/EZ on Environmental Protection via Criminal Law, as well as penalty provisions contained in many other directives.

Having in mind the aforementioned, particularly the fact that BiH is a signatory of numerous international environmental conventions, it is clear that the right to healthy environment falls under a constitutional category in BiH, despite the fact that the BiH Constitution does not regulate this right directly. Actually, under the BiH Constitution, the right to life is a fundamental human right implying the right to healthy environment. The situation is absolutely identical at the level of the Federation of BiH (FBiH) i.e. its cantons, whereas Republika Srpska (RS) regulates this issue separately by its Constitution in the manner in which “a man is entitled to a healthy environment. Everyone shall, under the law, protect and enhance the environment to the best of his or her ability”.

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10 RS Constitution, Art. 35.
1. THE BIH NATIONAL STRUCTURE AND INSTITUTIONAL FRAMEWORK FROM THE ASPECT OF ENVIRONMENTAL PROTECTION

At first glance, it is clear that environmental protection is a complicated problem to regulate in BiH. Therefore, in order to better understand this matter, we must present a brief overview of the BiH national structure as well as that of the relevant institutions.

There are several layers of government in BiH. Though with differing constitutional arrangements, they function in mutual interdependence. At the State level, authority has been established within the legislative, executive and judicial branches, while lower levels of authority operate within separate administrative units – the two Entities of the FBiH and the RS, as well as the Brčko District of Bosnia and Herzegovina (BD BiH). The FBiH is further divided administratively into ten cantons, unlike the RS. Units of local self-government are identical to the State level, comprising cities, municipalities and local communities.

Legislative bodies at all levels of authority have enacted general legal documents or laws regulating environmental protection in detail; their overview is given in Appendix 1 of this Analysis.

Along with the need to familiarise oneself with environmental protection legislation, one must also obtain a clear picture of the BiH institutions in charge of environmental protection. Figure 1 shows the list of institutions at the State level, while Figure 2 lists institutions per entities and BD BiH. In the FBiH, the cantons, as distinct administrative units, have institutions in charge of environmental protection. This issue is, of course, regulated at the local level as well. Namely, cities and municipalities in BiH have separate offices, such as the office for spatial planning and environmental protection, the office for utilities, the office for inspection, etc.

11 Una-Sana Canton: Ministry of Construction, Spatial Planning and Environmental Protection; Ministry of Agriculture, Water Management and Forestry; Ministry of Justice; Ministry of Economy; Ministry of Health and Social Policy. Posavina Canton: Ministry of Transport, Communications and Environmental Protection; Ministry of Agriculture, Water Management and Forestry; Ministry of Economy and Spatial Planning; Ministry of Justice and Administration; Ministry of Health, Labour and Social Policy. Tuzla Canton: Ministry of Spatial Planning and Environmental Protection; Ministry of Agriculture, Water Management and Forestry; Ministry of Industry, Energy and Mining; Ministry of Justice and Administration; Ministry of Health. Zenica-Doboj Canton: Ministry of Spatial Planning, Transport, Communications and Environmental Protection; Ministry of Agriculture, Water Management and Forestry; Ministry of Health; Ministry of Justice and Administration; Ministry of Economy. Bosnia-Podrinje Canton: Ministry of Urbanism, Spatial Planning and Environmental Protection; Ministry of Social Policy, Health, Displaced Persons and Refugees; Ministry of Justice, Administration and Work Relations; Ministry of Economy. Central Bosnia Canton: Ministry of Forestry, Water Management and Agriculture; Ministry of Spatial Planning, Reconstruction and Return; Ministry of Health and Social Policy; Ministry of Justice and Administration; Ministry of Economy. Herzegovina-Neretva Canton: Ministry of Trade, Tourism and Environmental Protection; Ministry of Transport and Communications; Ministry of Agriculture, Forestry and Water Management; Ministry of Construction and Spatial Planning; Ministry of Health, Labour and Social Protection; Ministry of Economy. Western Herzegovina Canton: Ministry of Spatial Planning, Construction and Environmental Protection; Ministry of Health, Labour and Social Policy; Ministry of Justice and Administration; Ministry of Economy. Canton 10: Ministry of Construction, Reconstruction, Spatial Planning and Environmental Protection; Ministry of Agriculture, Water Management and Forestry; Ministry of Labour, Health, Social Protection and Exiled Persons; Ministry of Justice and Administration; Ministry of Economy.
Figure 1 – Institutions at state level in charge of environmental protection
Figure 2 - Institutions at entity and BD BiH levels in charge of environmental protection
Similar to the legislative and executive authorities in BiH, the judicial authority is established as a separate authority at different levels. Given the complexity of the BiH governmental structure, it also largely differs across certain state level administrative units. A diagram of judicial authority in BiH is shown in Figure 3 below.

Figure 3 – List of courts in BiH in charge of environmental protection matters
2. LEGAL AND JUDICIAL PROTECTION OF ENVIRONMENT

Environmental protection has been enabled through various types of legal protection including administrative law, particularly the Aarhus Convention and Law on Environmental Protection, as well as criminal law, minor offence law and civil law. Due to limited access to certain decisions of courts practicing the above mentioned laws, the following text presents the most prominent legal issues in the area of legal and administrative environmental protection, with a special focus on the Aarhus Convention and state and entity laws on freedom of access to information, in connection to decisions passed during 2012. Considering the importance of criminal and minor offence legal protection, separate chapters of this document present the most important matters in this area with statistics of decisions passed by relevant courts in BiH in 2012.

For the purpose of this Analysis, we have gathered with the assistance of the High Judicial and Prosecutor Council of BiH, judgements and data from relevant courts in BiH on relevant legal actions in administrative cases, on charges, investigations, indictments and verdicts in 2012 for crimes against the environment.

2.1. Administrative and Legal Environmental Protection from the Aspect of the Rights Set Forth in the Aarhus Convention

Administrative law is a branch of law governing the administrative activity and encompasses general legal norms regulating administrative organisation, activity and all operations of governmental agencies in order to enable the administration to carry out its tasks. All institutions of Bosnia and Herzegovina, including those mentioned earlier herein as relevant to environmental protection, are to be considered administrative authorities and must adhere to all laws regulating operations of administration.

We have noted earlier the significance of the Aarhus Convention and laws on environmental protection, having in mind that they ensure the right to access information and public participation in passing decisions in the field of environment and the so-called right to access justice (legal remedy). The implementation of the Aarhus Convention and that of the freedom of information acts has been obligatory since the date of its ratification by BiH.

2.1.1. Right to Access Information

Freedom of information acts provide for every person to have the right to access information controlled by public authorities, to the fullest possible extent in line with public interest, bearing in mind that they represent the public good and that public access to information promotes higher transparency and accountability of these authorities. In terms of the Aarhus Convention and environmental laws, the information in question pertain to the environment.

Public authorities, on the other hand, must, primarily and on their own initiative, publicise certain information pertaining to environment and deliver information upon requests, except in exceptional cases when access to information may be denied. Upon examination of each individual case, an exception is established only when a relevant authority finds a corresponding exception in one of the freedom of information acts or environmental laws defined as such and depending upon which law is applicable in a particular case.

13 BiH Freedom of Information Act (Official Gazette of BiH, Nos. 28/00, 45/06, 102/09 and 62/11); FBiH Freedom of Information Act (Official Gazette of FBiH, Nos. 32/01 and 48/11); RS Freedom of Information Act (Official Gazette of RS, No. 20/01).
From the available data and court decisions, collected for the purpose of this Analysis, one may conclude that the overall 2012 case-law referring to access to information is connected to the application of freedom of information acts, which has largely set the focus of this Analysis.

Based on the analysis of court decisions in administrative procedures passed in BiH in 2012 upon legal actions initiated in regard to requests for application of freedom of information acts, as shown in Chart 1 above, it may be concluded that the courts in BiH in 2012 acted upon the total of 15 actions in administrative procedures, passing seven (7) decisions to overrule, seven (7) decisions to accept and annul first-instance and appellate decisions, referring the cases back for reconsideration and one (1) decision to dismiss the legal action as premature.

2.1.1.1. Obligation of Public Authorities to Act Upon Requests for Access to Information

Access to information that has not been publicised, for example, via electronic media, is achieved by submitting a request to access information with the public authority believed to be relevant. In case the authority regards itself as not relevant it must refer the request to the relevant authority and notify the applicant thereof. This obligation of referral is defined in freedom of information acts, while the Aarhus Convention only leaves a possibility of taking such action. A request for access to information does not have to be explained in terms of the interest of the applicant, but it must be submitted in writing in one of the official languages in use in BiH and contain the applicant's name, address and sufficient data on the nature and/or contents of requested information in order to enable the authority to carry out regular activities on providing the requested information.

A public authority must respond to the request within 15 days of the date of submission of the request for information, except in cases of legally provided extensions of the mentioned deadlines. Otherwise, the applicant may employ legal remedies on account of the so-called "administration's silence", which is elaborated further in this Analysis in Chapter 2.1.3.

Regardless of whether the public authority provides access to requested information or denies it in part or entirely, the authority must respond in writing accordingly, in line with freedom of information acts and environmental laws. The Aarhus Convention leaves an amount of freedom to public authorities to...

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14 Decision of the Cantonal Court of Bihac, No. 01 0 U 004573 10 U of 27 Nov 2012; Decision of the Cantonal Court of Mostar, No. 07 0 U 006698 12 U of 13 Nov 2012; Decision of the Cantonal Court of Zenica, No. 04 0 U 004739 12 U of 28 Sep 2012; Decision of the Court of BiH, No. S1 3 U 004829 11 U of 10 Dec 2012; Decision of the Court of BiH, No. S1 3 U 007330 11 U of 16 Feb 2012; Decision of the Court of BiH, No. S1 3 U 007332 11 U of 05 Dec 2012; Decision of the Court of BiH, No. S1 3 U 007391 11 U of 16 May 2012.

15 Decision of the Cantonal Court of Mostar, No. 07 0 U 006313 12 U of 07 Jun 2012; Decision of the Cantonal Court of Novi Travnik, No. 06 0 U 004341 11 U of 07 Dec 2012; Decision of the Court of BiH, No. S1 3 U 005999 11 U of 17 Apr 2012; Decision of the Court of BiH, No. S1 3 U 005856 11 U of 13 Sep 2012; Decision of the Court of BiH, No. S1 3 U 007276 11 U of 01 Feb 2012; Decision of the Court of BiH, No. S1 3 U 007499 11 U of 28 Feb 2012; Decision of the Basic Court of Banja Luka, No. 11 0 U 006987 11 U of 08 May 2012.

16 Decision of the Basic Court of Banja Luka, No. 11 0 U 009977 12 U of 12 Dec 2012.
respond in writing only if the request is sent in writing or if the applicant explicitly demands a written response. Either way, the type of document to be drafted by the public authority under freedom of information acts in BiH and the FBiH is a decision, while in the RS the prescribed document is a letter of response in writing.

If a public authority refuses to deliver information partly or in whole, the mentioned document i.e. response, must be sent in writing and contain the decision of the public authority, data on valid grounds for exemption from delivering information and quotes of Articles to which it refers therein, as well as all substantive matters relevant to the decision including public interest and reference to legal remedies. This means that the response or decision must contain a rationale; otherwise, freedom of information acts would be breached ultimately alongsiderights to effective legal remedies in terms of Article 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which prevails over all other laws in BiH.

2.1.1.2. Exemptions from the Obligation to Deliver Information

Provisions of freedom of information acts, environmental laws and the Aarhus Convention provide, in general, for the obligation to deliver information under the prescribed procedures. However, there are precisely defined exemptions from this ruleon the basis of which a public authority may deny information partly or in whole. These exemptions concern public authorities' functions, confidential commercial information and privacy protection under freedom of information acts.

On the other hand, environmental laws provide for a larger number of exemptions under the Aarhus Convention. Nevertheless, the entire available case-law pertains to freedom of information acts and exemptions defined therein, so the focus of this Analysis lies upon the three previously mentioned exemptions in light of relevant court decisions passed in 2012 in BiH. Though there are only a small number of decisions specifically referring to environment, it is clear that all decisions passed by courts in BiH upon actions taken in regard to the application of exemptions provided for in freedom of information acts may, by analogy, be applied to all areas including the area of environmental protection.

Finally, it is important to emphasise that freedom of information acts provide for the possibility of dividing information into several parts. If the requested information corresponds to a part prescribed as the exemption, a public authority may single out and withhold the rest of the requested information to the applicant, unless such separation affects the information to the extent to which it renders the information unintelligible.

a) Exemption from Publicising in Regard to Public Authorities’ Functions

It is prescribed that a public authority may withhold information related to its function in cases when it is reasonably considered that disclosing the requested information may inflict a major damage on legitimate goals of precisely specified categories varying depending upon on the level of authority at which a freedom of information act is adopted. The BiH Freedom of Information Act lists the following categories as relevant: a) foreign policy, interests of defence and security and public security protection; b) interests of monetary policy; c) prevention of crime and any detection of crime; d) protection of the process of decision-making by a public authority as regards giving opinion, advice or recommendation by a public authority or its employee or any other person carrying out activities in its name or on its behalf, excluding factual, scientific or technical information. Almost identically, at the entity level, entity freedom of information acts provide for all exemptions, except in cases of foreign and monetary policy which falls solely under the jurisdiction of BiH.
It is important to emphasise that other relevant laws must be consulted when establishing these exemptions, such as the Law on Intelligence and Security Agency of BiH, Law on Personal Data Protection and documents regulating individual areas in decision-making processes including rulebooks and rules of procedures of relevant authorities that participate in those processes.

According to the available data and court decisions collected, the number of court decisions passed in BiH in 2012 as to legal actions in administrative proceedings referring to exemptions from disclosing information related to public authorities’ functions is not very high, as shown in Chart 2 below.

Chart 2 – Court decisions passed in BiH in 2012 upon legal actions initiated in regard to exemptions from disclosing information related to public authorities’ functions

In 2012, courts in BiH passed in total five (5) decisions as to legal actions in administrative proceedings referring to these exemptions. All actions were overruled, where the Court of BiH decided in three cases that the public authorities established the exemption correctly, bearing in mind that disclosing the requested information might inflict a major damage on legitimate goals of BiH including foreign policy goals, interests of defence and security and public security protection. The defendant properly established during proceedings that the requested information corresponded to operational materials, which were, inter alia, flagged as confidential. In one (1) case the Court of BiH overruled the legal action stating that the public authority established the exemption correctly related to public authorities’ functions for the purpose of protecting the process of decision-making by the public authority as an independent authority. The same conclusion reached the Cantonal Court in Bihać when it overruled the legal action for the purpose of protecting the process of decision-making by a public authority or any other person carrying out activities in its name or on its behalf, excluding factual, scientific or technical information.

Judging by the available data, courts in BiH overruled all legal actions in all cases in 2012 rendering the public authorities to have acted correctly when establishing exemptions from disclosing information related to public authorities’ functions, which stresses the importance of interests protected in that way, particularly at the state level, in cases tried before the Court of BiH. However, this conclusion is reached solely on the basis of the data collected, leaving a possibility that the courts also passed different decisions in 2012, which were unable to be included in this Analysis.

b) Confidential Commercial Information Exemption

An exemption for confidential commercial information occurs where a competent authority reasonably determines that a request for access to information involves the confidential commercial interests of a third party. Hence, because the information concerns a third party, the competent authority has an obligation to notify the third party in writing of the specifics of the request, and the third party has the right to notify the competent authority that it regards the requested information to be confidential, and has an obligation to give reasons as to why harm would result from disclosure.

19 Decision of the Court of BiH, No. S1 3 U 007391 11 U of 16 May 2012.
20 Decision of the Cantonal Court of Bihać, No. 01 0 U 004573 10 U of 27 Nov 2012.
Only after the receipt of the notification from the third party does the competent authority decide on whether there is a basis to establish an exemption for confidential commercial information. If the third party does not, within 15 days of receipt of the notice, respond in writing, the competent authority shall disclose the information, in accordance with the above-mentioned notice delivered to the third party.

Practice has shown that public authorities inform the applicant as well about the notice sent to the third party. The deadline to receive the requested information is, in that case, extended for an additional period of 15 days, since that is the legally stipulated period of time to communicate with the third party.

According to the available information and the judgements collected for the purpose of this Analysis, in 2012 the courts in BiH did not deliberate on lawsuits regarding a refusal to access information due to an exemption for confidential commercial information.

c) Protection of Personal Privacy Exemption

The third exemption stipulated by the freedom of access to information acts is an exemption for the protection of personal privacy, which is claimed by a competent authority where it reasonably determines that the requested information involves the personal privacy interests of a third person. The exemption formulated in this way provides, in fact, the widest possible scope of protection of both the so-called privacy interests and of the applicants in terms of their right to access information, because any attempt to list the areas in which access is granted or denied would significantly narrow the scope of applicability and the protection of privacy, as well as the access to information. Upon deciding on whether this exemption applies, it would be necessary to keep in mind the provisions of other laws as well, e.g. the BiH Law on the Protection of Personal Data.

According to the available information and the judgements collected for the purpose of this analysis, in 2012 the courts in BiH did deliberate on a small number of lawsuits in administrative disputes regarding an exemption for the protection of personal privacy, as seen above in Chart 3.

Chart 4 – Judgements in 2012 in BiH in lawsuits regarding an exemption for the protection of personal privacy

Courts in BiH, according to the available information, in 2012 deliberated in four (4) administrative disputes in total, regarding denials of access to information because of an exemption for the protection of personal privacy. The Court of BiH issued two (2) judgements in total. In one of them the Court rejected the lawsuit because it was of the opinion that, in the administrative procedure which had preceded it, the exemption for the protection of personal privacy had been properly determined. In the other, the Court accepted the lawsuit and annulled both the first-instance and the second-instance decisions because it was of the opinion that the exemption for the protection of personal privacy had not been properly determined. The Cantonal Court in Novi Travnik and the Cantonal Court Mostar issued one (1) judgement each, accepting the lawsuits and annulling the previous decisions, returning the cases to be deliberated again in lower-level courts.

Footnotes:
21 Judgement of the Court of BiH, No.: S1 3 U 007391 11 U, dated 16 May 2012;
22 Judgement of the Court of BiH, No.: S1 3 U 007499 11 U, dated 28 February 2012;
23 Judgement of the Cantonal Court in Novi Travnik, No.: 06 0 U 004341 11 U, dated 07 December 2012; Judgement of the Cantonal Court in Mostar, No.: 07 0 U 006313 12 U, dated 07 June 2012;
2.1.1.3. Obligation to Test Public Interest

Freedom of access to information acts and the Aarhus Convention stipulate an obligation to test public interest, i.e. a public authority shall disclose the requested information, notwithstanding that it has claimed an exemption, where to do so is justified in the public interest. At the same time, the public authority must take into account both any benefit and harm that may accrue from disclosing such information, and must explain its conclusion in detail. Thus it is not sufficient for the public authority to mention that the disclosure of the requested information is not justified in the public interest, but it is also necessary to mention the reasons for such a conclusion. Otherwise, there would be a misinterpretation of this provision.\(^{24}\)

The Court of BiH, in its jurisprudence, determined that “in making a decision as to whether the disclosure of information is justified in the public interest, the competent public authority shall take into account the circumstances including, but not limited to, any disrespect of a legal obligation, any offence, court error, abuse of power or negligence in official conduct, unauthorised use of public funds or any risks to health or safety of an individual, of the general public or of the environment”.\(^{25}\)

It is also important to emphasise that if the public authority determines that the disclosure of the requested information is in the public interest when an exemption is determined either for confidential commercial information or for the protection of personal privacy, the competent public authority is obliged to notify the third party that such information shall be disclosed 15 days after the receipt of the notification, which must also include the legal remedy instructions.

2.1.2. Right of Public Participation in Decision-Making

The second pillar of the Aarhus Convention, which has been incorporated into environmental protection laws in BiH, is the right of public participation in environmental decision-making. The notion of public participation, in legal terms, is a dual one and it implies, more specifically, a set of rights which provide for an active participation of the public concerned in the decision-making process at the earliest stage, on the basis of available information, and more broadly, it implies general characteristics of a democratic decision-making process, which covers all three pillars of the Aarhus Convention – right of access to information, public participation in decision-making and right of access to justice.

Public participation is a complex process, which may be organised in different ways, may occur in different situations and may involve numerous participants. The process is a long-term one and it is very important for the democratic development of a country. It is a source of knowledge, skills and enthusiasm of citizens, in order to make better and more democratic decisions. The effects of such a process cannot be felt in a short period of time, but they represent the framework of sustainable development, because the inclusion of the public in decision-making enhances the quality of the decisions, which in turn respond to the needs of a larger number of citizens, and the process itself becomes more legitimate and more open. Hence lower is the risk of a situation in which those who should implement the decisions would not accept them.

Public participation in decision-making does not mean that all citizens will automatically be satisfied with the decisions made, but the citizens have an opportunity to express their views and opinions, which are discussed during the process, in order to achieve consensus. However, in spite of numerous positive effects, public participation may be followed by a number of difficulties, such as a slow process of making the final decision and raising unrealistic expectations among citizens concerning the final outcome. However, in a long-term perspective, (a) public participation in decision-making raises the level of democracy (b) citizens are more convinced that their opinions are valued and respected and (c) the level of citizens’ trust in the government, their confidence that they can influence changes in public policies and their sense of belonging to the community are increased.

The State Parties to the Aarhus Convention, including BiH, are obliged to include the public when adopting environmental legal regulations; when adopting environmental plans and programs; in decisions on specific activities that may be of importance for the environment.

\(^{24}\) Judgement of the Cantonal Court in Zenica, No.: 04 0 U 003194 11 U, dated 24 November 2011;

\(^{25}\) Judgement of the Court of BiH No.: S1 3 U 004829 11 U, dated 10 December 2012; Judgement of the Court of BiH No.: S1 3 U 004829 11 U, dated 10 December 2012; Judgement of the Court of BiH No.: S1 3 U 007331 11 U, dated 04 November 2012; Judgement of the Court of BiH No.: S1 3 U 007332 11 U, dated 05 December 2012; Judgement of the Court of BiH No.: S1 3 U 007330 11 U, dated 16 February 2012;
There are various techniques, as well as formal and informal methods of public participation in decision-making, depending on the level of government at which the decision is made. All in all, the first step in the procedure is to provide adequate information that a decision-making mechanism is being initiated, which implies public participation. The second step is to provide information on the content of the decision, which is about to be made, and the third step are the methods of public participation. Formal methods of public participation include public insight, public debate, referendum, civic rally and civic initiative, while informal methods include advocacy, lobbying and direct pressure methods such as signatures, petitions etc.  

Public participation has been incorporated into the environmental protection laws in BiH, in an almost identical way to that of the Aarhus Convention, whose importance lies in the fact that it emphasises the importance of timely information and public participation in the early stages of decision-making; protects the right of the public concerned to investigate, free of charge, all the information relevant to decision-making and the right of the public to express concerns or to present information it deems important for decision-making; obliges the decision-making body to take into account public comments and suggestions; and obliges the public authority to inform the public on all the decisions made, i.e. to publish the text of a decision and the reasons upon which it is based.

One of the most important activities that require public participation in decision-making, is the environmental impact assessment process, i.e. environmental permit issuance process. The environmental protection laws and their subsequent rulebooks prescribe an environmental impact assessment procedure concerning projects and operators.

Having analysed the collected judgements, we noted that only one judgement was issued in 2012 which, in fact, did not concern public participation in decision-making, but did concern the Environmental Impact Study of a Small Hydropower Plant on the River Sana, in which the District Court in Banja Luka rejected the lawsuit as unfounded. Because of a lack of judgements on this issue, we could not, in this analysis, deal with this matter in more detail.

2.1.3. Right of Access to Justice

The right of access to justice is a term which describes the third pillar of the Aarhus Convention, and it denotes the right to a legal remedy. In terms of the third pillar of the Aarhus Convention, this right refers to a possible review of decisions conducted by the relevant second-instance bodies, through the use of legal remedies, concerning the first two pillars of the Aarhus Convention – the right of access to information and the right of public participation in decision-making – but also concerning procedures to challenge acts and omissions by private persons and public authorities that contravene provisions of their national law relating to the environment. The right of access to justice, in terms of the Aarhus Convention, denotes the right to have access to available legal remedies before a court of law or another independent and impartial body established by law.

The applicability of this pillar of the Aarhus Convention, and of the previous two pillars, must be discussed in light of the national legislation and of the available legal remedies. In that sense, if the national legislation includes the right to appeal the first-instance decision of an administrative body, then that is the legal remedy which must first be used. Only after that can one file a lawsuit in an administrative dispute, in accordance with the laws on administrative procedures and laws on administrative disputes adopted in BiH. If, on the other hand, an appeal is not allowed as a regular legal remedy in an administrative procedure, such a decision becomes final and a lawsuit against it can be filed immediately in an administrative dispute, unless otherwise regulated by a separate law.

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27 Judgement of the District Court in Banja Luka, No.: 11 U 0 009977 12 U, dated 12 December 2012;
28 Law on Administrative Procedure of BiH ("Official Gazette of BiH", No.: 29/02, 12/04, 88/07, 93/09 and 41/13); Law on Administrative Procedure of the Brčko District ("Official Gazette of the Brčko District", No.: 3/00, 5/00, 9/02, 8/03, 8/04, 25/05, 8/07, 10/07, 19/07, 2/08, 36/09 and 49/11 – consolidated text); Law on Administrative Procedure of FBiH ("Official Gazette of FBiH", No.: 2/98 and 49/99); Law on General Administrative Procedure of RS ("Official Gazette of RS", No.: 13/02, 87/07 and 50/10); Law on Administrative Disputes of BiH ("Official Gazette of BiH", No.: 19/02, 88/07, 83/08 and 74/10); Law on Administrative Disputes of the Brčko District ("Official Gazette of the Brčko District", No.: 4/00 and 1/01); Law on Administrative Disputes of RS ("Official Gazette of RS", No.: 109/05); Law on Administrative Disputes of FBiH ("Official Gazette of FBiH", No.: 9/05).
Apart from the regular legal remedies, laws on administrative procedure also envisage the following extraordinary legal remedies which may be used only in cases precisely defined by law: renewal of the procedure; amending and revoking of decisions related to the administrative procedure; revocation and cancellation of a decision under the right of supervision; request for protection of legality; extraordinary cancellation of decisions; declaration of the decision to be invalid; and cancellation and amendment of the valid decision with the Party’s consent or at the Party’s request.

The courts in BiH that are authorised to act upon lawsuits in administrative disputes are the Court of BiH at the State level, the FBiH Supreme Court and cantonal courts in the FBiH, the RS Supreme Court and district courts in the RS, and the Appellate Court and the Basic Court in the BD BiH.

Since most attention in environmental protection regulations is paid to the right to access information, and because almost all of the collected judgements of courts in BiH in 2012 concern the implementation of the Freedom of Access to Information Act, it is useful and necessary to discuss the use of legal remedies in access to information decisions of competent authorities.

It was emphasised above that a public authority is obliged to respond to a freedom of access to information request no later than 15 days following the receipt of such a request, except in legally prescribed situations when the deadline is extended, and if they should fail to do so even after the extended deadline of seven (7) days, the applicant has the right to file an appeal with the relevant second-instance body. The same rule applies in terms of the second-instance body acting upon the appeal. Namely, if the second-instance body does not issue a decision upon the appeal within 30 days, and if it does not issue the decision within the additional period which, pursuant to the BiH Law on Administrative Disputes, is seven (7) days, a deadline which may vary depending on the particular law on administrative disputes which is applied, the applicant has the right to file a lawsuit in accordance with the administrative dispute procedure. The inaction of the authorities following a request or an appeal is called “administrative silence”.

It is obvious from the jurisprudence that when courts decide upon the lawsuits against “administrative silence”, they do not deliberate on the merit of a case and do not accept or reject a freedom of access to information request, but they only determine whether a public authority acted in accordance with the stipulated freedom of access to information response deadlines. In case the courts decide that there was “administrative silence”, they order the public authorities to issue an act, within a given deadline, either concerning a freedom of access to information request or concerning an appeal against the “administrative silence” in the second-instance procedure.

Recently, there have been interpretations that, for example, no possibility of appeal against ministerial decisions concerning freedom of access to information requests is prescribed, but only the possibility of a lawsuit in an administrative dispute. Those claims cannot be true, judging from the provisions of the freedom of access to information acts, as well as from jurisprudence. Namely, the freedom of access to information acts, which are applied as lex specialis, prescribe the possibility to appeal the decision, no later than 15 days after the receipt of the act, and it is only after the decision of the second-instance body upon the appeal is made that the act shall become final, opening the possibility to file a lawsuit in an administrative dispute, in accordance with the laws on administrative disputes. If that is not the case, the courts cannot act upon such lawsuits, because they are filed too early in the procedure and are rejected as such.

That was exactly the stance of the District Court in Banja Luka in Case No.: 11 0 U 008640 12 U, which rejected the lawsuit because it was filed too early in the procedure, since the plaintiff had had the opportunity to file an appeal against the first-instance decision, but the plaintiff had not used that legal remedy, thus the preconditions to initiate an administrative dispute were not met.

Furthermore, freedom of access to information acts stipulate the possibility to file an appeal in cases in which a freedom of access to information request was either completely or partially rejected, and

29 Law on the Court of BiH (“Official Gazette of BiH”, No. 49/09 – consolidated text, 74/09 and 97/09);
30 Law on Courts in FBiH (“Official Gazette of FBiH”, No. 22/06, 63/10, 72/10 and 7/13);
31 Law on RS Courts (“Official Gazette of RS”, No. 37/12);
32 Law on the Brčko District Courts (Official Gazette of the Brčko District, No. 19/07, 20/07, 39/09 and 31/11);
33 Article 21 of the Law on Administrative Disputes of BiH (“Official Gazette of BiH”, No.: 19/02, 88/07, 83/08 and 74/10).
34 Judgement of the District Court in Banja Luka, No.: 11 0 U 008640 12 U, dated 04 July 2012;
in the cases of “administrative silence”. However, what happened in practice was a situation in which the court had to make a decision in a lawsuit in which the plaintiff’s freedom of access to information request was approved, but after the expiry of the stipulated deadline of 15 days. The Cantonal Court in Zenica rejected the lawsuit as unfounded and concluded that “provisions of the Freedom of Access to Information Act in the Federation of Bosnia and Herzegovina do not stipulate a possibility to file a complaint, or an appeal, against a decision in which an applicant’s freedom of access to information request was approved, but after the expiry of the stipulated deadline of 15 days from the day of receipt of such a request”.

Finally, the Aarhus Convention in its third pillar envisages the right of access to justice concerning procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment. Legal instruments concerning this provision are provided in the civil procedure codes adopted in BiH, and in the Law on Contractual Relations. It is also important to point out that the Civil Procedure Code of the RS, in its 2013 amendments, introduced the notion of a lawsuit to protect collective interests. Thus, the associations, bodies, institutions or other organisations established in accordance with the law, which protect legally prescribed collective interests and rights of citizens as part of their register of legally prescribed activities, may, when such authority is expressly stipulated by a separate law and under conditions stipulated by that law, file a lawsuit to protect the collective interests and rights against a private person or a legal person who, as part of the conduct of a particular activity or of work in general, by action or omission, seriously violates or jeopardises such collective interests and rights. Those interests may be the interests concerning the environment and its protection, as well as moral, ethnic, consumer, anti-discrimination and other interests, which are guaranteed by law and which must be seriously violated or jeopardised by the actions or work of the person against whom the lawsuit is filed.

2.1.4. Conclusion

During the collection of judgements and information necessary to develop this analysis we faced difficulties in access to judgements of courts in BiH, concerning the administrative procedure of environmental protection, i.e. access to information on the environment and public participation in environmental decision-making, in terms of the Aarhus Convention. In spite of significant assistance from the High Judicial and Prosecutorial Council, it was impossible to access all the judgements issued in 2012 that dealt with this matter, thus it was possible that there were other judgements, to which we had no access.

Anyway, the collected judgements lead to a conclusion that there was not a single judgement issued in BiH in 2012 concerning the right to access environmental information or the right to public participation in environmental decision-making. There was only one judgement directly concerning environmental protection issued by the District Court in Banja Luka and it referred to the Environmental Impact Study.

Furthermore, the collected judgements also point to the fact that during 2012, in BiH, no judgements were issued in administrative disputes in which the courts would apply provisions of the Aarhus Convention and of the environmental protection laws, apart from the above-mentioned judgement of the District Court in Banja Luka which invoked the RS Environmental Protection Law. The collected judgements mostly deal with the application of the freedom of access to information laws, in the sense of private persons who requested information mostly concerning the work of administration authorities in BiH, the Armed Forces issues and the issue of personal data in healthcare. There were a smaller number of lawsuits by legal persons regarding their property rights.

It is currently difficult to discuss reasons behind the lack of jurisprudence in environmental protection, in the sense of provisions of the Aarhus Convention, since we do not have more detailed information, but one could assume that the lawsuits were either not filed or that there is no adequate database of court decisions which would contain such information. Hence, one of the recommendations for future analyses in this area would be to establish a separate section in the databases of court decisions (CMS), which would register court decisions per right to access environmental information or per right to public participation in environmental decision-making.

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35 Judgement of the Cantonal Court in Zenica, No.: 04 0 U 004739 12 U, dated 28 September 2012;
2.2. Protection of Environment through Criminal Law in BiH

Protection of the environment in BiH is conducted, among other ways, through criminal law. Having in mind the complex state structure of BiH, it is already clear that separate criminal legislation is applied depending on the level of government. Thus criminal offences, including criminal offences against the environment, can be found in multiple criminal codes, i.e. in the Criminal Code of BiH (hereinafter: CC BiH), the Criminal Code of the FBiH (hereinafter: CC FBiH), the Criminal Code of the RS (hereinafter: CC RS) and the Criminal Code of the BD BiH (hereinafter CC BD BiH).

Depending on the territory and the Criminal Code which contains the provisions on the criminal offence, the appropriate Criminal Procedure Code, which regulates the rules of criminal procedure according to which the courts, the prosecutors and all the other parties have to act, is applied. Namely, the code applied at the State level is the Criminal Procedure Code of BiH (hereinafter: CPC BiH), at the Entity level the Criminal Procedure Code of the FBiH (hereinafter: CPC FBiH) and the Criminal Procedure Code of the RS (hereinafter: CPC RS), and in the BD BiH it is the Criminal Procedure Code of the BD BiH (hereinafter: CPC BD BiH).

Hence, the jurisdiction of courts in BiH to try such criminal offences depends on the criminal offence itself. The Court of BiH has jurisdiction to act as the first-instance and the second-instance body over criminal offences defined in CC BiH and other laws of BiH. The Criminal Division of the Court of BiH serves as the first-instance body. The first-instance courts in the FBiH may be either municipal or cantonal, while the appeals against the first-instance judgements of the municipal courts are decided by the cantonal courts, and the appeals against the first-instance judgements of the cantonal courts are decided by the FBiH Supreme Court. In the RS, the first-instance courts may be basic courts or district courts, while the appeals against the first-instance judgements of the basic courts are decided by the district courts and the appeals against the first-instance judgements of the district courts are decided by the RS Supreme Court. In the BD BiH, the first-instance court is the Basic Court of the BD BiH, while the Appellate Court of the BD BiH decides on the appeals against the first-instance judgements of the Basic Court of the BD BiH.

a) Crimes against the Environment in BiH

A criminal offence is any unlawful act which is prescribed by law as a criminal offence, whose characteristics are prescribed by law and for the commission of which criminal sanctions are prescribed by law, and which can be committed by act or omission. The perpetrator of a criminal offence may be a private person or a legal person, and the purpose of sanctions is defined as a need to express social condemnation of the committed criminal offence; to influence the perpetrator not to commit criminal offences in the future and to encourage his/her re-education; to influence others not to commit criminal offences; and to raise awareness of the citizens concerning the detrimental effects of criminal offences and the justified sanctions against the perpetrators.

Since there is no harmonised definition in BiH of criminal offences against the environment, for the purpose of this analysis, a criminal offence against the environment in BiH is any criminal offence prescribed by the relevant chapters of criminal codes in BiH. Specifically, in the CC FBiH this issue has been regulated by Chapter XXVI – Criminal offences against the Environment, Agriculture and

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36 Criminal Code of BiH ("Official Gazette of BiH", No. 32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06, 32/07 and 8/10).
37 Criminal Code of the FBiH ("Official Gazette of FBiH", No. 36/03, 37/03, 21/04, 69/04, 18/05, 42/10 and 42/11);
38 Criminal Code of the RS ("Official Gazette of RS", No. 49/03, 70/06, 73/10 and 1/12);
40 Criminal Procedure Code of BiH ("Official Gazette of BiH", No. 36/03, 26/04, 63/04, 13/05, 48/05, 46/06, 76/06, 29/07, 32/07, 53/07, 76/07, 15/08, 58/08, 12/09, 16/09, 93/09 and 72/13);
41 Criminal Procedure Code of the FBiH ("Official Gazette of FBiH", No. 35/03, 37/03, 56/03, 78/04, 28/05, 55/06, 27/07, 53/07, 9/09, 12/10 and 8/13);
42 Criminal Procedure Code of the RS ("Official Gazette of RS", No. 53/12);
44 Law on the Court of BiH ("Official Gazette of BiH", No. 49/09 – consolidated text, 74/09 and 97/09);
45 Law on Courts in the FBiH ("Official Gazette of FBiH", No. 22/06, 63/10, 72/10 and 7/13);
46 Law on the RS Courts ("Official Gazette of RS", No. 37/12);
47 Law on the BD BiH Courts (Official Gazette of the BD BiH, No. 19/07, 20/07, 39/09 and 31/11);
48 The responsibility of a legal person does not refer to BiH, FBiH, RS, BD BiH, canton, city, municipality and local community.
Natural Resources (Articles 303 – 322 of the CC FBiH); in the CC RS by Chapter XXXIII – Criminal offences against the Environment (Article 415 – 437 of the CC RS); and in the CC BD by Chapter XXVI – Criminal offences against the Environment, Agriculture and Natural Resources (Articles 297 - 316 of the CC BD). The criminal offences against the environment prescribed in the CC FBiH and CC BD are almost identical, but somewhat different from the criminal offences against the environment prescribed in the CC RS, in terms of their names, length of sentences (e.g. the criminal offence of Environmental Pollution from Article 303 of the CC FBiH prescribes a prison sentence of between three months and five years, while the criminal offence of Pollution of the Environment from Article 415 of the CC RS prescribes a fine or a prison sentence of up to two years); a qualified form of a criminal offence (e.g. the criminal offence of Environmental Pollution from Article 303 of the CC FBiH, in case it results in the death of one or more persons, prescribes a prison sentence of between one year and twelve years, while the criminal offence of Pollution of the Environment from Article 415 of the CC RS does not have a similar provision), etc.

It certainly does not mean that some other criminal offences found in the regulations in BiH cannot be regarded as criminal offences against the environment, such as Illicit Procurement and Disposal of Nuclear Material (Article 194 of CC BiH), Pollution of Potable Water and Foodstuff (Article 236 of CC FBiH), etc. However, taking into account the information we received, those criminal offences tried before the Court of BiH were not discussed in this analysis, because we did not have the data on such complaints, indictments and judgements.

Bearing in mind the importance of EU regulations in BiH, which was explained in the introduction to this analysis, it was certainly necessary to consult the regulations during the development of the analysis. Namely, the EU Directive 2008/99/EC on the protection of the environment through criminal law is a basis in defining criminal offences against the environment. In its Article 3, it defines the criminal offences against the environment. Apart from listing the criminal offences, the Directive contains an obligation to ensure that the offences are punishable by effective, proportionate and dissuasive criminal penalties and both private and legal persons can be held liable. Until the moment this document was written, no detailed analysis of the degree of harmonisation of the regulations in BiH with the provisions of the Directive 2008/99/EC has been published, so the criminal offences mentioned in the Directive 2008/99/EC have been taken into account during the development of this analysis, without the assessment of the degree of harmonisation of the regulations in BiH with the provisions of the Directive.

Sanctions for criminal offences are prescribed by the criminal codes, and the courts must act within the legal limits, paying attention to all the aggravating and mitigating circumstances. Please find, in Table 1, a review of criminal sanctions defined by the criminal codes in BiH relevant for this analysis.

**Table 1 – Criminal sanctions prescribed by criminal codes in BiH for criminal offenses against the environment**

<table>
<thead>
<tr>
<th>Criminal sanction</th>
<th>Natural person</th>
<th>Legal person</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prison sentence</td>
<td>30 days – 12 years</td>
<td>Prison sentence is replaced by another sanction.</td>
</tr>
<tr>
<td>Fine</td>
<td>In accordance with rules on fines</td>
<td>5,000.00 KM – double the amount of the property damage or of the illegally gained profit.</td>
</tr>
<tr>
<td>Suspended sentence</td>
<td>In case of a suspended sentence, the court issues a sanction against the perpetrator and decides, at the same time, that it will not be carried out if the convicted person does not commit a new crime during the period of time determined by the court, of no less than one year and no more than five years (period of probation).</td>
<td></td>
</tr>
<tr>
<td>Not guilty</td>
<td>The court may pronounce the perpetrator not guilty in circumstances explicitly prescribed by law.</td>
<td></td>
</tr>
<tr>
<td>Warning</td>
<td>A court warning may be pronounced for certain criminal offences.</td>
<td></td>
</tr>
</tbody>
</table>
b) Basic Elements of Criminal Procedure in BiH

The criminal procedure is defined as a legally prescribed procedure against a private person or a legal person who has been suspected of or charged with the commission of one or more criminal offences, and is prescribed by the criminal procedure codes. The simplified version of the criminal procedure stages in BiH is described in Picture 4, with visual representation of the conduct of the criminal procedure.

**Picture 4 – Criminal procedure stages in BiH**

1. **Investigation** - Upon receiving information that a criminal act has been committed, the investigation is conducted by law enforcement agencies and by the relevant prosecutor.

2. **Indictment** - Upon collecting sufficient evidence, the prosecutor raises the indictment, and the first-instance court decides whether or not to confirm the indictment. Upon confirmation of the indictment, the suspect becomes the accused.

3. **Trial before the first-instance court** - The prosecutor defends the indictment. The burden of proof is upon the prosecutor.

4. **Appeal against the judgement of the first-instance court** - An appeal against the judgement of the first-instance court may be lodged with the relevant second-instance court. The second-instance court issues the legally-binding judgement.

Following the receipt of information or official charges for a criminal offence, in other words, following completion of a preliminary investigation, the prosecutor in charge issues an instruction for the initiation of the investigation, provided that there is reasonable doubt that a criminal offence has been committed. It is important to underline that each citizen has responsibility to report a criminal offence to the relevant institution, if he/she has knowledge of it. In addition, failure to do so may represent a criminal offence under the circumstances mandated under the law. The relevant institutions are required to act upon such reports. If the prosecutor in charge believes that there is no sufficient evidence to initiate investigation, the person who reported the criminal offence should be notified of such a decision of the prosecutor, with clear explanation of the reasons for such a decision and detailed instructions with regard to submission of an appeal to the relevant prosecutor’s office.

Once the prosecutor in charge collects a sufficient number of evidence to substantiate reasonable doubt that the suspect committed the criminal offence he/she is charged with, indictment is prepared and submitted to the relevant court for confirmation. Once the indictment is confirmed, the criminal proceedings are conducted before the relevant court in the first instance, and depending on how the defendant pleads, the proceedings may include presentation of evidence. Following presentation of evidence, the relevant court in the first instance passes its judgement, which may result in conviction or acquittal. An appeal may be lodged against the judgement of the court in the first instance, which is to be handled by the relevant second instance court. The judgement of the court in the second instance is valid and binding and the convicted person has the right to pursue available legal remedies under the circumstances mandated under the law, which include appeal to the Constitutional Court of BiH and submission of application to the European Court of Human Rights.

2.2.1. Environmental Protection Efficiency Analysis through Criminal Law in BiH in 2012

Analysis of the mechanism of legal protection in the area of environmental protection in BiH during the course of 2012 was based on the data received from ten cantonal and five district prosecutors’ offices and the Prosecutor’s Office of BD BiH with reference to criminal offences against the environment committed in BiH during 2012, and includes number of reports being processed, a number of ongoing investigations, a number of instructions to not initiate investigation, a number of instructions to terminate investigation, a number of indictments, a number of confirmed indictments, a number of judgements resulting in prison sentence, a fine, a suspended sentence, a warning, a number of judgements resulting in convictions where the defendant was released, a number of judgements resulting in case dismissal and a number of acquittals.
Based on the data received, analysis of efficiency of the mechanism of legal protection in the area of environmental protection was prepared as a comprehensive overview of the operational efficiency of the relevant prosecutor’s offices with special emphasis on: criminal offences against the environment committed in BiH; diversity of criminal offences against the environment in BiH which resulted in confirmed indictments; and pronounced criminal sanctions in cases of criminal offences against the environment in BiH.

a) Overall Efficiency of Relevant Prosecutor’s Offices in Terms of Crimes against the Environment

The purpose of the analysis of this aspect of efficiency of the mechanism of legal protection in BiH was to prepare a comprehensive overview of the work of the relevant prosecutor’s offices in the area of processing of criminal offences against the environment in BiH, with separate analyses prepared for the FBiH, the RS and BD BiH. The intended purpose of developing separate analyses was to try to assess the efficiency of the work of these institutions through a comparison of the work of the relevant prosecutor’s offices, given the lack of data to indicate their efficiency in other areas of their work, pertaining to other types of criminal offences.

Chart 5 – Overall Efficiency of Relevant Prosecutor’s Offices in the FBiH in Terms of Crimes against the Environment in 2012

Chart 6 – Overall Efficiency of Relevant Prosecutor’s Offices in the RS in Terms of Crimes against the Environment in 2012

Chart 7 – Overall Efficiency of Relevant Prosecutor’s Offices in the BD BiH in Terms of Crimes against the Environment in 2012
Analysis of the data presented in charts 5, 6 and 7 indicates that there are no major differences in terms of the analysed aspects of work of the prosecutor’s offices in the FBiH, the RS and BD BiH. Therefore, it can be concluded that the relevant prosecutor’s offices in BiH perform their duties equally well.

In addition, it may also be noted that the relevant prosecutor’s offices work on a substantial number of cases against the environment. The prosecutor’s offices receive a high number of reports of possible criminal offences and conduct investigations in an even higher number of cases than the number of cases reported.

It is also important to note that the data submitted indicates that investigation was suspended during the course of 2012 in a substantial number of cases, in addition to a decision to not proceed with investigation made in 256 cases in the FBiH, 313 cases in the RS and 11 cases in BD BiH. Without additional data, it shall remain impossible to assess the reasons that resulted in a decision to suspend investigation or not initiate it.

The analysed data suggests that there is negligible difference between raised and confirmed indictments, which points to a conclusion that in most cases the indictments prepared by the relevant prosecutors’ offices get confirmed, which further suggests that the relevant prosecutors’ offices conduct their investigations appropriately.

Furthermore, the ratio between convictions on one side and case dismissals and acquittals on the other side suggests that the relevant prosecutor’s offices represent their cases well most of the time, which again indicates the appropriate level of care dedicated to the representation of cases of crimes against the environment in BiH by the relevant prosecutor’s offices.

b) Diversity of Crimes against the Environment in BiH per Confirmed Indictments

The purpose of the analysis of this aspect of the available legal mechanisms for environmental protection in BiH in 2012 is to test the distribution of crimes against the environment in BiH in cases in which indictments were confirmed. In the section 2.2.1.a) of the analysis it was concluded that indictments are confirmed in most cases, which indicated thorough investigation conducted by the relevant prosecutor’s offices in cases against the environment, and the issue of identification of criminal offences for which indictments were confirmed will be looked into further in the text.

Chart 8 – Diversity of Crimes against the Environment in BiH in 2012 per Confirmed Indictments

The data presented in Chart 8 above indicates that forestry theft was by far the most common criminal offence against the environment (Article 316 Criminal Code of the FBiH; Article 430 of the Criminal Code of the RS and Article 310 of the Criminal Code of BD of BiH). This criminal offence consists of cutting down for the purpose of theft of one or more trees, whereby the quantity of wood obtained in such way exceeds two cubic metres (CC FBiH and CC BD BiH), or three cubic meters (CC RS). The criminal sanctions mandated for this criminal offence range from up to three years in prison (FBiH / BD), a fine or two years in prison (RS). The qualified form of this criminal offence exists if the act was committed with the intent to sell the wood, or if the quantity of wood exceeds five cubic metres (FBiH/BD BiH), or eight cubic metres (RS); or if the act was committed in a protected woodland, national park or other kind of special purpose woodland. In those cases, the sanctions vary from one to five years in prison (FBiH/BD) to six months to five years in prison plus fine (RS).
The fact that only one criminal offence against the environment in BiH accounts for 96% of the confirmed indictments suggests that other criminal offences are either not reported or that the relevant prosecutor’s offices treat other criminal offences against the environment in BiH inconsistently.

It is also of some concern that forest theft does not constitute a criminal offence against the environment in the context of the Directive (2008/99/EC) on the protection of the environment through criminal law. The only exception is the qualified form of the criminal offence of forestry theft committed in protected woodland, national park or other type of special purpose woodland, in which case this criminal offence could be treated as the criminal offence against the environment in the context of the provisions of Article 3(f), (g) and (h) of the Directive. However, data on the qualified form of this criminal offence were not available during the process of development of this analysis, which is why it is impossible to determine with certainty the degree of prevalence of this form of criminal offence in practice.

Criminal offences against the environment in BiH, which also contain the elements of the criminal offences mandated under the Directive (2008/99/EC) on the protection of the environment through criminal law, could include the criminal offences set forth under the provisions of the following articles: 303, 304, 305, 314 and 321 of the CC BiH; articles 415, 416, 418, 419, 420, 428, 429 and 434 of the CC RS; and articles 297, 298, 299, 308 and 315 of the CC BD BiH.

However, the analysis of the data submitted indicated that in the RS and BD BiH these criminal offences were not represented in any of the cases opened by the relevant prosecutor’s offices, and due to lack of more detailed information, it remains impossible to identify the reasons for such finding. Nevertheless, in the FBiH, 18 cases have been opened in addition to 11 ongoing investigations and 3 confirmed indictments for the above criminal offences. Therefore, the number of confirmed indictments relating to these criminal offences accounts to 0.2% of all of the confirmed indictments for criminal offences against the environment in BiH.

The analysed data does not indicate that a single judgement was made in a case against the environment in BiH in the context of the Directive (2008/99/EC) on the protection of the environment through criminal law.

All analysed data point to the fact that there are no valid judgements in cases against the environment in BiH, during the course of 2012, in the context of the Directive (2008/99/EC) on the protection of the environment through criminal law, in addition to indicating very modest number of actions taken for the purpose of processing these criminal offences by the relevant prosecutors’ offices in BiH.

c) Types of Criminal Sanctions Pronounced in Completed Cases of Crimes against the Environment in BiH

The purpose and the aim of the analysis of data from the perspective of pronounced criminal sanctions in cases of processed criminal offences against the environment in BiH is to determine the number and type of the pronounced sanctions, taking into account the fact that the section 2.2.1.a) of the Analysis pointed to the conclusion that during the course of 2012 most of the confirmed indictments resulted in convictions.

Chart 9 – Types of Criminal Sanctions Pronounced in Completed Cases of Crimes against the Environment in BiH in 2012

Convictions in Cases of Crimes against Environment in BiH

- Prison sentence: 0%
- Fine: 0%
- Suspended sentence: 0%
- Warning: 0%
- Acquittal: 77%
- Conviction: 15%
The data presented in Chart 9 points to a conclusion that the relevant courts pronounce a suspended sentence in most cases which result in conviction, while it is a relatively rare practice that prison sentence or fine result from the proceedings in these cases. It remains questionable whether such type of criminal sanction truly fulfils the purpose of punishment and ensures adequate protection of the environment. Nevertheless, considering the lack of data to indicate the number of repeated criminal offences committed by the same perpetrators, it remains impossible to objectively analyse the efficiency of the pronounced criminal sanctions.

2.2.2. Conclusion

The initial analysis of the data on environmental protection through criminal law protection in BiH suggests that the relevant prosecutor’s offices in BiH conduct their investigations, raise indictments and represent their cases in court effectively and efficiently. However, a more detailed analysis may lead to a conclusion that the relevant prosecutor’s offices focus a lot of their attention to only one criminal offence against the environment; the criminal offence of forest theft. However, due to lack of data, it is impossible to identify the reason for such approach.

Analysing the data submitted from the perspective of the substance of the Directive (2008/99/EC) on the protection of the environment through criminal law, it appears that there are no completed cases of criminal offences against the environment in the context of this Directive in 2012 in BiH, while the percentage of ongoing cases that fall under this category is negligible.

Furthermore, the analysis of pronounced criminal sanctions suggests that most of the convictions resulted in a suspended sentence, which, given the substantial number of criminal offences against the environment brings into question the adequacy of such criminal sanctions. However, due to the lack of additional data, especially data on the number of recidivists, it remains impossible to come up with an objective and adequate conclusion in this regard.

For the purpose of improvement of the existing situation, the following measures could be implemented:

- Harmonise regulations in effect in BiH with the Directive (2008/99/EC) on the protection of the environment through criminal law;
- Implement training of prosecutors of the relevant prosecutor’s offices in methods and importance of prosecuting crimes against the environment in BiH; and
- Implement training of judges of the relevant courts on importance and adequate methods of protection of the environment through the system of criminal law.

2.3. Protection of Environment through Minor Offence Law in BiH in 2012

In addition to the forms of legal protection of the environment detailed above, protection of the environment is also provided through the system of the minor offence law with the relevant provisions detailed under the Law on Minor Offences of the FBiH, Law on Minor Offences of the RS and Law on Minor Offences of BD BiH. Minor offences, as well as the sanctions for those offences, are detailed under the relevant laws and regulations in the area of environmental protection in BiH, which are listed in the Appendix 1 of this Analysis. For the purpose of this Analysis, Table 2 provides an overview of the sanctions mandated for physical and legal persons under the provisions of the relevant regulations in effect in BiH.

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49 Law on Minor Offences of the FBiH (Official Gazette of the FBiH, No: 31/06).
50 Law on Minor Offences of the RS (Official Gazette of the RS, No: 34/06, 1/09 and 29/10).
51 Law on Minor Offences of BD BiH (Official Gazette of BD BiH, No: 24/07).
### Table 2 – Overview of Sanctions Mandated under the Relevant Laws in the area of Environmental Protection in BiH

<table>
<thead>
<tr>
<th>Law</th>
<th>Article(s)</th>
<th>Sanctions mandated</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Physical Persons&lt;sup&gt;52&lt;/sup&gt;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>FB&lt;sup&gt;2&lt;/sup&gt;iH</td>
</tr>
<tr>
<td>Law on Environmental Protection of the FBiH</td>
<td>116</td>
<td>300.00 to 1,500.00 KM</td>
</tr>
<tr>
<td>Law on Water Resources of the FBiH</td>
<td>204 – 206</td>
<td>100.00 to 5,000.00 KM</td>
</tr>
<tr>
<td>Law on Waste Management of the FBiH</td>
<td>53</td>
<td>500.00 to 2,000.00 KM</td>
</tr>
<tr>
<td>Law on Air Protection of the FBiH</td>
<td>35 and 36</td>
<td>500.00 to 2,000.00 KM</td>
</tr>
<tr>
<td>Law on Nature Protection of the FBiH</td>
<td>232 235</td>
<td>50.00 to 3,000.00 KM</td>
</tr>
<tr>
<td></td>
<td></td>
<td>RS</td>
</tr>
<tr>
<td>Law on Environmental Protection of the RS</td>
<td>132 and 133</td>
<td>1,000.00 to 3,000.00 KM</td>
</tr>
<tr>
<td>Law on Water Resources of the RS</td>
<td>210 – 213</td>
<td>500.00 to 18,000.00 KM</td>
</tr>
<tr>
<td>Law on Waste Management of the RS</td>
<td>56</td>
<td>500.00 to 10,000.00 KM</td>
</tr>
<tr>
<td>Law on Air Protection of the RS</td>
<td>75 – 78</td>
<td>500.00 to 3,000.00 KM and protective measures</td>
</tr>
<tr>
<td>Law on Nature Protection of the RS</td>
<td>46</td>
<td>100.00 to 1,000.00 KM</td>
</tr>
<tr>
<td></td>
<td></td>
<td>BD BiH</td>
</tr>
<tr>
<td>Law on Environmental Protection of BD</td>
<td>112</td>
<td>500.00 to 2,000.00 KM</td>
</tr>
<tr>
<td>Law on Protection of Water of BD</td>
<td>63</td>
<td>100.00 to 1,700.00 KM</td>
</tr>
<tr>
<td>Law on Waste Management of BD</td>
<td>56</td>
<td>500.00 - 10,000.00 KM</td>
</tr>
<tr>
<td>Law on Air Protection of BD</td>
<td>45</td>
<td>100.00 to 15,000.00 KM</td>
</tr>
<tr>
<td>Law on Nature Protection of BD</td>
<td>46</td>
<td>100.00 to 1,000.00 KM</td>
</tr>
</tbody>
</table>

By mandating sanctions for minor offences in the provisions of the relevant environmental regulations in effect in BiH and implementing provisions on minor offences as stipulated under the laws on minor offences, penalty clauses detailed under a number of environmental directives of the EU were introduced in the legal systems of the entities and BD BiH. For instance, the provision of Article 36, Paragraph 2 of the Directive (2008/98/EC) of the European Parliament and the Council of 19 November 2008 on waste management and abolishment of certain directives<sup>54</sup> contains a provision which mandates that sanctions must be efficient, proportional and deterring. This requirement has also been introduced into the legal system in place in BiH, through the provisions of the relevant laws of the entities and BD BiH, that is, through the laws that mandate the area of waste management, that fall under the category of minor offences regulations.

### a) Basics of the Minor Offence Procedure

A minor offence is defined as an act of violation of the public order, as mandated under the law or other regulations, which has certain features and for which appropriate sanctions are mandated.<sup>55</sup>

A minor offence may result from an act or from a failure to act and may be committed both by physical and legal persons.

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<sup>52</sup> Data detailed under this column also applies to responsible officials within the legal entity.

<sup>53</sup> Data detailed under this column also applies to entrepreneurs and institutes.

<sup>54</sup> Official Gazette No: 312, dated 22 November 2008.

<sup>55</sup> Article 2 of the Law on Minor Offences of the FBiH (Official Gazette of the FBiH No. 31/06); Article 1 of the Law on Minor Offences of the RS (Official Gazette of the RS, No. 34/06, 1/09 and 29/10); Article 3 of the Law on Minor Offences of BD BiH (Official Gazette of BD BiH, No 24/07).
The courts in BiH responsible for handling minor offences in the first instance are the relevant municipal courts in the FBiH and the relevant basic courts in the RS and BD BiH, in addition to the relevant cantonal courts in the FBiH, the relevant district courts in the RS and the Appellate Court in the BD BiH, in the second instance.

Figure 1 – Simplified Overview of the Course of Minor Offence Proceedings in BiH

1. Relevant institution issues minor offence charges which specify sanctions for a given minor offence. The defendant either accepts responsibility for the minor offence or demands that a court decide on whether he/she is responsible or not.

2. Minor offence proceedings before a municipal or basic court are finalised with issuance of a decision on minor offence which either terminates the proceedings, finds the defendant guilty of omission or finds the defendant guilty of minor offence.

3. An appeal may be lodged against the decision on minor offence of a municipal or basic court to a cantonal or a district court.

Minor offence proceedings may be initiated with issuance of the minor offence charges by the authorised institution or by filing a request for initiation of the minor offence proceedings to the relevant court in the first instance. Minor offence charges are issued by a relevant institution when once such institution finds that a minor offence was committed as mandated under a relevant regulations. In addition to the identification of a minor offence and a quote of the relevant provisions of the law, the minor offence charges also include a sanction and instruction to the defendant as to his/her right to file a request for initiation of the proceedings before the relevant court. In addition, the minor offence charges also detail the name of the court and the timeframe for submission of the request for initiation of court proceedings in a minor offence case, should the defendant decide to pursue that course of action.

The defendant in a minor offence case may opt to accept responsibility for the minor offence by paying a fine. Should the defendant decide not to pursue legal action in court, it shall be deemed that the defendant accepted responsibility, in which case minor offence charges become final and binding.

Proceedings before the court may also be initiated in two ways, namely by initiation of the proceedings at the request of the applicant, in cases when it is not possible to issue a minor offence charges or at the request of the defendant to initiate court proceedings to rule whether the defendant is responsible for the minor offence cited in the minor offence charges.

Minor offence proceedings are usually completed after one verbal hearing, and are concluded by issuance of a decision on minor offence, which may indicate that minor offence proceedings are to be dismissed, that the defendant is responsible for omission, or that the defendant is found guilty for

56 Detailed layout of the minor offence charges template is mandated under the provisions of Article 34 of the Law on Minor Offences of the FBiH, Article 33 of the Law on Minor Offences of the RS and Article 35 of the Law on Minor Offences of BD BiH.

57 Article 54 of the Law on Minor Offences of the FBiH; Article 54 of the Law on Minor Offences of the RS; and Article 61 of the Law on Minor Offences of BD BiH.

58 Article 55 of the Law on Minor Offences of the FBiH; Article 55 of the Law on Minor Offences of the RS; and Article 62 of the Law on Minor Offences of BD BiH.
Analysis of Court Decisions in the Area of Environmental Protection in Bosnia and Herzegovina in 2012

Appeal may be lodged against the decision of the court to the relevant cantonal court in the FBiH, the relevant district court in the RS or the Appellate Court in BD BiH.

2.3.1. Environmental Protection Analysis through Minor Offence Law in BiH

Given the data provided by the relevant institutions, during the course of development of this Analysis it was not possible to analyse the number of minor offence charges issued that were accepted by defendants, which would represent the first step of the minor offence proceedings, as demonstrated by Figure 6 below. In fact, it was not even possible to conduct a detailed analysis of decisions made by the relevant courts in minor offence proceedings in 2012, given the fact that data was submitted for the period between 2011 and 2013. However, the data submitted leads to a conclusion that the vast majority of the relevant courts in BiH did not submit the data requested, while less than a half of those that did confirmed existence of minor offence cases in the area of environmental protection, as shown in Chart 10. In addition, none of the second instance courts submitted data of relevance to this matter.

![Chart 10 – Overview of Data Submitted](image)

Bearing in mind the lack of data necessary for the development of a relevant and objective analysis in terms of environmental protection in BiH during the course of 2012 through legal protection in the area of minor offences, the only choice available was to present an overview of number of minor offence cases processed in accordance with the provisions of the relevant environmental regulations in effect in BiH.

![Chart 11 – Number of Minor Offence Cases Processed under Environmental Regulations in Effect in BiH](image)

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59 Article 56 of the Law on Minor Offences of the FBiH; Article 56 of the Law on Minor Offences of the RS; and Article 63 of the Law on Minor Offences of BD BiH.
As the Chart 11 suggests, there are very few cases falling under the category of minor offences against the environment, with a vast majority referring to minor offences detailed under the provisions of the Law on Water Resources of the FBiH. Based on the limited scope of the data submitted, in all cases the minor offence charges were accepted, with exception of one case, in which charges were dismissed.

2.3.2. Conclusion

Due to insufficient scope of the data submitted, making definite conclusions on the subject of environmental protection provided by the courts of BiH in the area of legal protection in minor offence cases represented a major challenge. In fact, what was evident from the data provided was that there was not many cases processed by courts in minor offence cases against the environment in BiH; in other words, there was not sufficient data available on this subject matter, for reasons that remained unknown during the course of development of this Analysis. Furthermore, according to the data available, where such cases were processed by the relevant courts, a substantial disparity was noted in terms of representation of individual laws in effect in BiH, with absolute majority of the cases relating to minor offences mandated under the provisions of the Law on Water Resources of the FBiH.

It is to be suspected that in reality, the number of minor offence cases in the area of environmental protection in BiH exceeds the number presented here. In addition, this analysis did not include cases processed under the cantonal, city and municipal regulations in the area of environmental protection, which are certainly present in practice (e.g. Goražde Municipal Court confirmed existence of such cases).

Having already concluded that there are relatively few minor offence cases against the environment tried before minor offence courts in BiH, and having considered the fact that where there were such cases, they almost always were limited to minor offences mandated under the provisions of the Law on Water Resources of the FBiH, which mandates higher fines, it may be concluded that the sanctions for minor offences mandated under the law were not severe enough. Therefore, it would be necessary to reform the minor offences laws to mandate that fines should be proportionate to profit earned, assuming that higher profit leads to a more severe pollution of the environment. That way, small and large polluters would be equally discouraged from polluting the environment and violating the relevant provisions of the environmental regulations in effect in BiH.

Bibliography:
1. Bjelajac Ž. and others, EU Environmental Policy and its Legal Framework (Original title: Ekološka politika EU and njen krivično – pravni okvir), MP 4, 2011;
3. Directive (2003/35/EC) of the European Parliament and the Council dated 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC, with respect to public participation and access to justice (SL L 156, 25.06.2003);
5. Legal Lexicon, Institute of Lexicography, Zagreb, 2006;
6. Protection of Environment through Criminal Law (Official Gazette 328, 06 December 2008);

60 Law on Water Resources of the FBiH (Official Gazette of the FBiH, No: 70/06).
APPENDIX 1

Current Laws at the level of Bosnia and Herzegovina

1. The Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters (Official Gazette of BiH – MU, No: 8/08);
2. Law on Freedom of Access to Information (Official Gazette of BiH, No: 28/00, 45/06, 102/09 and 62/11);
3. Law on Council of Ministers of Bosnia and Herzegovina (Official Gazette of BiH, No: 30/03, 42/03, 81/06, 76/07, 81/07 and 24/08);
4. Law on Administration (Official Gazette of BiH, No: 32/02 and 102/09);
5. Law on Ministries and other Bodies of Administration in Bosnia and Herzegovina (Official Gazette of BiH, No: 5/03, 42/03, 26/04, 42/04, 45/06, 88/07, 35/09, 59/09 and 103/09);
6. Law on Court of BiH (Official Gazette of BiH, No. 49/09 – revised text, 74/09 and 97/09);
7. Law on Civil Service and Institutions of Bosnia and Herzegovina (Official Gazette of BiH, No: 12/02, 19/02, 8/03, 35/05, 4/04, 17/04, 26/04, 37/04, 48/05, 2/06, 32/07, 43/09, 8/10 and 40/12);
8. Law on Administrative Procedure (Official Gazette of BiH, No: 29/02, 12/04, 88/07, 93/09 and 41/13);
9. Law on Administrative Disputes (Official Gazette of BiH, No: 19/02, 88/07, 83/08 and 74/10);
10. Criminal Code of BiH (Official Gazette of BiH, br. 32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06, 32/07 and 8/10);
11. Law on Criminal Procedure of BiH (Official Gazette of BiH, br. 36/03, 26/04, 63/04, 13/05, 48/05, 46/06, 76/06, 29/07, 32/07, 53/07, 76/07, 15/08, 58/08, 12/09, 16/09, 93/09 and 72/13);
12. Law on Protection of Plants (Official Gazette of BiH, No: 23/03);
13. Law on Protection of New Species of Plants in BiH. (Official Gazette of BiH, No: 14/10 and 32/13);
14. Law on Seeds and Plant Propagating Material of Agricultural Plants in BiH (Official Gazette of BiH, No: 03/05);
15. Law on Veterinary Medicine BiH (Official Gazette of BiH, No: 34/02);
16. Law on Animal Health and Wellbeing (Official Gazette of BiH, No: 25/09);
17. Law on Agriculture, Food and Rural Development of BiH (Official Gazette of BiH, No: 50/08);
18. Law on GMO (Official Gazette of BiH, No: 23/09);
19. Law on Phytopharmacy of BiH (Official Gazette of BiH, No: 49/04);
20. Law on Concessions (Official Gazette of BiH, No: 32/02 and 56/04);
21. Law on Radiation and Nuclear Safety (Official Gazette of BiH, No: 88/07);

Current Laws at the Level of the Federation of Bosnia and Herzegovina

1. Law on Freedom of Access to Information of the FBiH (Official Gazette of the FBiH, No: 32/01 and 48/11);
2. Law on Organisation of Bodies of Administration in the FBiH (Official Gazette of the FBiH, No: 35/05);
3. Law on Federal Ministries and other Bodies of Federal Administration (Official Gazette of the FBiH, No: 58/02, 19/03, 38/05, 2/06 and 61/06);
4. Law on Civil Service in the FBiH (Official Gazette of the FBiH, No: 29/03, 23/04, 39/04, 54/04, 67/05, 8/06 and 4/12);
5. Law on Courts in the FBiH (Official Gazette of the FBiH, br. 22/06, 63/10, 72/10 and 7/13);
6. Law on Principles of Self-Government in the FBiH (Official Gazette of the FBiH, No: 49/06 and 51/09);
7. Law on Administrative Procedure (Official Gazette of the FBiH, No: 2/98 and 48/99);
8. Law on Administrative Disputes (Official Gazette of the FBiH, No: 9/05);
9. Criminal Code of the FBiH (Official Gazette of the FBiH, No: 36/03, 37/03, 21/04, 69/04, 18/05, 42/10 and 42/11);
10. Law on Criminal Procedure of the FBiH (Official Gazette of the FBiH, No: 35/03, 37/03, 56/03, 78/04,
11. Law on Minor Offences of the FBiH (Official Gazette of the FBiH, No: 31/06);
12. Law on Environmental Protection (Official Gazette of the FBiH, No: 33/03 and 38/09);
13. Law on Environmental Protection Fund of the FBiH (Official Gazette of the FBiH, No: 33/03);
14. Law on Nature Protection (Official Gazette of the FBiH, No: 33/03);
15. Law on Water Resources (Official Gazette of the FBiH, No: 70/06);
16. Decree on Forests (Official Gazette of the FBiH, No: 83/09, 26/10, 38/10 and 62/11);
17. Law on Conditions and Methods of Wood Processing (Official Gazette of the FBiH, No: 27/97 and 25/06);
18. Law on Seeds and Plant Propagating Material of Forest and Horticultural Species of Trees and Shrubs (Official Gazette of the FBiH, No: 71/05 and 8/10);
19. Law on Air Protection (Official Gazette of the FBiH, No: 33/03 and 4/10);
20. Law on Veterinary Medicine (Official Gazette of the FBiH, No: 46/00);
21. Law on Hunting (Official Gazette of the FBiH, No: 4/06 and 8/10);
22. Law on Fresh Water Fishing (Official Gazette of the FBiH, No: 64/04);
23. Law on Agriculture (Official Gazette of the FBiH, No: 88/07 and 4/10);
24. Law on Agricultural Land (Official Gazette of the FBiH, No: 52/09);
25. Law on Protection from Ionising Radiation and Nuclear Safety (Official Gazette of the FBiH, No: 15/99);
26. Law on Mining of the FBiH (Official Gazette of the FBiH, No: 26/10);
27. Law on Geological Research (Official Gazette of the FBiH, No: 9/10);
28. Law on Urban Planning and Use of Land at the level of the FBiH (Official Gazette of the FBiH, No: 2/06, 72/07, 32/08, 4/10, 13/10 and 45/10);
29. Law on Concessions (Official Gazette of the FBiH, No: 40/02 and 61/06);
30. Law on Electricity of the FBiH (Official Gazette of the FBiH, No: 66/13);
31. Law on Use of Renewable Sources of Energy and Efficient Cogeneration (Official Gazette of the FBiH, No: 70/13);
32. Law on Waste Management (Official Gazette of the FBiH, No: 33/03 and 72/09);
33. Law on “Una” National Park (Official Gazette of the FBiH, No: 44/08);
34. Law on Health Protection (Official Gazette of the FBiH, No: 46/10);
35. Law on Statistics of the FBiH (Official Gazette of the FBiH, No: 63/03 and 9/09).

Current Laws at the Level of Republika Srpska

1. Law on Freedom of Access to Information of the RS (Official Gazette of the RS, No: 20/01);
2. Law on Republic Administration (Official Gazette of the RS, No: 118/08, 11/09, 74/10, 86/10 and 24/12);
3. Law on Local Self-Government (Official Gazette of the RS, No: 101/04, 42/05 and 118/05);
4. Law on Administrative Procedure (Official Gazette of the RS, No: 13/02, 87/07 and 50/10);
5. Law on Courts of the RS (Official Gazette of the RS, br. 37/12);
6. Law on Administrative Disputes (Official Gazette of the RS, No: 109/05);
7. Criminal Code of the RS (Official Gazette of the RS, br. 49/03, 70/06, 73/10 and 1/12);
8. Law on Criminal Procedure of the RS (Official Gazette of the RS, br. 53/12);
9. Law on Minor Offences of the RS (Official Gazette of the RS, No: 34/06, 1/09 and 29/10);
10. Law on Environmental Protection (Official Gazette of the RS, No: 71/12);
11. Law on Environmental Protection Fund and Financing of Environmental Protection (Official Gazette of the RS, No: 51/02 and 53/07);
12. Law on Nature Protection (Official Gazette of the RS, No: 50/02, 34/08 and 59/08, revised text – 113/08);
13. Law on Water Resources (Official Gazette of the RS, No: 50/06 and 92/09);
14. Law on Forests (Official Gazette of the RS, No: 75/08);
15. Law on Reproductive Material of Forest Trees (Official Gazette of the RS, No: 60/09);
16. Law on Protection of Plants in the RS (Official Gazette of the RS, No: 25/09);
17. Law on Plant Protection Products (Official Gazette of the RS, No: 52/10);
18. Law on Air Protection (Official Gazette of the RS, No: 53/02);
19. Law on Protection and Wellbeing of Animals (Official Gazette of the RS, No: 111/08);
20. Law on Veterinary Medicine in the RS (Official Gazette of the RS, No: 42/08);
21. Law on Hunting (Official Gazette of the RS, No: 68/09);
22. Law on Fishing (Official Gazette of the RS, No: 4/02 and 58/09);
23. Law on Beekeeping (Official Gazette of the RS, No: 52/10);
24. Law on Agriculture (Official Gazette of the RS, No: 70/06, 20/07, 86/07 and 71/09);
25. Law on Agricultural Land (Official Gazette of the RS, No: 93/06, 86/07 and 14/10);
26. Law on Organic Food Production (Official Gazette of the RS, No: 75/04 and 71/09);
27. Law on GMO (Official Gazette of the RS, No: 103/08);
28. Law on Waste Management (Official Gazette of the RS, No: 53/02 and 65/08);
29. Law on Protection from Non-Ionising Radiation (Official Gazette of RS", No: 2/05);
30. Law on Chemicals (Official Gazette of the RS, No: 25/09);
31. Law on Biocides (Official Gazette of the RS, No: 37/09);
32. Law on Urban Planning and Construction (Official Gazette of the RS, No: 40/13);
33. Law on Concessions (Official Gazette of the RS, No: 59/13);
34. Law on Energy Production (Official Gazette of the RS, No: 49/09);
35. Law on Mining (Official Gazette of the RS, No: 59/12);
36. Law on Geological Research (Official Gazette of the RS, No: 51/04);
37. Law on National Parks (Official Gazette of the RS, No: 75/10);
38. Law on “Sutjeska” National Park (Official Gazette of the RS, No: 121/12);
39. Law on Meteorology and Hydrology of the RS (Official Gazette of the RS, No: 20/00);
40. Law on Statistics of the RS (Official Gazette of the RS, No: 85/03).

Current Laws at the Level of Brčko District of BiH
1. Law on Government of Brčko District of BiH (Official Gazette of BD BiH, No: 19/07, 36/07, 38/07, 2/08, 17/08, 23/08, 14/10 and 28/12);
2. Law on Civil Service in Institutions of Brčko District of BiH (Official Gazette of BD BiH, No: 28/06, 29/06, 19/07, 2/08, 44/08, 25/09, 26/09 and 04/13);
3. Law on Courts of BD of BiH (Official Gazette of BD, No. 19/07, 20/07, 39/09 and 31/11);
4. Law on Administrative Procedure of Brčko District of BiH (Official Gazette of BD BiH, No: 3/00, 5/00, 9/02, 8/03, 8/04, 25/05, 8/07, 10/07, 19/07, 2/08, 36/09 and 48/11 revised text);
5. Law on Administrative Disputes (Official Gazette of BD BiH, No: 4/00 and 1/01);
6. Criminal Code of BD of BiH (Official Gazette of BD, No. 33/13 revised text);
7. Law on Criminal Procedure of BD of BiH (Official Gazette of BD BiH, No. 33/13 revised text);
8. Law on Minor Offences of BD BiH (Official Gazette of BD, No: 24/07);
9. Law on Environmental Protection (Official Gazette of BD BiH, No: 24/04, 1/05, 19/07 and 9/09);
10. Law on Nature Protection (Official Gazette of BD BiH, No: 24/04, 1/05, 19/07 and 9/09);
11. Law on Protection of Water Resources of Brčko District of BiH (Official Gazette of BD BiH, No: 25/04 and 19/07);
12. Law on Freshwater Fishing (Official Gazette of BD, No: 35/05 and 19/07);
13. Law on Forests of Brčko District of BiH (Official Gazette of BD BiH, No: 14/10);
14. Law on Air Protection (Official Gazette of BD BiH, No: 25/04, 1/05, 19/07 and 9/09);
15. Law on Agricultural Land (Official Gazette of BD BiH, No: 32/04, 20/06 and 19/07);
16. Law on Urban Planning and Construction (Official Gazette of BD BiH, No: 29/08);
17. Law on Concessions (Official Gazette of BD BiH, No: 41/06, 19/07 and 2/08);
18. Law on Waste Management (Official Gazette of BD BiH, No: 25/04, 1/05, 19/07, 2/08 and 9/09).