

## OBSTACLES TO PUBLIC PARTICIPATION IN ENERGY DECISION-MAKING IN SOUTHEAST EUROPE

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### 1. INTRODUCTION

Public participation sets a system of checks and balances, facilitates sustainable development and equitable wealth distribution<sup>1</sup> and safeguards healthy environment. By having *access to information*, by *participating* in energy projects that affect their environment, and by having *access to justice*, citizens increase the accountability and transparency of decisions taken by their governments, companies and intergovernmental institutions.

This paper will give a comparative overview of obstacles to public participation in three *energy projects* in three states of Southeast Europe, namely Bulgaria, Croatia and Bosnia and Herzegovina. The presumptions among investors and state bureaucrats<sup>2</sup> is that publics are either not interested or not educated enough to participate in highly technical policy-making, or even that greater participation would lead to inefficiency and chaos.<sup>3</sup>

EU approximation of Southeast European countries implies strengthening of legislative provisions for public participation, but not their implementation in energy decision-making.

Environmental organizations of Southeast Europe lack local experience and expertise, at the same time having the prevailing attitude of governments as opponents, rather than partners. Governments see environmental NGOs as an unproductive or even counterproductive part of the society, due to the post-socialist political culture that stands no critique; *higher public (state) interest*; or corruption bonded to energy projects. Low public awareness about energy projects and environment contributes to incomppliance of competent authorities. Relations between energy projects and participatory democracy are complex to the extent that the list of obstacles can hardly be exhaustive. Publics have a recognized right to participate in energy decision-making, which gives impetus to exploring and mitigating these obstacles.

### 2. PUBLIC PARTICIPATION IN CONCEPT AND THE LAW

Public participation can be defined as “any interaction between governments, companies or international agencies and civil society [...] including the process by which stakeholders enter a discourse, create partnerships, share information, and otherwise interact to create, implement and evaluate de-

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<sup>1</sup> Barry Barton, “Underlying Concepts and Theoretical Issues in Public Participation in Resources Development,” in *Human Rights in Natural Resources Development – Public Participation in the Sustainable Development of Mining and Energy Resources*, eds. Donald Zillman, Alastair Lucas, and George Pring (Oxford: Oxford University Press, 2002).

<sup>2</sup> Ibid.

<sup>3</sup> David W. Orr, “US Energy Policy and the Political Economy of Participation,” *The Journal of Politics* 41 (1979): 1027-1056.

velopment policies, projects and programs.”<sup>4</sup> From a process-based point of view, it raises public awareness, fosters a sense of empowerment in participants, strengthens local communities and other groups, reduces conflict among competing interests, facilitates governmental accountability and contributes to the legitimacy of decisions. Substantively observed, public participation contributes to equitability of results; it is more environmentally protective, more reflective of local needs and public values.<sup>5</sup> Public participation consists of the right to access to information, right to public participation in environmental decision-making, and right to access to justice. All three pillars of the concept are best protected on regional levels, especially North American and European.<sup>6</sup>

When talking about regional instruments of environmental law, *Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters* (Aarhus Convention) is the most elaborated instrument in terms of all three pillars. Even though mainly European, States Parties to the Convention are also US, Canada and Israel, as well as the European Community.<sup>7</sup> Aarhus Convention entered into force in 2001 and since then, Union is transposing the three main pillars of the convention into EU legislation.<sup>8</sup> The pillar of access to justice has not been transposed into the Community Law and these obligations are to be exercised by the Member States, parties to the Convention themselves.<sup>9</sup> Apart from the Aarhus Convention, UNECE has adopted the *Convention on Environmental Impact Assessment [EIA] in a Transboundary Context* in 1991<sup>10</sup> and an additional *Protocol on Strategic Environmental Assessment [SEA]* in 2003, both of which the European Community is a Party to as a legal entity since 1997 and 2005 respectively.<sup>11</sup>

Bulgaria has ratified the Aarhus Convention in 2003 and fully reflected it in the national legislation through the *Access to Public Information Act*, and the *Environmental Protection Act*, while access

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<sup>4</sup> George Pring and Susan Y. Noe, “The Emerging International Law of Public Participation Affecting Global Mining, Energy and Resource Development,” in eds. Donald Zillman, Alastair Lucas, and George Pring (Oxford: Oxford University Press, 2002), 15.

<sup>5</sup> Ibid. 22

<sup>6</sup> Maja Barisic, “Public Participation – Balkans at the Crossroads of Energy Security and Environmental Sustainability” (Unpublished Master Thesis, Sarajevo and Bologna: European Regional Masters in Democracy and Human Rights, 2007), 19.

<sup>7</sup> United Nations Economic Commission for Europe, *Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters*, 25 June 1998.

<sup>8</sup> “Directive 2003/4/EC of the European Parliament and the Council on public access to environmental information of 28 January 2003 and repealing Council Directive 90/313/EEC” *Official Journal of the European Union*, 2003, L 41/26-32, and “Council Directive 2003/35/EC of 26 May 2003 amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC” *Official Journal of the EU*, 2003, L 156

<sup>9</sup> “Council Decision 2005/370/EC of 17 February 2005 on the conclusion on behalf of the European Community of the Convention on access to information, public-participation in decision-making and access to justice in environmental matters.” *Official Journal of the EU*, 2005, L 124/0001 - 0003

<sup>10</sup> “United Nations Economic Commission for Europe Convention on the EIA in a Transboundary Context of 25 February 1991,” and “Protocol on the SEA to the Convention on the Environmental Impact Assessment in a Transboundary Context of 21 May 2003,” *United Nations Economic Commission for Europe*, <http://www.unece.org/env/eia/welcome.html>

<sup>11</sup> “Council Directive 97/11/EC on the assessment of the effects of certain public and private projects on the environment,” *Official Journal of the EU*, 1997, L 73, and “Council Directive 2003/35/EC of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programs relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC,” *Official Journal of the EU*, 2003, L 156

to justice is available only under the Administrative Procedure Code.<sup>12</sup> In the European Community Law, access to justice pillar falls under the competence of the Member State, but in Bulgaria this pillar is not regulated extensively enough, being surely a challenging segment of the Convention's implementation.

Croatia ratified the Convention in March 2007 and transposed it into several national regulations and by-laws, including the *Law on Environmental Protection*,<sup>13</sup> *Freedom of Access to Information Act* (FOIA),<sup>14</sup> having also the regulations on EIA and SEA.<sup>15</sup>

Regulation, especially in respect to EIA, is still deficient in Bosnia and Herzegovina.<sup>16</sup> Access to information is covered by FOIA, on state and entity levels.<sup>17</sup> Specific provisions of public participation are given in entities' environmental legislation, namely the *Law on Protection of Human Environment* of Republic of Srpska<sup>18</sup> and Federation of BiH laws on protection of air, waters, environment and nature.<sup>19</sup> Entity environmental protection laws define mechanisms for public participation in plans, programs and strategies, but also in the EIA procedures for investment in energy sector. However, participation in drafting of energy regulations is limited, if any, even though guaranteed under *Rules on Consultations in Legislative Drafting*.<sup>20</sup> Notable progress was made when the country finally ratified the Aarhus Convention in July 2008.

### 3. UNEMPLOYED LEGISLATION, DEPLOYED GEOPOLITICS

Southeast European countries, with respect to different stages of EU approximation, are found in economically, administratively, politically and legally differing circumstances. EU approximation implies strengthening of public participation in energy decision-making in legal terms, but not in terms of implementation of the provisions, at least initially.

### 4. LEGAL FRAMEWORK AND POLITICAL BOUNDARIES

“Even though environmental conditionality is more stringent towards candidate countries than old member states, in order not to make environmental issues a main obstacle to enlargement, candi-

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<sup>12</sup> Bulgaria, Ministry Of Environment And Waters, *National Implementation Report*, UNECE Applications web site, May 7, 2008

[http://apps.unece.org/ehlm/pp/NIR/listnr.asp?wf\\_Countries=BG&wf\\_Q=QA&Quer\\_ID=NIR8&LngIDg=EN](http://apps.unece.org/ehlm/pp/NIR/listnr.asp?wf_Countries=BG&wf_Q=QA&Quer_ID=NIR8&LngIDg=EN)

<sup>13</sup> *Republic of Croatia Official Gazette*, 110/2007, 25 Oct 2007, <http://narodne-novine.nn.hr/>

<sup>14</sup> *Republic of Croatia Official Gazette*, 172/2003, 29 Oct 2003, <http://narodne-novine.nn.hr/>

<sup>15</sup> *Republic of Croatia Official Gazette*, 64/2008, 4 Jun 2008, <http://narodne-novine.nn.hr/>

<sup>16</sup> European Commission, Commission staff working document, “Bosnia and Herzegovina 2008 Progress Report” accompanying the Communication from the Commission to the European Parliament and the Council, *Enlargement Strategy and Main Challenges 2008-2009*, (EUR-Lex Publications Office, Nov 5, 2008), <http://eur-lex.europa.eu/SECMonth.do?year=2008&month=11>

<sup>17</sup> *Bosnia and Herzegovina Official Gazette* 28/2000, 17 Nov 2008; *Federation of BiH Official Gazette*, 32/2001; *Official Gazette of Republic of Srpska*, 20/2001.

<sup>18</sup> *Official Gazette of RS*, 28/2007

<sup>19</sup> *FBiH Official Gazette*, 33/2003

<sup>20</sup> *BiH Official Gazette*, 81/2006

dates were excused for non-compliance,”<sup>21</sup> Bulgaria being one of these countries. Implementation mechanisms and compliance of state authorities in this new member state are lacking. Reports on compliance are compiled by government officials,<sup>22</sup> and rarely include input from non-state actors. The extensive regulatory framework in Croatia, for an individual citizen, is a labyrinth that requires lawyer’s knowledge, especially in a politicized and highly technical area such as energy. Access to information is too often denied by the administrative bodies under the clause of *higher national interest*, within which oil and gas pipelines are probably right next to army facilities. One obvious problem to be expected in BiH that just accessed the Convention is the lack of expertise in environmental NGOs to use legal procedures when these rights are violated, correlated to the lack of environmental law experts in BiH.

Even though environmental protection in Croatia is under competencies of two ministries,<sup>23</sup> and in Bulgaria even more, administrative challenges in these two countries are similar to any other European state. Political system of Bosnia and Herzegovina, its politically difficult legacy and political boundaries make the issue more complex. Several layers of government hold competence over environmental protection. Apart from the state *Ministry of Foreign Trade and Economic Relations*, entity ministries have greater competence and authority, to the extent that entities can use the mechanisms of *Espoo Convention*<sup>24</sup> in managing inter-entity relations concerning environmental protection. The transboundary context of BiH rivers creates difficulties in managing water resources in sustainable and harmonized manner.<sup>25</sup> One aspect where both entities’ ministries (of environment and of energy) will have to master the joint efforts is a common *Energy Strategy of BiH* in the making.

To summarize, when it comes to provisions of the Aarhus Convention being transposed into the national legislation, access to information and public participation in decision-making are extensively elaborated on in all three cases. In case of access to justice, if wanting to challenge a decision on refusal of providing information on energy or environment, legal paths do exist, though not so often used in the area of energy. Legal routes require capacity of the organization, environmental law expert, in some cases bylaws are lacking, while sustainable management of natural resources is even more difficult in a transboundary context, between, and within countries.

## 5. ENERGY MARKET AND ACCOUNTABILITY

Vacuum in implementation of environmental legislation in Balkan countries makes these markets attractive for Eurasian energy investors, because the legislation itself, combined with lack of re-

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<sup>21</sup> Maja Barisic, “Public Participation – Balkans at the Crossroads of Energy Security and Environmental Sustainability” (Unpublished Master Thesis, Sarajevo and Bologna: European Regional Masters in Democracy and Human Rights, 2007), 44

<sup>22</sup> Bulgaria, Ministry Of Environment And Waters, *National Implementation Report*, UNECE Applications web site, May 7, 2008

[http://apps.unece.org/ehlm/pp/NIR/listnr.asp?wf\\_Countries=BG&wf\\_Q=QA&Quer\\_ID=NIR8&LngIDg=EN](http://apps.unece.org/ehlm/pp/NIR/listnr.asp?wf_Countries=BG&wf_Q=QA&Quer_ID=NIR8&LngIDg=EN)

<sup>23</sup> Ministry of Environmental Protection, Physical Planning and Construction and the Ministry of Culture

<sup>24</sup> “United Nations Economic Commission for Europe Convention on the Environmental Impact Assessment in a Transboundary Context of 25 February 1991,” *United Nations Economic Commission for Europe*, <http://www.unece.org/env/eia/welcome.html>.

<sup>25</sup> Miralem Variscic, *Rijeka bez povratka – Ekologija i politika velikih brana [River without Return – Ecology and policies of large dams]* (Konjic: Organization for environmental protection Green Neretva, 2006), 19.

sources of a country to fully obey it, and lack of public interest to exercise scrutiny over the issues, enables smooth investment. Free-market economy argues that environmental and social injustices are not a matter for a state to compensate, but the economic growth will result in trickle-down effect from which the poor and their environment would, eventually, benefit.<sup>26</sup> Unfortunately, “environmental externalities are not always internalized in the costs of goods and services, meaning that the investment costs do not reflect the full societal costs.”<sup>27</sup>

Part of the pressure on Balkan environment comes from geopolitical constellations on the energy market of Europe and United States. To decrease its dependency on Russia, EU is developing a strategy of *diversifying sources and routes of supply*. Global climate change effects require immediate action through *decreasing GHG emissions without endangering economic growth and levels of employment*.<sup>28</sup> Crude oil is still the primary source of petroleum and other derivatives used for transport and industry of EU, while dependency on imported energy resources rate amounts to 54.<sup>29</sup> From SEE, EU expects regulated internal energy markets, ownership unbundling and interconnectivity. Beyond this, attracting investment and becoming a transit zone for oil and gas supplies is best Balkans can gain, having no significant energy resources of their own. The imperative of EU accession, combined with the imperative of economic growth, and interests of national governments to stay in power, all interlink in energy projects.

Among numerous oil and gas pipelines constructed or planned across the Balkans,<sup>30</sup> two projects have created impetus for public participation in energy projects. *Burgas - Alexandroupoulos Pipeline* (BAP line) is a trilateral agreement between Russia, Bulgaria and Greece,<sup>31</sup> designed to connect the Bulgarian Black Sea port of Burgas with the Aegean Sea port of Alexandroupoulos for transport of Russian oil delivered to Burgas port by tankers. “Russia's 51 % interest in the project gives her control over the entire oil pipeline, and this is the best guarantee of uninterrupted flow of Russia's crude oil to Europe.”<sup>32</sup> The project should alleviate Bosphorus and Dardanelle congestion, where the demurrage of tankers costs more than investment into new pipelines.<sup>33</sup> The construction works will start in 2009 and should finalize by 2011, while the costs have risen from the initial 800 million to 1.5 billion Euros.<sup>34</sup> Bulgarian revenue from oil transit, estimated at 35 to USD 50 million a year, forms about 10 percent of the overall revenues from fisheries and tourism, Burgas gulf's main sec-

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<sup>26</sup> David W. Orr, "US Energy Policy and the Political Economy of Participation," *The Journal of Politics* 41 (1979): 1027-1056, 1049

<sup>27</sup> "Impact Assessment," Annex to the communication of the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, *Thematic strategy on the sustainable use of natural resources*, Commission of the European Communities, SEC (2005) 1683, <http://ec.europa.eu/environment/>.

<sup>28</sup> "Green Paper - A European Strategy for Sustainable, Competitive and Secure Energy," Commission of the European Communities, 2006, 105, [http://ec.europa.eu/energy/green-paper-energy/index\\_en.htm](http://ec.europa.eu/energy/green-paper-energy/index_en.htm).

<sup>29</sup> Aldo Spanjer, "Russian Gas Price Reform and the EU-Russia Gas Relationship: Incentives, Consequences and European Security of Supply," *Energy Policy* No.35 (2007), 2892.

<sup>30</sup> "INOGATE Map of Natural Gas Pipelines - Portal" and "Map of Crude Oil Pipelines – Portal" *About INOGATE – Portal*, [http://www.inogate.org/en/resources/map\\_oil](http://www.inogate.org/en/resources/map_oil) (accessed December 8, 2008).

<sup>31</sup> Agreement was signed in March 15, 2007 after a decade of negotiations, mainly focused around the issue of shares in the project. On the May 31, 2007, Bulgarian parliament ratified the agreement, without consultations. The parliamentary opposition boycotted the voting for the lack of information on the issue.

<sup>32</sup> Transneft, "Balkan Transit," Transneft, April 15, 2007, <http://www.transneft.ru/press/>

<sup>33</sup> Ibid.

<sup>34</sup> "Bulgaria: 9 Banks Keen to Advise Burgas-Alexandroupolis Pipeline Project," seeurope.net, <http://www.seeurope.net/?q=node/16173>.

tors, while it might seriously endanger both.<sup>35</sup> Project is lead and initiated by Russians, and signed by the socialists - led government.

*Druzhba – Adria Pipeline Integration Project* connects the Russian oil pipeline Druzhba (Russian Samara – Belarus – Ukraine - Slovakia – Hungary) to the Croatian part of Adria pipeline, which would have to be reversed in order to transport the Russian oil to the Adriatic deep-water terminal of Omisalj. Six states signed the *Agreement on Cooperation* in 2002,<sup>36</sup> but national parliaments have been reluctant to ratify it, especially those of Croatia and Ukraine. In 2005, the Croatian commission set up to assess the EIA conducted by investor - hired experts, rejected the study for being deficient for public hearings procedure. Though Russians temporarily gave up on the project, at *2007 June Energy Summit* in Zagreb, and *2009 April Energy Summit* in Sofia both sides reaffirmed their interest. Due to Croatia's high oil and gas import dependency, and its eagerness to participate in South Stream,<sup>37</sup> Croatian Government is sending unambiguous message to its citizens that Croatia is ready to take on the route Putin wants.

Bosnia and Herzegovina's chance to expand its energy generation system lies, as is predominantly seen by entities' governments, in hydropower potential. Among numerous small and medium scale hydropower plants (HPP), those planned for the upper flow of *Neretva River* are, by definition, not renewable sources, because of their own emissions and low efficiency.<sup>38</sup> In September 2006, FBiH Government adopted a decision on proclaiming HPP Glavaticevo, Bjelimici I and II, among other, projects of *higher public interest*, obliging competent entity authorities to grant the concession to the investor *Intrade Energija*.<sup>39</sup> FBiH Ministry of Energy, Mining and Industry (MEMI) officially started negotiations with *Intrade Energija* on planning, construction and utilization of three HPP on Upper Neretva in 2008.<sup>40</sup> The investing consortium conducted the feasibility study and the preliminary study of environmental impact for the project of *Hydropower System Gornja Neretva*.

Common European approach towards the suppliers is still in the making, while pressures on SEE governments are exercised by former EU Member States' officials chairing the shareholders' committees of oil and gas companies, and by Russian presidential -prime ministerial figure himself. Energy Commissioner's positive nod to highly lucrative, but environmentally rather questionable projects such as oil pipelines, is there. The fact that transit countries of SEE are still internalizing democratic governance principles, such as transparency and accountability, leaves practically no institute on watch over environment.

## **6. DIFFERING OBJECTIVES WITHIN PUBLICS**

Transition to market economy, though initially producing severe socio-economic consequences, had rather positive impact on environment, due to state-owned industrial polluters' collapse. Economic

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<sup>35</sup> "BSP Pomorsko opposes declaration in support for referendum about Burgas – Alexandropoulos pipeline," *Focus New Agency* 22 July 2007

<sup>36</sup> Transneft, "Druzhba Adria Pipeline Integration Project," Transneft 2002, [www.transneft.ru/Projects](http://www.transneft.ru/Projects).

<sup>37</sup> Gazprom, "South Stream Project," Gazprom <http://www.gazprom.ru/eng/articles/article27150.shtml>

<sup>38</sup> Jin-Li Hu TaichenChien, "Renewable Energy and Macroeconomic Efficiency of OECD and Non-OECD Economies" *Energy Policy* 35 (2007): 3615.

<sup>39</sup> Government of FBiH, "Zakoni," Government of FBiH <http://www.fbihvlada.gov.ba/bosanski/zakoni/index.php>.

<sup>40</sup> *BiH Official Gazette* 40/2008, <http://www.slist.ba/oglasia/2008/federacija/broj40/broj40.htm>

recovery, privatization and elimination of state monopoly in public services led to, once again, environmental degradation. Increasingly, environmental movements in SEE are searching for their place in decision-making, having to overcome a variety of obstacles to public participation.

### 6.1. Bulgaria

EC Directive on EIA states: "Member States shall ensure that any request for development consent and any information gathered pursuant to Article 5 are made available to the public within a reasonable time in order to give the public concerned the opportunity to express an opinion before the development consent is granted."<sup>41</sup> Therefore, in the case of BAPLine, the EIA had needed to be conducted and deliberated with publics concerned before the ratification in the parliament, which was not the case.<sup>42</sup>

Environmental NGOs, e.g. *Za Zemiata*, disapprove of the pipelines in general. They are concerned with the sustainability of energy consumption, with the impact of pipelines on environment and the region in which the choices are being made in favour of economic growth against environmental sustainability.<sup>43</sup> Profits are distributed unevenly, while pipelines can have adverse impact on human health, environment and social conditions.<sup>44</sup> The organizations are members of the transnational, *Central East European Bankwatch Network*, watching over transparency, accountability and sustainability of financial institutions' investment.<sup>45</sup> Being skilful as advocates and watchdogs of influential transnational networks, government does not look at them benevolently. On several occasions, interrogative,<sup>46</sup> intimidating and life-threatening<sup>47</sup> methods have been exercised over members of these NGOs, by state and non-state actors.

As part of the strategy to launch public debate on the question, Bulgarian members of the CEE Bankwatch, in cooperation with Burgas branch of *Ecoglasnost* and *Ecological Committee for Protection of Burgas and Vromos bay*, set up a public hearing for local stakeholders, with guests from Azerbaijan and Georgia, to share experiences and opinions.<sup>48</sup> From that initial public hearing, an idea of local referendums was born.<sup>49</sup> Up to this point, two referendums with support from the municipal councillors were held in the Burgas gulf's municipalities of Burgas and Sozopol, facing in-

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<sup>41</sup> "Council Directive 1997/11/EC of 3 March 1997 amending Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment" Art.6/Par.2, *Energy Community EU Legislation on Environment*, [www.energy-community.org](http://www.energy-community.org)

<sup>42</sup> Maja Barisic, "Public Participation – Balkans at the Crossroads of Energy Security and Environmental Sustainability" (Unpublished Master Thesis, Sarajevo and Bologna: European Regional Masters in Democracy and Human Rights, 2007), 61-8

<sup>43</sup> Fidanka Bancheva McGrath, *Za Zemiata Sofia*, interview by author, Sofia, Bulgaria, July 18, 2007.

<sup>44</sup> Petko Kovachev, *Institute for Green Policy Sofia*, interview by author, Sofia, Bulgaria, August 3, 2007.

<sup>45</sup> Maja Barisic, "Public Participation – Balkans at the Crossroads of Energy Security and Environmental Sustainability" (Unpublished Master Thesis, Sarajevo and Bologna: European Regional Masters in Democracy and Human Rights, 2007), 61-68.

<sup>46</sup> Elitsa Grantcharova, "Defining 'environmental terrorism' - News news," *Bulgaria News*, *Sofia News: The Sofia Echo*, [http://www.sofiaecho.com/article/defining-environmental-terrorism/id\\_24556/catid\\_5](http://www.sofiaecho.com/article/defining-environmental-terrorism/id_24556/catid_5).

<sup>47</sup> Jan Haverkamp, "Leading Bulgarian anti-nuclear activist receives death threat," *Social Rights Bulgaria* 8 March 2005 <http://www.socialnoprava.info/article1053.html>.

<sup>48</sup> The public debate was held on 23 July 2007 in Burgas, with presence of representatives of NGOs active in the Baku-Tbilisi-Ceyhan pipeline, local environmentalists, politicians and media.

<sup>49</sup> Manuk Manukyan, *Ecoglasnot*, Burgas, interview by author, Burgas, Bulgaria, 23 July 2007

sufficient turnout, but those that cast their vote were predominantly against the pipeline construction.<sup>50</sup> Unfortunately, “international matters could not be resolved with municipal referendum, [...and] results in Burgas [and Sozopol] only showed the need for strict environmental measures for the pipeline construction.”<sup>51</sup> In November 2008, the *Trans Balkan Pipeline* consortium that will construct the pipeline was to hold a presentation of the project in Burgas, but the event was interrupted by a rally of around fifty individuals busting into the conference hall.<sup>52</sup>

Environmental organizations from Sofia are more advocacy groups than epistemic communities and by default hold less influence in decision-making. They certainly have capacities to take a more epistemic approach to energy investment, as members of these organizations are also competent experts, but in function they represent a critical mass that monitors, informs, starts the debate, activates and promotes the essence of public participation, even in circumstances of silent oppression or passive oblivion.<sup>53</sup> This is precisely the role that environmentalists from Sofia played in the process, even though information on the project was (purposefully) deficient from the start, though public was not given the opportunity to dismiss the project, but only to modestly modify it, and even though objectives of other stakeholders were different.

Local stakeholders oppose the pipeline project because they were excluded from decision-making, no clear guarantees for environmental conservation were given, while doubts about how profitable this investment is for the local community are the most often used arguments, reaffirming that public is rather reluctant to accept environmental risks without compensation for opportunity costs.<sup>54</sup> Local population assumes that little benefit and most of the unaccounted costs will fall on their shoulders, partially because Russia initiated, and the leading Bulgarian Socialist Party signed the contract.

## **6.2. Croatia**

With the already existing approximately 500 tankers that enter the Adriatic Sea every year, the problem of ballast waters was one of the main objections that ecologists held against the reversal of the Adria pipeline.<sup>55</sup> With the reversal of the pipeline, the tankers would be entering the Adriatic with ballast waters from the ports of departure, and discharging them in the sea, together with new

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<sup>50</sup> "Bulgaria: void referendum in Bulgaria's Burgas rejects overwhelmingly oil pipeline," *Sofia News Agency* [http://www.novinite.com/view\\_news.php?id=90495](http://www.novinite.com/view_news.php?id=90495).

<sup>51</sup> Ibid.

<sup>52</sup> "Protesters cause cancellation of presentation of Burgas- Alexandroupolis project" *Sofia News Agency* [http://www.novinite.com/view\\_news.php?id=98820](http://www.novinite.com/view_news.php?id=98820)

<sup>53</sup> Maja Barisic, "Public Participation – Balkans at the Crossroads of Energy Security and Environmental Sustainability" (Unpublished Master Thesis, Sarajevo and Bologna: European Regional Masters in Democracy and Human Rights, 2007), 61-68

<sup>54</sup> Andy Gouldson, "Risk, Regulation and the Right to Know: Exploring the Impacts of Access to Information on the Governance of Environmental Risk," *Sustainable Development*, 12 (2004) 136-149. Scholars Portal E-Journal Browse, <http://scholarsportal.info>

<sup>55</sup> Ibid. 66-69

species and pollution from the ports of departure, but also the risk of oil spills in the shallow northern Adriatic, for which it would take years to recover, would increase.<sup>56</sup>

Local NGO *Eko-Kvarner* and *Green Action* from Zagreb with support from transnational networks managed to attract the attention of publics. Due to public pressure, Ministry for Environmental Protection required the EIA to be carried out prior to the ratification of the agreement in the parliament. At that time, *Green Forum Network*, an umbrella association of 32 environmental organizations was created, and managed to collect 50,000 signatures against the project in a national campaign.<sup>57</sup> In spring 2004, a *Committee for Protection of the Adriatic Sea* was formed, which slowly facilitated involvement of academics, economists, journalists, scientists, artists and religious organizations. In 2005, a campaign for proclaiming the Adriatic a *Particularly Sensitive Sea Area* started, with the support from transnational environmental NGOs and international research institutes.<sup>58</sup> These activities influenced further development of the project and participation of general public.

*Jadranski naftovodi* (JANAF, Adriatic Oil Pipelines) submitted the EIA in July 2004, with certain parts of the study being omitted from public access, provoking more distrust towards politicians.<sup>59</sup> The secrecy clause was misused in this case because JANAF is a joint stock company, in which the leading shares hold the state and its institutions, which makes requirements for accountability even higher. Publics have the right to any information that might facilitate a competent decision.<sup>60</sup>

According to opinion polls, 54 percent of population, mostly coastal, whose livelihoods depend on fisheries and tourism, opposed the project.<sup>61</sup> “According to the agreement, [...] JANAF would earn between USD 50 and 80 million annually. Compared to more than USD 4 billion which comes from tourism, revenues from the pipeline are too small to take the risk. In addition, Croatia currently earns USD 163 million from fish exports, twice as much as the pipeline would bring even in the best case scenario.”<sup>62</sup>

Depleting oil reserves, constant encouragement from the EU to secure resources and routes, and the Russian interest, bring the Croatian Government back to the beginning of the process. Putin demands the exact same route as per the initial project, and publics already categorically said *no*.

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<sup>56</sup> Nenad Mikulic, “Presentation by the Head of Environmental Impact Assessment Department of the Ministry of Environmental Protection” 8 April 2005, North Atlantic Treaty Organization – Science for Peace and Security, CCMS Plenary Session <http://www.nato.int/science/2005/070405-brussels/>

<sup>57</sup> “Public Participation in Croatian Environmental Impact Assessment Procedures,” *Zelena Akcija – Friends of the Earth 2* (2005)

<sup>58</sup> Davor Vidas, “Particularly sensitive sea area (PSSA) for the Adriatic Sea” *Fridtjof Nanses Institute, Norway* (2005) [http://www.fni.no/projects/pssa\\_adriatic.html](http://www.fni.no/projects/pssa_adriatic.html)

<sup>59</sup> Maja Barisic, “Public Participation – Balkans at the Crossroads of Energy Security and Environmental Sustainability” (Unpublished Master Thesis, Sarajevo and Bologna: European Regional Masters in Democracy and Human Rights, 2007), 66-9.

<sup>60</sup> Davor Vidas, “Particularly sensitive sea area (PSSA) for the Adriatic Sea” *Fridtjof Nanses Institute, Norway* (2005) [http://www.fni.no/projects/pssa\\_adriatic.html](http://www.fni.no/projects/pssa_adriatic.html)

<sup>61</sup> “Publics about Druzhba Adria,” *Gfk Center for Market Research* September 13, 2004, [www.gfk.hr](http://www.gfk.hr)

<sup>62</sup> Ivona Malbasic, “Druzhba – Adria Pipeline,” *South East European Environmental Information 2* (October 2003), [www.see-environment.info](http://www.see-environment.info)

### 6.3. Bosnia and Herzegovina

*Hydropower System of Upper Flow of Neretva River* is a project with possible severe ecological and societal consequences on local communities, as argued by environmental NGO *Green Neretva* from Konjic. They have taken the *Campaign for the Protection of Neretva River* to a country level, including numerous civil society organizations from both entities. Green Neretva published two expert analyses of possible consequences of large HPP, which include adverse impact on river tourism; deterioration of habitat of autochthonous species of fish; sinking of 406 hectares of land and loss of 18 kilometres of river; exacerbated seismic sensitivity of the area by the water reservoirs' pressure; and increased air humidity.<sup>63</sup>

In October 2006, the organization launched a petitioning campaign against large HPP on Neretva, with civil movement *Dosta!* (Enough!) petitioning in capital Sarajevo, and five organizations in Mostar, a town in Herzegovina whose economy largely depends on Neretva.<sup>64</sup> All together, 56 organizations of civil society have petitioned against,<sup>65</sup> and 15 thousand signatures were sent to the government of FBiH on several occasions, always returning to the sender.<sup>66</sup> The petition was successfully ignored by highest state officials,<sup>67</sup> but it provoked significant media attention and support from citizens.

Konjic municipal officials organized two round tables with representatives of three competent ministries, and several public enterprises, the investing consortium, local officials and *Zeleni Neretva*.<sup>68</sup> In conclusion, the municipality expected to be a part-owner of the HPP facilities, receiving 10 % of revenues, and reinvestment of profits' percentage into the municipality's economy.<sup>69</sup> The final objective of the non-environmental publics concerned was not to stop the construction, but rather to secure gains for the local population, in order to alleviate possible socio-economic and environmental consequences. Efforts of environmental organizations in this case had positive impact on raising awareness of local population and elected officials, through firstly monitoring, informing the wider publics and decision-makers of their attitude, advocating, and petitioning.

However, HPP on Neretva were proclaimed projects of *higher public interest*, the concession was given to the investor *Intrade Energija*<sup>70</sup> and negotiations initiated in 2008.<sup>71</sup> The divide between the

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<sup>63</sup> Amir Variscic, ed., *Nas pogled na hidroenergetski sistem Gornja Neretva [Our Perspective of Hydropower System of Upper Flow of Neretva River]*, (Konjic: Organization for Environmental Protection Green Neretva, 2007), 7-8

<sup>64</sup> "Bitka za Neretvu: Potpisivanje peticije za sprjecavanje izgradnje hidrocentrale na Neretvi, [Fight for Neretva: Petitioning against Construction of New Hydropower Plants on Neretva River]," *Bljesak – BH Internet Magazin* November 17, 2006, [www.bljesak.info](http://www.bljesak.info).

<sup>65</sup> "Peticija protiv izgradnje brana na Neretvi," ["Petition against construction of hydropower plants on Neretva River,"] *Green Neretva*, December 4, 2006, [www.zeleni-neretva.ba](http://www.zeleni-neretva.ba)

<sup>66</sup> "Udruzenje Zeleni Neretva demantiralo izjave Harisa Silajdzica" [Organization Zeleni Neretva Confuted the Statements of Haris Silajdzic], *Communication Art*, June 11, 2008 <http://www.comart.mapabih.com/a2/index.php/nw/8168.html>

<sup>67</sup> "Reagovanje: Dezinformacija ili skrivanje istine," [Reaction; Disinformation or Hiding the Truth], *Green Neretva*, February 5, 2008 [http://www.zeleni-neretva.ba/index.php?option=com\\_content&task=view&id=111&Itemid=1](http://www.zeleni-neretva.ba/index.php?option=com_content&task=view&id=111&Itemid=1)

<sup>68</sup> "Presentation of the Hydro-Energetic System Upper Neretva Project," *Intrade Energija*, [http://www.intrade.co.ba/intrade-energija/index.php?subaction=showfull&id=1161191096&archive=&start\\_from=&ucat=&](http://www.intrade.co.ba/intrade-energija/index.php?subaction=showfull&id=1161191096&archive=&start_from=&ucat=&)

<sup>69</sup> *Ibid.*

<sup>70</sup> "Decision on determining the public interest, commencing of preparation works, selection of strategic partners and concession granting," *FBiH Official Gazette*, 60/2006.

<sup>71</sup> *BiH Official Gazette* 40/2008, <http://www.sllist.ba/oglasia/2008/federacija/broj40/broj40.htm>

ruling coalition partners put an end to the project. As opposed to the interests of local population, political support and private interests of key politicians play a more important role in any project's future in BiH. Environmentalists helped to disclose these interests to publics, but the official attitude towards public participation still remains as an obstacle.

## 7. CONCLUSIONS

Balkans' environment is under pressure of degradation due to imperatives of economic growth and energy security, exacerbated by unaccountability of governments and investors, and only modestly safeguarded by local communities and environmental organizations. Aarhus Convention was not ratified in Croatia and BiH at the time when Družba – Adria and HPP on Neretva became interesting for their governments, unlike is the case in Bulgaria. Bulgaria is the closest one to the project realization, but studied influences indicate that it is only a matter of time when Družba-Adria will enter the process of construction. Being a party to the Aarhus Convention does not safeguard in itself the realization of public participation rights, nor does EU approximation. What these three states are lacking are externally strong and internally accountable governments, implementation mechanisms, expertise with environmental organizations and, truly, higher public interest in energy resources.

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