

**An Assessment of Applicable Laws and Institutions relevant to the
Development of a 'Durable River Protection Mechanism' in the
European Union and Countries in the Western Balkan Region**

**INVESTIGATION OF THE LEGAL, POLICY AND
INSTITUTIONAL FEASIBILITY OF ESTABLISHING A
DURABLE RIVER PROTECTION MECHANISM
("DRPM") IN BOSNIA AND HERZEGOVINA**

Author: Slobodan Marilović, Bachelor of Laws (LL.B.), Bar Exam

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Investigation of the Legal, Policy and Institutional Feasibility of Establishing a Durable River Protection Mechanism (“DRPM”) in Bosnia and Herzegovina

a. Purpose of the Study:

The purpose of this study is to assess the opportunity for the creation of a legal, institutional or policy mechanism that would provide a coherent, consistent, shared approach to create a ‘durable river protection mechanism’ (DRPM) that could achieve assured protection of free-flowing rivers in Bosnia and Herzegovina. The study examines the existing legal context at the national level and at the local level of governments in Bosnia and Herzegovina to determine how a DRPM can be implemented. If no authority or only partial authority exists for a DRPM, the study identifies potential changes to the legal and institutional contexts in Bosnia and Herzegovina that could be used to establish a DRPM.

A ‘Durable River Protection Mechanism’ has the following components:

- 1. Planning*
- 2. Designation*
- 3. Enforceability*
- 4. Stakeholder Involvement*
- 5. Adequate Funding*

a. 1. Planning:

Development of scientific, ecological, economic and development information on geographical areas to be protected in order to protect the river. The planning analysis would include studies and assessments of the economic and environmental benefits of the protection of the river as well as environmental risks and social and economic impacts or costs. The planning process would establish a case study that relates to the significance of a particular river that is being studied (unlike other rivers in jurisdiction) and why this river would be protected. Studies would identify the use of land that would be compatible with the protection of the river. There must also be a planning process to engage the community and other stakeholders in building support for the river protection.

Within this segment, it must be noted that there are no plans for the protection of the river in an integral manner, except for its separate segments, such as aquatic or semi-aquatic flora and fauna.

Also, according to plans related to spatial planning, nature and environment protection water management, etc., there are no such terms as river protection, related to rivers which have characteristics of pristine nature or exceptional scenery or those intended for sports and recreation.

a. 2. Designation

River or watershed protection would be realised through legally, statutory established and enforceable administrative designation or area identification. Designation would

establish and articulate rules or guidelines that would regulate the use of land within geographical area which is necessary for river protection. Designation process would determine types of land use in watershed or corridor that would be permitted (e.g. allowing the use of land within demarcation label for recreation or preservation), or prohibited (e.g. prohibited use of land for construction of dams).

There are no regulation which define and designate rivers with the characteristics of pristine nature or exceptional scenery or outstanding natural, cultural, and recreational values.

a. 3. Enforceability:

The programme must include a mechanism for implementing the rules on use of designated land. Therefore, there must be an agency with statutory power, competent staff and financial means for implementation of designatory regulation.

In Bosnia and Herzegovina, there are relevant authorities for maintenance of public records of land parcels, and those are geodetic institutes. Those authorities are at Entity level of government. In order to act and register certain facts into public registries where registries of all real estates and land in B&H are kept, it is necessary that there are "executive titles", which are documents from the authorities in B&H that have the power to have something registered in the public land registries.

Concerning protection of rivers with pristine nature, exceptional scenery or sports and recreation related characteristics, there are no such authorities that would issue "executive title" based on which the river characteristics would be registered.

a. 4. Stakeholder Involvement

In B&H there are regulations that define any stakeholder participation in decision making process with regard to water management or water and environment protection procedure. However, when it comes to stakeholder participation in designation of rivers, which have pristine nature, exceptional scenery or sports and recreation related characteristics, there are no such substantive regulations. There are, though, regulations on protection of certain segments of nature and environment protection, and water quality protection, but not as it has been previously mentioned here.

a. 5. Adequate Funding

Water, nature and environment management in B&H has been prescribed following an EU model. In line with this model, there is no financial frame for designation of **rivers with pristine nature, exceptional scenery or sports and recreation related characteristics.**

b. Brief Overview of the Government Structure and the Legal and Institutional Framework in Bosnia and Herzegovina (Existing Legal Context at B&H, Entity and Cantonal Level)

b. 1. The General Framework Agreement for Peace in Bosnia and Herzegovina

By signing The General Framework Agreement for Peace in Bosnia and Herzegovina, the Parties agreed to conduct their relations in accordance with the principles set forth in the United Nations Charter, as well as the Helsinki Final Act and other documents of the Organization for Security and Cooperation in Europe.

The Parties endorsed the arrangements that have been made concerning the boundary demarcation between the two Entities, the Federation of Bosnia and Herzegovina and the Republic of Srpska, as set forth in the Agreement at Annex 2.

The Agreement has 11 Annexes, one of which is Annex 4, i.e. the Constitution.

Annex IV of The Agreement (hereinafter "The B&H Constitution"), Article I (3), defines that Bosnia and Herzegovina consists of the two Entities, the Federation of Bosnia and Herzegovina and the Republic Srpska (hereinafter "the Entities").¹

Powers and responsibilities in Bosnia and Herzegovina are set forth as follows:

1. Responsibilities of the Institutions of Bosnia and Herzegovina (hereinafter "The Common Institutions") are strictly listed in Article III (1): a) Foreign policy; b) Foreign trade policy; c) Customs policy; d) Monetary policy as provided in Article VII; e) Finances of the institutions and for the international obligations of Bosnia and Herzegovina; f) Immigration, refugee, and asylum policy and regulation; g) International and inter-Entity criminal law enforcement, including relations with Interpol; h) Establishment and operation of common and international communications facilities; i) Regulation of inter-Entity transportation; j) Air traffic control;
2. Law and Responsibilities of the Entities are set forth in Article III (3) (a) of The Constitution – "All governmental functions and powers not expressly assigned in this Constitution to the institutions of Bosnia and Herzegovina shall be those of the Entities."

According to constitutional framework, water and water management sector is exclusive power of Entities.

The B&H Constitution defines the following B&H institutions: The Parliamentary Assembly (Art. IV), The Presidency and The Council of Ministers (Art. V), Constitutional Court (Art. VI) and Central Bank (Art. VII).

Council of Ministers of Bosnia and Herzegovina (hereinafter Council of Ministers) is responsible for carrying out the policies and decisions of Bosnia and Herzegovina in

¹ "Bosnia and Herzegovina shall consist of the two Entities, the Federation of Bosnia and Herzegovina and the Republic of Srpska (hereinafter "the Entities")" – The General Framework Agreement for Peace in Bosnia and Herzegovina, Annex IV – Constitution of Bosnia and Herzegovina, Article I (3). The Constitution of B&H has never been published in any official gazette in B&H. It has been amended in 2009, by adding Article VI (4) through Amendment I ("Official Gazette of B&H", No. 25/09).

the fields referred to in Article III (1), III (4), and III (5) of the B&H Constitution. The organisation, way of work and decision-making and other relevant issues are regulated by the Law on the Council of Ministers of Bosnia and Herzegovina (“Official Gazette of B&H”, No. 38/2002, 30/03, 42/03, 81/06, 76/07, 81/07 and 24/08).

Law on Ministries and Other Bodies of Administration of Bosnia And Herzegovina, Art. 9 (“Official Gazette of B&H”, No. 5/03, 42/03, 26/04, 42/04, 45/06, 88/07, 35/09, 59/09, 103/09, 87/12, 6/13, 19/16 and 83/17) defines that Ministry of Foreign Trade and Economic Relations is responsible for carrying out tasks and discharging duties which are within the competence of BiH and relate to defining policy, basic principles, coordinating activities and harmonizing plans of the Entity authorities and bodies at the international level in the fields of:

- agriculture;
- energy;
- protection of the environment, development and use of natural resources;
- tourism.

Within this Ministry, there are administrative organizations – the Bosnia and Herzegovina Veterinary Office, Management of Bosnia and Herzegovina for Plant Health, and Office for Harmonization and Coordination of Payment Systems in Agriculture, Food and Rural Development of Bosnia and Herzegovina

Art. 2 of Annex II to the B&H Constitution provides for continuation of laws of the entities, in consistency with the B&H Constitution.

b. 1. 1. Law on the Council of Ministers of Bosnia and Herzegovina (“Official Gazette of B&H”, No. 38/02, 30/03, 42/03, 81/06, 76/07, 81/07 and 24/08)

This law regulates, in accordance with the Constitution of Bosnia and Herzegovina, the rights, duties and responsibilities of the Council of Ministers of Bosnia and Herzegovina, its organisation, way of work and decision-making, rights and duties of the Chair, Deputy Chairs and members of the Council of Ministers, as well as the relationship of the Council of Ministers with other authorities in Bosnia and Herzegovina in performing its duties.

The Council of Ministers forms part of the executive of Bosnia and Herzegovina. It shall exercise its governmental rights and duties in accordance with the Constitution of Bosnia and Herzegovina, as well as other relevant laws and regulations of Bosnia and Herzegovina.

The seat of the Council of Ministers is in Sarajevo.

The Council of Ministers regulates more precisely its organisation, and scope of work, as well as the mandate of the services established by the Council of Ministers for the purpose of the effective performance of tasks from within such scope of work.

The Council of Ministers, in accordance with the General Framework Agreement for Peace and in particular with Article III of Annex 4 thereof (which provides for the responsibilities of and relations between the Institutions of Bosnia and Herzegovina and the Entities), consist of the Chair and Ministers.

The term of office of the Council of Ministers shall coincide with the mandate of the Parliamentary Assembly of Bosnia and Herzegovina.

Funds for the functioning of the Council of Ministers, the Directorate for EU Integration, the General Secretariat, the Legislative Office and other permanent and temporary bodies established by the Council of Ministers shall be secured in the budget of Bosnia and Herzegovina.

b. 1. 2. Law on Ministries and Other Bodies of Administration of Bosnia And Herzegovina ("Official Gazette of B&H", No. 5/03, 42/03, 26/04, 42/04, 45/06, 88/07, 35/09, 59/09, 103/09, 87/12, 6/13, 19/16 and 83/17)

This law shall establish the Ministries and identify administrative organizations and other institutions of Bosnia and Herzegovina carrying out tasks and duties of administration within the competence of BiH, while specifying their scope of work, the manner of their management, as well as other issues concerning their functioning.

Tasks and duties of administration from within the competence of BiH are carried out by: the Ministries, administrative organizations as independent administrative organizations, administrative organizations within the Ministries, as well as by other institutions of BiH as established by separate laws, or as assigned by separate laws to carry out tasks and duties of administration.

Ministries are bodies of administration carrying out administrative and professional tasks and duties from within the competence of B&H in one or several related domains where they wholly or to some extent as determined by law or regulation, directly ensure and are responsible for the implementation of laws and other regulations.

The Ministries prepare the laws and other regulations and general acts falling within their scope and perform other tasks as determined by separate laws and other regulations.

Administrative organizations are established for the purpose of carrying out administrative and professional tasks whose character and the manner of their execution require a special organization and independence in their work.

Ministry of B&H relevant for water and environment is Ministry of Foreign Trade and Economic Relations, and important administrative organization is Directorate for European Integration of Bosnia and Herzegovina, which is responsible for: Coordination of activities concerning the harmonization of the BiH Legal System with European *acquis communautaire* Standards; Checking compliance of all draft laws and decrees submitted by the ministries and administrative organizations to the Council of Ministers with the Directives of "The White Book – the Preparation of the Associated Countries of Central and East Europe for Integration in the Union's Inner Market" and the procedures of meeting the requirements of the relevant Directive; Harmonization of activities of bodies and institutions in BiH relating to the relevant activities necessary for European integration; Participation as the technical operational contact body for the European Commission; Coordinating implementation of decisions taken by the competent authorities and institutions of BiH, of the Entities and of the District Brcko of BiH with respect to all activities required by BiH for European integration; and other.

Management of the Ministries, administrative organizations and services, rights, duties, responsibility, appointment and dismissal of officials and managing

employees shall be as set out in the Law on the Council of Ministers of BiH ("Official Gazette of B&H", No 38/02, 30/03, 42/03, 81/06, 76/07, 81/07 and 24/08), the Law on Administration ("Official Gazette of B&H", 32/02), the Law on Civil Service in the Institutions of B&H ("Official Gazette of B&H" No. 12/02, 19/02, 35/03, 4/04, 17/04, 26/04, 37/04, 48/05, 2/06, 32/07, 50/08, 43/09, 8/10, 40/12 and 93/17) and special laws and regulations governing the establishment of administrative organizations and services.

The Ministries are be managed by Ministers in co-operation with Deputy Minister and Secretary of the Ministry. Both ministers and directors of independent administrative organizations are responsible for their work and for the situation in the fields falling within the scope of work of their respective ministries or organizations, to the Council of Ministers.

b. 2. Constitution of The Federation of Bosnia and Herzegovina

The Federation of Bosnia and Herzegovina is one of the two entities composing the State of Bosnia and Herzegovina, and has all powers, competence and responsibilities which do not, according to the Constitution of Bosnia and Herzegovina, fall within the exclusive competence of the institutions of Bosnia and Herzegovina.

The Federation consists of federal units (Cantons). The methods and procedures for physically demarking the boundaries between the Cantons are established by Federation legislation. The Cantons are named after the cities which are the seats of the respective Cantonal governments or after regional geographic features.

The Constitution divides responsibilities between the Federation Government and the Cantons, with general provision stating that the Cantons have all responsibility not expressly granted to the Federation Government.

The Federation of B&H, and the 10 Cantons, all have legislative, executive and judicial power, in accordance with Constitutions and Laws.

b. 2. 1. Constitutions of the Cantons

Each of 10 Cantons in Federation of B&H has its Constitution and laws that regulate different responsibilities, including water and river management.

The Constitutions of the Cantons regulate organisation and status of the Cantons, the responsibilities and government structure thereof.

Cantonal responsibilities are provided for by the Constitution of the Federation of B&H, and the Constitution of the respective Canton.

Cantons have Cantonal Assemblies, as Legislature, and the President and the Government, as executive authorities and ministries.

The Cantons enact its laws which regulate environment, nature and water, and also have its administrative authorities with executive powers – the ministries.

b. 2. 2. Law on the Government of the Federation of Bosnia and Herzegovina ("Official Gazette of the Federation of Bosnia and Herzegovina" No. 1/94, 8/95, 58/02, 19/03, 2/06 and 8/06)

Government of the Federation of Bosnia and Herzegovina is executive authority of Federation of Bosnia and Herzegovina, which executes the responsibilities of the

Federation if not otherwise delegated to the President or any Vice-President of the Federation.

The Prime Minister and Deputy Prime Ministers, Ministers and the Government itself are responsible to the Federation Assembly, the President and Vice President of the Federation. The Ministers are responsible to the Prime Minister, with accordance to the Constitution of the Federation of B&H.

The Government consists of: the Prime Minister and two Deputy Prime Ministers of different constituent peoples, delegated from ministers. The Government of the Federation consists of eight Bosniak ministers, five Croatian and three Serbian ministers. One minister from the Others can be named by the Prime Minister, but within the quota of the constituent people with most ministers.

b. 2. 3. Law on Ministries and Other Bodies of Administration of Federation of Bosnia And Herzegovina (“Official Gazette of Federation of B&H” No. 58/02,19/03, 38/05, 2/06, 8/06, 61/06)

Responsibilities of Federation of Bosnia and Herzegovina are exercised by federal ministries, federal administrative bodies and federal administrative organizations.

Water management in Federation is the responsibility of the Federal Ministry of Agriculture, Water-management and Forestry. Environment protection is the responsibility of Federal Ministry of Physical Planning, in accordance with special law.

b. 2. 4. Laws on Governments of the Cantons

Each Canton of Federation of B&H, ten in total, have laws on government of a particular Canton, which provide for the powers, responsibilities, work, composition and other issues relevant for the Government of the Canton.

b. 2. 5. Laws on Organisation and the Scope of Jurisdiction of Administrative Bodies and Administrative Organisations of the Cantons

The Cantons of the Federation have their Laws on Administrative Bodies which define in detail the functioning of Administrative Bodies and their responsibilities.

b. 2. 6. Municipal Administrative Bodies

Constitution of every Canton provides defines its territory as an area of listed municipalities.

There are multiple municipalities within the area of the Canton, which usually refers to European Charter of Local Self-Government, the Law and Regulation of the Federation.

Number and territorial scope of the municipalities is regulated by law enacted by Assembly.

For the municipal establishing process, opinion of the citizens must be taken into account, through referendum at level of relevant cantonal area which would be organised as separate municipality.

b. 3. Constitution of Republic of Srpska

Constitution of Republic of Srpska sets forth that all governmental functions and powers not expressly transferred by Constitution of the B&H to the institutions of Bosnia and Herzegovina, are those of Republic of Srpska. Constitution of Republic of

Srpska provides for list of powers, authorized bodies, and procedures for implementation of powers of Republic of Srpska.

Constitution of Republic of Srpska provides for the following institutions, significant for water management on the territory of Republic of Srpska: the President of the Republic, National Assembly of Republic of Srpska, Government of Republic of Srpska with ministries, bodies and local authorities.

b. 3. 1. Law on the Government of the Republic of Srpska (“Official Gazette of the Republic of Srpska” No: 118/08)

The law stipulates that the Government exercises the executive power in the Republic of Srpska, in accordance with the Constitution.

The Government is autonomous within its competence and it is responsible to the National Assembly of the Republic of Srpska for its work.

The government consists of the president, vice-presidents and ministers.

The Government works and decides in accordance with the Law, which provides for detailed procedures and competences of the Government.

b. 3. 2. Law on the Administration of the Republic (“Official Gazette of the Republic of Srpska” No. 115/18)

The Law establishes ministries, administrative bodies of the Republic and administrative organizations of the Republic, procedures, affairs of administration, internal organization of administrative bodies, etc.

Ministries are established for one or more related administrative areas, depending on the type, importance and scope of these activities and the need to ensure the development strategy of the Republic of Srpska.

In the Republic of Srpska, the waters are managed by the Ministry of Agriculture, Forestry and Water Management and Public Institution "Vode Srpske", and the Ministry of Spatial Planning, Civil Engineering and Ecology in cooperation with other ministries and administrative authorities manages nature and environment.

b. 3. 3. Law on Local Self-Government (“Official Gazette of the Republic of Srpska”, No. 97/16)

This law regulates the system of local self-government, local self-government units, the manner and conditions for their formation, local self-government affairs, local self-government units, mutual relations of the assembly of the local self-government unit and the mayor or municipal mayor, assets and financing of local self-government units, legal acts and transparency of local self-government units, the supervision procedures for the work of local self-government units, forms of direct participation of citizens in local self-government, cooperation of local self-government units, the relationship between republic authorities and bodies of the local self-government unit, protection of local self-government rights, and other issues of relevance to exercising the rights and duties of local self-government units.

Local self-government units are cities and municipalities, which have their own assemblies that adopts local regulations and executive organs of the Authority, the Chief and the Departments. They exercise power at the local level. Local authorities have no authority to pass laws and regulations, but decisions and regulations under their jurisdiction.

b. 4. Statute of Brčko District of Bosnia and Herzegovina

According to the Statute, the Brčko District of Bosnia and Herzegovina is a single administrative unit of local self-government that is under the sovereignty of Bosnia and Herzegovina.

District authorities' powers with regard to local government arise from the fact that each of the entities delegated to the District Government all the powers related to the administration previously exercised by the two Entities and three municipal authorities in the territory of the pre-war municipality of Brčko, as established by the statute.

The competencies of public authorities in the District are:

a) economy; b) finances; c) public property; d) public services/infrastructure; e) culture; f) education; g) health care; h) environmental protection; i) social protection; j) judiciary and legal services; k) police; l) housing issues; m) urbanism and spatial planning; n) other competencies necessary for the functioning of the District as a single administrative unit of local self-government in accordance with Article 1 of the District Statute.

The jurisdiction and authority of the District are to be implemented through the institutions specified in the Statute. Institutions of the District are those defined by the Statute of the District, and these are the Assembly as the legislative authority, the Government as the executive authority with the departments and the like.

The Territory of the District covers the entire territory of the municipality of Brčko within the limits of 1 January 1991, as prescribed by the Statute.

b. 4. 1. The Law on the Government of the Brčko District of BiH ("Official Gazette of the Brčko District of BiH", No. 22/2018, purified text and 49/2018)

The law defines the organization, jurisdiction, procedures and mandate of the Government of the Brčko District of BiH, members of the Government, as well as the rights and duties of the members of the Government.

c. Environmental Law

c. 1. Environmental Protection Regulations at the Level of Bosnia and Herzegovina

Bosnia and Herzegovina does not have regulations which at the level of joint bodies of B&H regulate the field of environmental protection. According to the General Framework Agreement for Peace in Bosnia and Herzegovina Dayton/Paris 1995, pursuant to Annex 4 which is the Constitution of Bosnia and Herzegovina, that field is under the jurisdiction of the two Entities of which Bosnia and Herzegovina consists.

Those Entities are Federation BiH and Republic of Srpska, which have coordinated and elaborated legislation in the field of environment and partly Brčko District of Bosnia and Herzegovina, which is presented as follows.

c. 2. Regulations on Environment and Environmental Protection of the Federation of Bosnia and Herzegovina

c. 2. 1. Law on Environmental Protection ("Official Gazette of FBiH", No. 33/03 and 38/09)

The law regulates: - preservation, protection, restoration and improvement of ecological quality and environmental capacity, as well as quality of life; - Measures and conditions of management, conservation and rational use of natural resources; - legal measures and institutions for the preservation, protection and improvement of environmental protection; - financing environmental activities and voluntary measures; and - tasks of administrative bodies at different levels of government.

The law aims at: - reduced use, prevention of pollution and environmental pollution, prevention of disruptions, as well as improvement and restoration of the damaged environment; - protection of human health and improvement of environmental conditions for quality of life; - conservation and protection of natural resources, rational use of resources and such a way of economy that provides for the restoration of resources; - harmonization of other interests of entities with environmental protection requirements; - international cooperation in environmental protection; - public initiatives and public participation in activities aimed at protecting the environment; - coordinating the economy and integrating social and economic development in accordance with the requirements of environmental protection; and - the establishment and development of institutions for the protection and preservation of the environment.

The provisions of the law apply to all forms of environment (air, water, soil, plant and animal world, landscapes, built environment);

The law establishes environmental tasks arising from international conventions, unless otherwise provided by the provisions of the international convention.

The law stipulates that every person has the right to a healthy and environmentally friendly environment as a basic constitutional right. It is also defined that every human being has the right to life in an environment similar to health and well-being, therefore an individual and collective duty is to protect and improve the environment for the benefit of present and future generations.

The law defines the principles of sustainable development, which implies: - the preservation of natural goods in such a way that the level of consumption of renewable

materials, water and energy resources does not go beyond the limits in which natural systems can replace it, and that the level of consumption of non-renewable resources does not go beyond the framework for sustainable renewables resources replacing; - that the level of emitted pollutants does not exceed the capacity of air, water and soil, and to absorb and perform the processing of pollutants, and - the continued preservation of biological diversity, human health, and the quality of air, water and soil to standards that are always sufficient for the life and well-being of people, plant and animal life.

The integrated protection of environmental components is carried out individually and within the other components of the environment, taking into account their interdependent relations. Accordingly, the method of use of environmental components is also determined. Protection of environmental components implies the protection of quality, quantity and their reserves, as well as the preservation of natural processes within the components and their natural balance

Water protection includes the preservation of surface and ground waters, water reserves, regulation of water quality and quantity, protection of the river beds, coastal areas of land and aquifers.

Natural flow, structure and flow conditions, river bed, coastal areas can be changed only by ensuring the preservation of the natural balance of aquatic and semi-aquatic ecosystems and their functioning. Conditions for the extraction and use of water for each type of water resources, in accordance with the conditions of this area, are determined by special regulations.

According to the law, the Federal Environmental Protection Strategy and the Cantonal Environmental Policy Plan are developed.

c. 2. 2. Law on Nature Protection ("Official Gazette of FBiH", No. 66/13)

This Law regulates the competencies of bodies that perform nature conservation activities, general nature conservation measures, assessment of the interventions in nature, types of habitats and ecologically significant areas, species and subspecies, protection of wild birds, protection and conservation of biodiversity, forest ecosystems, karstic eco-system, water and humid habitats, protection of marine and coastal natural values, establishment of a European ecological network of specially protected areas - Natura 2000, protection of species and subspecies, cross-border trafficking of protected wild species and subspecies, protection of minerals and fossils, protected natural values, compensation for damages, incentive measures, proposal for concessions on protected natural values and protected natural objects, planning and organization, inventory and monitoring, access to information and public participation, sign of nature protection, promotion of education and education in nature protection, awards and prizes for nature conservation achievements, protection of nature, inspection, penal provisions, transitional and final provisions.

The objectives of nature protection are to preserve and restore the existing biological and landscape diversity in a state of natural balance and harmonized relationships with human activity; to determine the situation and to ensure monitoring of the state of natural values; to ensure a system of protection of natural values for the permanent preservation of their properties on the basis of which they are declared protected; to ensure the sustainable use of natural resources without significant damage to parts of nature and to minimize disturbance of the balance of its parts, to prevent harmful interventions and disturbances in nature as a consequence of technological development and performance

of activities, and to ensure the most favorable conditions of conservation and free development of nature in its economic use; the right of citizens to a healthy environment, rest and recreation in nature.

Nature protection is based on the principles of cooperation, sustainability, interventions, polluter pays, education and training, prevention, and others.

The general useful role of nature is expressed through the maintenance of life as a natural phenomenon, especially through:

- maintenance of natural resources as a supply of substances and energy; - the formation of soil and the preservation of its naturalness;
- **preserving the quality, quantity and availability of water**; - preserving the climate; - preserving the atmosphere and oxygen production; - Preservation, maintenance and development of plant and animal species and their habitats.

Nature protection is carried out in particular: - by identifying all parts of biological and landscape diversity and their vulnerability; - implementation of nature protection measures; - introducing established conditions and determining nature protection measures in spatial planning documents and sectoral **strategies and management plans**, along with the development of a Strategic Environmental Assessment (SEA), and the management of natural assets in mining, energy, transport and communications, agriculture, forestry, hunting, fishery, water resources and other activities; - establishing conditions and measures for the protection of all types of birds by introducing monitoring, and identifying "IBA" areas of special importance for the establishment of a network of protected areas designated as NATURA 2000. - drafting a report on the state of nature, as part of an integral environmental report, adopting and implementing strategies , programs, action plans, management plans, conditions and measures of nature protection; - monitoring the state of nature and informing the public about the state of nature, and public participation in nature protection; - conducting procedures for assessing the acceptability of interventions in nature and procedures for environmental impact assessment in accordance with the Law on Environmental Protection of the Federation of BiH and its implementing regulations; - encouraging and promoting the protection of nature, and developing awareness of the need for nature protection in education; - determining natural values and protected natural values; - establishing a natural value management system and protected natural values; - linking and harmonizing the system of nature protection with the international system of nature protection; - encouraging scientific and professional work in the field of nature protection; - by providing funds for the implementation of nature protection.

The provisions of this Act do not apply in case of deterring an imminent threat to the life or health of persons or property, the rescue of people and property, in a time which is related to the duration of the said circumstances.

Nature protection activities within the competence of the Federation of BiH are performed by the Federal Ministry of Environment and Tourism.

Nature protection activities within the competence of the cantons are performed by the cantonal ministry in charge of environmental affairs and the Cantonal Institute for Nature Protection within their competence determined by the founding act and the Statute (hereinafter: the Cantonal Ministry and the Cantonal Institute for Nature Protection).

The inter-entity environmental authority, in addition to the authorizations defined in the Law on Environmental Protection ("Official Gazette of the Federation BiH", No. 33/03 and 38/09), is also authorized for:

The Environmental Advisory Council established in accordance with the Law on Environmental Protection has an advisory role in the field of nature protection in accordance with the Law and its implementing regulations.

Nature protection is carried out by preserving the overall biological and landscape diversity in the manner prescribed by Law, special regulations and international agreements in which Bosnia and Herzegovina is a member.

Protected natural values according to the Law are: (1) Category Ia: Strict Nature Reserve, Category Ib: Wildlife area (2) Category II: National park (3) Category IIIa: Nature Park, IIIb: Natural and natural features monument (4) Category IV: Habitat / species management area (5) Category V: a) Protected landscapes: - Landscape - Marine landscape b) Regional park (6) Category Protected areas with sustainable use of natural resources.

If an activity or the use of natural value or property in a protected area is restricted or prohibited for certain purposes or for certain means, and therefore the owner or beneficiary of the right over that natural value or property is damaged, he is entitled to compensation for the restrictions it is subjected to in accordance with the provision of the Law. The owner of the property within the protected natural value is obliged to state the price and the conditions of sale in the offer.

A legal or natural person who is subject to restrictions and prohibitions based on this Law or on issued administrative protection acts related to Law, and as a result of that has significantly worsened existing conditions for obtaining income, which can not be compensated by the allowed activity within the prescribed regime of protection in protected natural value, is entitled to compensation for those restrictions.

The legal entity that manages the protected species/subspecies is obliged to do its best to do all the permitted actions and procedures in an appropriate manner and to prevent the occurrence of damage to a legal or natural person.

If a legal or natural person starts an activity or performs works in an area that is a natural habitat of a strictly protected wild species/subspecies, and in which it already exists, and there is a predictable risk of damage from a strictly protected wild species/subspecies, the amount of damage compensation is reduced for the foreseeable risk.

Legal and natural persons are obliged to compensate for the damage caused by violations of this Law.

The conservation of endangered wild species, subspecies, autochthonous, indigenous species-subspecies and endangered habitat types is stimulated by financial incentives and compensations, tax and customs relief, as well as favorable credit protection of protective measures.

Funding incentives and other incentive measures are intended to protect and preserve biological and landscape diversity, in particular encouraging management that recognizes and implements measures to preserve biological and landscape diversity, and which is not harmful to nature, as well as to provide benefits to legal and natural persons that are subjected to corresponding restrictions or damages due to protection of biological and landscape diversity.

The Law stipulates that the Concession acquires the right to economic use of natural goods or the right to perform activities of general interest, as well as the right to construct and use constructions and facilities necessary for the performance of such activities in protected areas and speleological structures where it is permitted in accordance with the Law. This Law and the Law on Concessions of the Federation of BiH apply to the issue of concessions.

The concession can not be given in the area of protected natural values specified in the Law.

The Government of the Federation of BiH may determine by its decision certain protected areas, i.e. certain protected natural values owned by the Federation of BiH or water resource goods, on which concessions can not be granted.

The basic nature protection documents are:

- The Strategy of Bosnia and Herzegovina with the Action Plan for the Protection of Biological and Landscape Diversity (hereinafter: the National Strategy);
- Federal Nature Protection Strategy (Federal Strategy for Nature Protection is part of the Federal Environmental Strategy – hereinafter: Federal Strategy);
- Spatial planning documentation in the Federation of B&H.
- Nature protection programs brought by cantonal assemblies, each for their own area. Programs must be in line with the Federal Nature Conservation Strategy.

Professional nature protection works for the Federation of Bosnia and Herzegovina are performed by the Federal Institute for Nature Protection (hereinafter: the Federal Institute).

The federal institute is an administrative organization that performs its activity as a public service.

Funds for carrying out activities of the Federal Institute are provided in the budget of the Federation of B&H and from other sources in accordance with the Law.

Supervision of the legality of work and supervision of the professional work of the Federal Institute is carried out by the Federal Ministry, which conducts the administrative supervision and requires measures by an administrative act.

The cantons may establish nature protection institutes for their area for performing professional activities in the field of nature protection.

The tasks of the institution are determined by the founding act and the statute.

The federal ministry, cantonal ministries, the federal institute, the cantonal nature protection institutes, the administrative bodies, public companies and public institutions managing protected natural values provide the public with data related to nature protection, unless a special law or an act of the competent authority stipulates the confidentiality of the data.

The federal ministry, cantonal ministries, the federal institute, the cantonal nature protection institutes, public administration bodies, public companies, public institutions that manage protected natural values are obliged, upon their request, to provide information on the state of nature, on the performance of protection activities, and provide insight in the appropriate documentation.

During the drafting of regulations or acts on the designation of natural values, spatial planning documents, protected area management plans, and plans for the use of natural goods, as well as generally applicable and legally binding regulations and documents in the field of nature protection, public participation is ensured.

During the proceedings, the public must be informed by means of a public notice or individually informed of an act or activity that may affect the state of nature.

Public disclosure is obligatory in the cases prescribed by Law and on the basis of the adopted regulations.

Financing of nature protection is done through the **budget of the Federation of BiH and the Environmental Protection Fund of the Federation of BiH.**

In the cantonal budget, funds for the protection of natural values designated by the canton are ensured.

The Federal Ministry carries administrative supervision over the application of the provisions of the Law and regulations adopted pursuant to the Law.

Inspection supervision over the implementation of the Law and corresponding regulations are conducted according to the provisions of Law on Nature Protection, the Law on Organization of Administration Bodies in the Federation of B&H ("Official Gazette of the Federation BiH", No. 35/05), which refer to the inspection supervision, and the Law on Inspections of the Federation of BiH ("Official Gazette of the Federation BiH", No. 69/05).

Nature protection inspectors keep a record of the inspections carried out and other actions with the data on the implementation of inspection supervision.

An appeal against the decision of the Federal Inspector can be filed with the Federal Ministry of Environment and Tourism within eight days from the date of delivery of the decision. Against the decision of the cantonal inspector for nature, if the inspector decides on the basis of the federal regulation, the appeal can be filed with the Director of the Federal Administration for Inspection Affairs.

c. 2. 3. Laws on Environmental Protection of Cantons

Pursuant to Cantons' Constitutions, individual Cantons, through their Assembly, adopted the Laws on Environmental Protection of the corresponding Cantons.

They mostly provide for:

1. preservation, protection, restoration and improvement of ecological quality and environmental capacity, and quality of life
2. measures and conditions for the management, conservation and rational use of natural resources
3. legal measures and institutions for the preservation, protection and improvement of environmental protection
4. funding of environment related activities
5. tasks and duties of cantonal and municipal administrative bodies.

These Laws also define aims of the Laws, which can be grouped as follows:

1. reduced use of the environment, prevention of pollution, pollution and environmental damage, and improvement and restoration of the damaged environment
2. protection of human health and improvement of environmental conditions for the quality of life
3. preserving and protecting natural resources, rational use of resources, and such a manner of management that ensures the restoration of resources
4. alignment of other interests of the Canton with environmental protection requirements
5. encouraging the public to participate, and promoting participation of the public in activities aimed at environmental protection
6. coordinate the economy and integrate social and economic development in accordance with environmental protection requirements
7. establishment and development of institutions for protection and preservation of the environment.

The Laws define that the provisions of the corresponding law relate to: all forms of the environment (air, water, soil, plant life, animal life, landscapes, built environment).

c. 2. 4. Laws on Nature Protection of Canton

The laws regulate the conditions and manner of restoration, protection, preservation and sustainable development of natural landscapes areas, plants, animals and their habitats, minerals and fossils and other components of nature in the territory of the corresponding Canton, jurisdiction and bodies performing nature protection tasks, nature protection planning, general and special measures for nature protection, supervision, financing of nature protection and fines for legal and natural persons.

The measures prescribed by the laws ensure the conditions for: - restoration, protection, preservation and sustainable use of ecological balance in nature; - restoration, protection preservation and sustainable use of renewable natural resources and revitalisation of damaged areas and parts of nature; - establishing a planning system, management and funding of nature protection; - public participation in nature protection; - implementation of cantonal nature protection plans; - decreasing the use, affliction and pollution toward species (animals, plants, mushrooms) and habitats.

In accordance with the law, landscape protection is implemented, which aims to protect or improve: the characteristic of the natural system and its endangered, vulnerable or rare species, the characteristics of endangered landscapes, and the recreational value of landscapes. A special regulation regulates the way and conditions for the protection of landscapes outside the protected areas. A special regulation will regulate the manner of making and the type of plans and projects for the protection of the landscape.

Also, those laws define the protection of the Protected Area, which forms part of the land, which is designated for the protection and maintenance of biological diversity, natural and cultural resources.

c. 3. Environmental Protection Regulations of Republic of Srpska

c. 3. 1. Law on Environmental Protection ("Official Gazette of the Republic of Srpska", No. 53/02, 109/05 and 28/07 – Consolidated Text)

This law regulates: - preservation, protection, restoration and improvement of ecological quality and environmental capacity, as well as quality of life; - measures and conditions for the management, conservation, and rational use of natural resources; - the legal and institutional framework for the preservation, protection and improvement of environmental protection; - financing of environmental activities; - tasks and duties of the administrative bodies envisaged by law and regulations, and tasks of public administration bodies.

In definitions it is given what is a "natural resource" - a component of a natural environment, or an integral part of a natural environment that can be used to meet the needs of the society, excluding the artificial environment.

Environmental components must be protected individually and within the other components of the environment, taking into account their corresponding relations. Accordingly, the burden and use of environmental components is also determined.

Protection of environmental components implies the protection of quality, quantity and their reserves, as well as the preservation of natural processes within the components and their natural balance.

Comprehensive rules regulate specific areas of protection and preservation of components of environment and protection from dangerous impacts, that are adopted under specific legislation.

Protection of water includes the protection of sources of surface and ground water, supplies, regulation of water quality and quantity, protection of the river beds, coastal areas of land water and aquifers.

Natural flow, flow structure, flow conditions, river beds, coastal areas can be modified only by ensuring the preservation of the natural balance of aquatic ecosystems and their functioning.

The provisions of this law ensure the possibility of public access to information, the possibility of participating in decision-making and the possibility of access to justice in matters relating to the protection of environment, regardless of citizenship, nationality or place of residence, and for legal persons, notwithstanding the seat.

Competent authority, in charge of the procedure, before which a person participates in order to protect his rights prescribed by the Law, must ensure that the person is not punished, prosecuted or disturbed in any way due to participation in the procedure.

The competent bodies such as the National Assembly of the Republic of Srpska, the Government of the Republic of Srpska, the Advisory Council, etc. are also defined, and their role prescribed by law.

The law stipulates that environmental sustainability includes: a) the preservation of natural resources so that the consumption of renewable materials, water resources and energy resources does not exceed the level in which natural systems can compensate, and that consumption of non-renewable resources does not exceed the level in which renewable resources are replaced, b) that the degree of pollutants being emitted does not exceed the capability of air, water and soil to absorb and process; c) continuously preserving

biodiversity, human health, air quality, water and soil, and under the conditions that are necessary for the life of people, of the plant and animal world.

Requirements for a high level of environmental protection and improvement of the quality of the environment are part of all policies and strategies aimed at improving the environment, and they are ensured in accordance with the principles of sustainable development.

The legislator insists that in this way the principle of integral approach is implemented, which minimizes the risk to the environment to the least extent possible.

This principle of integral approach includes: taking into account the whole life cycle of substances and products (it is not very clear which "substances" and "products" have a "life cycle"? - Article 10 paragraph 3 of the law), the prediction of consequences in all elements of life environment, as a result of the effects of substances and activities, minimization of waste generation and consequences of harmful effects of waste to the least extent possible, change of general methods for assessment and comparison of environmental problems and application of measures in relation to consequences.

The law provides for the protection of environmental elements, including, inter alia, water in a way that prescribes that water can be used and burdened, and that wastewater is discharged into water after applying appropriate treatment.

There is no specific provision on protection of the river as a special, distinct category of environment.

In relation to water, public water good, rivers and the like, this is a general legislation that does not have adequate effect and consequences for the sector, except for the most broad ones.

c. 3. 2. Law on Nature Protection ("Official Gazette of the Republic of Srpska" No. 113/08)

This law regulates the restoration, protection, conservation and sustainable development of landscapes, natural areas, plants, animals and their habitats, land, minerals and fossils and other components of nature, which form part of the environment, in the manner and under the conditions laid down by this Law.

It is also stipulated by law that those provisions that are not regulated by the law in question will apply the provisions of the applicable environmental protection laws, and that the provisions of the law on protection of water, air, forests and other nature components that provide a higher level of protection will have enforcement priority in relation to this law.

The Law defines that it creates basic conditions for nature protection, sustainable development of nature and the environment, and in particular:

- function, protection, preservation and sustainable use of ecological balance in nature;
- function, protection, conservation and sustainable use of renewable natural resources;
- function, protection, conservation and sustainable use of nature and revitalization of damaged areas and parts of nature;
- establishment of planning, management, information and funding of systems for nature protection;

- establishment of inter-entity and international cooperation in the field of nature protection;
- public participation in the field of nature protection;
- realization of the objectives prescribed in the nature protection policy;
- necessary harmonization of economic and social development plans and projects with the maintenance of all existing renewable natural resources;
- reducing the use, burden and pollution of species (animals, plants, mushrooms) and their habitats.

There are no definitions of "river" in the law, but there are other guidelines that may include rivers, but not necessarily, such as:

"Landscape" - the restricted area of the Earth's surface that contains certain structures and characteristics, specific wild species and natural systems together with specific characteristics of cultural heritage, with forces of nature and elements of artificial environment existing together and interacting.

"Natural resources" are all elements of nature that a person uses for economic purposes. Natural resources can be non-renewable (mineral raw materials) and renewable (biological goods, water, renewable land);

The law envisages the drafting of the Nature Protection Strategy of the Republic of Srpska, which defines the tasks and policies for the protection of nature and biodiversity, provides for the supervision and protection of other parts of the natural heritage.

The emphasized purpose of the law is the protection of habitats. Conservation of biological diversity, protection, maintenance or restoration of natural habitats of wild plant and animal species is realised by macroeconomic, social and cultural measures as well as the proclamation and management of protected areas and inclusion in "Protected Areas in Europe".

Areas with significant biological, geological, ecosystem or landscape diversity are designated as protected areas. Protected areas are:

a) protected natural areas established for scientific purposes or for the protection of the existing natural features of the area, and which may be: 1) strict nature reserves and 2) special reserves (wildlife areas); b) national parks established for the purpose of ecosystems protection and for recreation; c) nature monuments established for the preservation of specific natural characteristics; d) areas of management of habitats, sites established for the implementation of active protection measures in the zone of impact areas established to conserve natural habitats; e) protected landscapes established for the purpose of preserving land and coastal areas and for recreation, which can be: 1) protected natural landscapes, 2) protected cultural landscapes, 3) nature parks, and 4) park forests, forest protection belts and natural areas around cultural goods; f) protected areas for resource management, i.e. areas that have aesthetic, stylistic, artistic, cultural-historical, ecological or scientific value, and which also have respective classifications.

In all the above mentioned classification of nature protection, the river has no role and is not treated in a way to define its significance. If we perceive the water as the basic constitutive element of life on Earth, and also the element of landscapes and species that are protected by the law of nature, then the provisions of the law on nature protection are

in some way incomplete, since the carrier of that fluid through the natural environment, the river, is not explicitly regulated and is not subject to protection, as a whole with the water stream/flow.

c. 4. Environmental Protection Regulations of the Brčko District of BiH

c. 4. 1. Law on Nature Protection (“Official Gazette of Brčko District” No. 24/04, 1/05 and 19/07)

This law almost identically defines nature and its protection, as entity laws do, which has already been described in detail.

c. 4. 2. Law on Environmental Protection (“Official Gazette of Brčko District” No. 24/04, 1/05, 19/07 and 9/09)

This Law also defines the environment in a similar, almost identical way, compared to the entity laws, which has already been described in more detail.

d. Water Resource Management

d. 1. Laws and Regulations at the Level of BiH on Management of Water Resources.

Bosnia and Herzegovina has no regulations that regulate the area of water management at the level of the joint bodies of BiH. This competence, according to the General Framework Agreement for Peace in Bosnia and Herzegovina Dayton/Paris 1995, pursuant to Annex 4 thereof, the Constitution of Bosnia and Herzegovina, is under the jurisdiction of the two Entities of which Bosnia and Herzegovina is composed.

These are the Federation of Bosnia and Herzegovina and the Republic of Srpska, which have coordinated and elaborated legislation in the field of water management as well as the Brcko District of Bosnia and Herzegovina, which are all presented below.

d. 2. Regulations on Water Resources Management at the Level of the Federation of Bosnia and Herzegovina

d. 2. 1. The Law on Waters ("Official Gazette of the Federation BiH", No. 70/06)

(1) This Law regulates water management within the territory of the Federation of Bosnia and Herzegovina.

(2) Water management includes: water protection, water use, protection against harmful effects of water, and the regulation of watercourses and other waters.

(3) This Law regulates: water good and public water good, water facilities, legal entities and other institutions responsible for particular water management issues and other issues related to water in the Federation.

(1) The purpose of this Law is to ensure water management with the aim of:

1. reducing water pollution, achieving good water status and preventing water degradation;
2. achieving sustainable water use;
3. ensuring fair access to waters;
4. encouraging social and economic development;
5. protection of the ecosystem;
6. reducing flood risks and other negative impacts of water;
7. ensuring public participation in decision-making related to water;
8. prevention and resolution of conflicts related to the protection and use of waters;
9. fulfillment of obligations from international treaties binding Bosnia and Herzegovina.

The Law stipulates that water is general good and as such under the special protection of Bosnia and Herzegovina, the Federation, the Canton, city and municipality.

Water management is based on the following principles:

1. non-commerciality, according to which water is basically not a commercial product, but a legacy that must be protected, preserved and treated accordingly;
2. integrity, which takes into account the natural processes and dynamics of water and interconnection and interdependence of aquatic and water-bound ecosystems;

3. long-term protection of quality and rational use of available quantities of water;
4. ensuring protection against harmful effects of water arising from the need for protection of the population and property, taking into account the effects of natural processes;
5. economic valuation of water which includes the costs of burdening, protection and water regulation and protection against harmful effects of waters;
6. public participation in the adoption of water management plans;
7. taking into account the best available technologies and new scientific achievements on natural laws and best environmental practices.

The terms used in this Law have the following meanings:

1. "surface waters" means all land waters, except for groundwater, transitional and coastal marine waters, except for marine waters belonging to territorial waters;
2. "land waters" means all still or running waters on the surface of the land and all groundwater on the land side of the line from which the breadth of territorial waters is measured;
3. "groundwater" means all waters beneath the surface of the earth in the saturated zone and which are in direct contact with surface and underground layers of soil;
4. "river" means water which, in most cases, flows over the surface of the earth, but which can flow even below the ground in one part of its course;
7. "watercourse" means a stream of running water along with shores and water flowing it continuously or occasionally;
8. "trough" means a field recess through which water flows continuously or occasionally;
12. "river basin (watershed)" means the surface of the land from which all surface runoff is led by the streams, rivers and possibly lakes to the mouth, estuary or delta to the sea;
13. "sub-basin" means the surface of the soil from which all the surface runoff is led by the network of streams, rivers and possibly lakes towards a certain point of the watercourse (usually it is a mouth in another river or lake);
14. "water area (district)" means the areas of land and sea which constitute one or more adjacent river basins and appurtenant underground and coastal sea waters and is defined as the basic unit for water management;
15. "transboundary waters" are the waters which form or intersect the border of Bosnia and Herzegovina;
16. "surface water body" means an isolated and specially observed part of surface water, such as: lake, stream, river or canal, a part of a stream, a river or channel, a transitional water or a coastal sea belt;
20. "artificial water body" is body of surface waters formed by human activity;
21. "heavily modified water body" means the surface water body which due to physical changes caused by human activity, has its characteristics significantly changed;
22. "Aquifer" means a layer beneath the surface of the earth or a prologue in rocks or other geological formations having such porosity and watertightness as to permit either a significant flow of groundwater or the capture of significant amounts of groundwater;

23. "groundwater body" means a certain volume of groundwater within one or more aquifers;

Surface waters, according to their importance for water management, are classified into the category I waters and category II waters.

Category I waters are:

A) in the Sava River Basin

Watercourses

1. Sava

2. Una

3. Unac

4. Sana

5. Vrbas

6. Pliva

7. Bosna

8. Krivaja

9. Usora

10. Spreča

(downstream from the mouth of Jala)

11. Željeznica

12. Tinja

13. Drina

14. Sanica

15. Klokot

B) in the Adriatic Sea water area

of

Watercourses

1. Neretva

2. Trebišnjica (regulated part of the flow)

3. Matica (Vrljika)

4. Tihaljina, Mlada, Trebižat

5. Bregava

6. Krupa

7. Lištica (downstream from Široki Brijeg)

8. Rama

Artificial reservoirs

1. Hazna

2. Vidara

3. Jajce I

4. Jajce II

5. Župica

Artificial reservoirs

1. Rama

2. Jablanica

3. Grabovica

4. Salakovac

5. Mostar

6. Buško Blato

7. Mandek

8. Lipa

Natural lakes and wetlands

1. Boračko jezero
2. Blidnje
3. Hutovo Blato

All remaining waters are Category II waters.

Water objects are objects or sets of objects that, together with the accompanying devices, constitute a technical or technological unit and serve to protect against harmful effects of water, water catchment for their intended use and protection of waters against pollution.

Owners, or users of water facilities must maintain the facilities in a functional state and use them in accordance with their nature and purpose. The owner or user of a water facility, in case of cessation of use of that facility, must act in accordance with the water administrative legal act, which is to maintain the facility in a condition that will not cause damage to the water regime and to third parties. If the owner or the user does not maintain a water facility in a functional state and does not use it in the specified manner, the federal water inspection or the cantonal water inspection takes the necessary measures.

The owner or user of the water facility must maintain and use the water facility in accordance with the general legal act on maintenance, use and observation of the water facility and treatment in case of failure or damage to the facility, and must take care of keeping water objects and devices on them from accidental or deliberate damage or destruction.

Water management is under the jurisdiction of Bosnia and Herzegovina, the Federation, the Canton, the city and the municipality in the manner determined by this Law.

The objectives of water management are: achieving a good state or good ecological potential of surface waters and groundwater, i.e. water and water related ecosystems, reduction of damage caused by various harmful effects of water, ensuring the necessary quantities of water of adequate quality for various purposes and encouraging the sustainable use of water, considering the long-term protection of the available sources and their quality.

Water areas, which are the territorial basis of water management are:

1. The water area of Sava and
2. The water area of the Adriatic Sea.

Water management policy is determined by the **water management strategy**.

To implement the strategy, water management plans for the Sava River Basin and the Adriatic Sea Water Area are adopted.

Everyone is allowed to use water in an ordinary way that does not require special devices and does not exclude others from the equal use of water (general water use).

The general use of water includes especially water abstraction without special devices from watercourses and lakes for the basic needs of one household.

In relation to the types of water bodies, there are recreational water bodies such as bathing areas that represent the area for public recreation on the water (swimming, etc.) and the area where bathing is not prohibited, traditionally used for this purpose.

Areas susceptible to eutrophication and nitrate sensitive are classified into sensitive and less sensitive areas.

The law also provides for a method of protection against water and other elements of integrated water management.

The concept of temporary land acquisition is defined in order to implement measures of protection from water and other activities.

There are water management authorities, two water agencies, that issue water acts and perform other activities prescribed by law.

The cantons manage the waters in their area in accordance with the law.

Funding of water management is based on:

1. general water charges;
2. special water charges;
3. revenues from the leasing of public water good;
4. the budget of the Federation, the budget of the Canton, the city budget and the municipality;
5. loans;
6. funds envisaged by special law;
7. donations and other funds in accordance with the law.

d. 2. 2. Water Laws of Cantons

The Canton Laws on Water Management regulate the issues of organization and manner of performing water management tasks which, under the Law on Water of the Federation BiH, have been transferred to the cantonal competence.

Water management includes the use of water, water protection, watercourse regulation, protection against harmful effects of water and organization of water management.

The purpose of the Canton Water Law is to ensure water management with the aim of: a) achieving a rational and sustainable use of water, b) reducing water pollution, achieving good water status, reducing and preventing water degradation, c) reducing the risk of floods and other negative impacts of water, d) ensuring fair access to water, e) protecting ecosystems, f) building, protecting, using, maintaining and managing cantonal, municipal, group and local water facilities for water supply and other issues within the jurisdiction of cantons.

Surface waters and water resources within the jurisdiction of the canton are surface waters which are classified as category II waters in the Basic Law and water goods along these waters in the territory of the canton.

Water management is a set of decisions of activities and measures aimed at maintaining, improving and achieving the necessary and sustainable water regime in a given area in

accordance with the natural conditions, plan, needs and possibilities, and it is realized in particular by ensuring the necessary quantities of water of adequate quality for various purposes, water and watercourse management, protection of water from pollution and protection against harmful effects of water.

The objectives of the water management of the cantons are: achieving a good state of good ecological potential of surface and groundwater, water and water related ecosystems, reduction of damage caused by various harmful effects of water, ensuring the necessary quantity of water of adequate quality and various purposes and encouraging sustainable use of water, considering the long-term protection of the available sources and their quality.

d. 3. Regulations on Management of Water Resources at the Level of the Republic of Srpska

d. 3. 1. Law on Waters („Official Gazette of the Republic of Srpska“ No: 50/06, 92/09, 121/12 and 74/17)

The law regulates integral water management within the territory of the Republic of Srpska. Water management includes an integrated approach, such as: water protection, water use, protection against harmful effects of water, watercourse regulation and other water bodies and public goods.

The law also regulates the financing of activities, administrative bodies, public services and institutions in the water sector, water facilities, and other issues related to integrated water management in the Republic of Srpska.

Therefore, the purpose of the law is to ensure integrated water management, in particular:

- a) achieving good water status and preventing its degradation,
- b) achieving sustainable water use,
- c) ensuring fair access to waters,
- d) promoting social and economic development,
- e) providing protection of aquatic, semi-aquatic and terrestrial water-dependent ecosystems,
- f) organizing flood defense and other negative impacts that can be caused by water,
- g) ensuring public participation in decision-making process related to water, including public access to complete, accurate and timely information on water status, about the activities undertaken by persons which use or contaminate water and the activities competent authorities and institutions have undertaken,
- h) preventing and resolving conflicts related to the protection and use of waters, and
- i) fulfillment of obligations from international treaties that are binding on Bosnia and Herzegovina.

The law also gives specific terms and definitions of, inter alia:

Water – means all the water in the interior of the Republic of Srpska, which is standing or flowing water on the surface of the earth and any groundwater closer to the ground-level along the base line of the border of the territory,

Surface waters - means all waters on the surface of the territory of the Republic of Srpska, except for groundwater,

Groundwater - means all the water below the surface of the ground in the saturation zone (saturated zone) and in direct contact with the ground or subsoil,

River - means a water body in the inland of the Republic of Srpska, flowing for the most part on the surface of the land but which may flow underground for part of its course,

Lake - means the water body of standing surface water in the inland of the Republic of Srpska,

Water land - means a set of land parcels that make up river banks, lakes and reservoirs, as well as their coasts to the level of centuries-old waters, that is, up to the level of the highest level of accumulations,

Watercourse - means the area of the trough which consists of a set of land parcels through which water flows constantly or occasionally, with a watercourse of probability of occurrence of water levels 'once in 50 years',

Coast - means land parcels or parts thereof that are in the space between the line of 'small water' and the water line of 'once in 50 years' water level, and for accumulations, up to the highest level of water,

River basin – means the area of land from which all surface run-off flows through a sequence of streams, rivers and, possibly, lakes into the sea at a single river mouth, estuary or delta,

Sub-basin - means the area of land from which all surface run-off flows through a series of streams, rivers and, possibly, lakes to a particular point in a water course, a lake or a river confluence,

River Basin district - means the area of land and sea, made up of one or more neighboring river basins together with their associated groundwaters and coastal waters, which is identified under Article 3(1) of Directive 2000/60 / EC, of 23 in October 2000, ("Official Gazette of the EC", number L 327 of December 22, 2000) as the main unit for management of river basins,

Transboundary waters - mean any surface or groundwater that cross or are located at the borders between two or more states,

Surface water body - means a separate, especially perceived part of surface water, such as lake, stream, river or canal, part of stream, river or channel,

Aquifer - means a subsurface layer or layers of rock or other geological strata of sufficient porosity and permeability to allow either a significant flow of groundwater or the abstraction of significant quantities of groundwater,

Groundwater water body - means a separate, especially perceived amount of groundwater within one or more aquifers.

Waters are public good.

Waters are under the special protection of the Republic of Srpska, as an integral part of Bosnia and Herzegovina.

The Law defines water good, which is water land, water and water objects, which due to their great importance are goods of general interest and under special protection.

Water good, as good of general interest, is managed in as provided for in the Law and on the basis of other regulations or decisions of the competent authorities, in accordance with the Law.

The public water good consists of all segments of water resources, such as: land parcels, water or hydrotechnical structures, rivers and streams with defined morphological, geological and hydrological content, which were registered in land registers or cadaster by the date of entry into force of this law, as a public water good of general interest or are defined in other public documents, or have become state property on the basis of the law.

Public water law is good of general interest and is owned by the Republic of Srpska.

Also, the law specially defines water objects and categorizes according to its purpose:

1. Protective water facilities that include: embankments, revetments, etc.,
2. facilities for protection against erosion and torrential damage,
3. water drainage facilities, such as canal network and others.
4. water facilities for the use and exploitation of water: basic water supply facilities for the population and industry, for irrigation-accumulation,
5. navigation facilities - waterways, locks and dams, and other related facilities and equipment,
6. artificial fishponds, recreational pools and lakes, as well as facilities for caged fish farming.
7. Water facilities for protection of waters from pollution, which include: collectors for the reception and transport of wastewaters, sewage treatment plants, and the like.

Water objects can also be multipurpose water objects.

The law stipulates the use of water, which means: the abstraction, impoundment and use of surface water and groundwater; use of water power for electricity generation and other energy needs; use of water for fish farming; use of water for navigation; use of water for sports, swimming, recreation and other similar purposes.

An important term and area defined by law is the Water Area - which is the area along the watercourses that can be flooded during a flood event when water from the watercourse is poured over water land to a wider area, regardless of whether it is protected by water control structures.

The Law on Water protects all segments of water, water quality and the like, but there is no **terminology for protection of the river as an integral component of nature.**

Only certain segments are taken into account, which can reach the level of one river, which is often rather small and modest in flow and of minor importance for the scenery.

d. 4. Laws and Regulations on the Management of the Water Resources of the Brčko District of BiH

d. 4. 1. Law on Water Protection („Official Gazette of the Brčko District of BiH“ No: 25/04, 1/05 and 19/07)

The Law regulates the protection of water from pollution and unreasonable use in the Brčko District of BiH. Water protection includes the preservation and regulation of required quantities of water, good condition, maintenance of the coast and water related land and making decisions on achieving rational-sustainable use. Water conservation ensures sustainable use of water in order to preserve and improve its quality, preserve natural processes and the natural balance of water, plant and animal species and their habitats, which depend on water – water ecosystems, and the provision of necessary quantities of water for various purposes.

The law provides basic terms and meanings that are defined as: - bathing water - means water in which bathing is permitted on the basis of a legal act of the competent authority or water in which bathing is not prohibited and where a large number of people are bathing; - drinking water means water that meets the prescribed quality standards and can be used for drinking and the production and preparation of food; - water means all natural and artificial surface water and groundwater; - water regime means a set of natural or artificial hydrological, chemical and biological characteristics that refer to surface water and groundwater in a given area during a certain period of time; - riparian land (literal translation – „water land“; this definition differs from the same term in Republic of Srpska law) means that the land is permanently or periodically covered by inland water, which accordingly represents the special hydrological, geomorphological and biological conditions that define aquatic ecosystems and which reach the coast. Water land also means dried river beds and gravel areas are occasionally flooded. The land of occasional lakes is not water land.

Quality standards are defined by other regulations that the Brčko District of BiH applies from the Entities until its own regulations are passed.

d. 5. Directive 2000/60 /EC

Directive 2000/60 / EC of the European Parliament and of the Council, which establishes a framework for Community action in the field of water policy, has been incorporated into the legal system in BiH by regulations of the Entities. It implies the application of other European Union directives in the manner defined by this Directive.

The Directive has 11 annexes.

It prescribes the method of preparation of water management programs and plans. In accordance with the aforementioned regulations in BiH, Water Management Plans have been adopted, respecting the laws, by-laws and thus the rules and prescribed frameworks provided by the Directive.

The Directive deals with the ecological status of surface and groundwater.

It gives definitions of excellent, moderate and good ecological status of the river, through biological quality elements and through physical-chemical elements of quality.

In this regard, certain river flows are determined according to the given classification assigned to them and as such are kept.

However, this approach is partial in the opinion of this author because he it does not encompass the whole of the river basin. What is more, existing definitions of the ecological status of the river at certain points can be in direct contradiction with the natural state of a river, but in any case, the definitions and solutions given by the Directive do not protect the river as a natural phenomenon with all its characteristics, water, land, flora and fauna, but partially protect individual segments of the environment that are in the area of the river basin.

Directive 2000/60/ EC and the directives referred to in that Directive are not familiar with the terms:

Wild river areas - Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted.

Scenic river areas - Those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.

Recreational river areas - Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past

e. Water Rights

In the whole of Bosnia and Herzegovina, without exception, water is considered a public good. Neither provisions and regulations of the municipalities, nor Cantons in the Federation of Bosnia and Herzegovina, and in The Republic of Srpska, define water in any other way, but only as a public good.

Different persons or entities have the right to use water in accordance with the regulation and issued permit. The use of water can be for various purposes such as:

- impoundment, abstraction and use of surface waters for the needs of drinking water supply, sanitary and technological needs, irrigation and other;
- the use of hydroelectric power and other propulsion needs;
- use of water for fish breeding;
- use of water for sports, swimming, recreation and other similar purposes.

In order for an entity to use water for any purpose, it is necessary to obtain a administrative water act.

Administrative water act shall be issued at the written request of the investor or user or authorized third party, the competent administrative authority or the authority competent for issuing urban approval according to the regulations on spatial planning or the competent body for initiating the procedure for granting concessions on waters and water resources.

Administrative water act are issued by competent agencies at the level of both Entities in BiH, the competent Canton ministries and competent local community bodies depending on the category of water used. All activities are prescribed by applicable laws (Water Laws).

The person entitled to the right to water use is obliged to respect the water law that granted him the right, as well as the regulations and by-laws by which a specific administrative water act was issued.

Anyhow, this implies that the person entitled to the right to water use is able to fully implement his ideas and business objectives in accordance with the administrative water act.

Concession right is also one of the rights to water that is implemented by contract with the competent authority, on the grounds of which water rights are granted, with the right to use water. The most frequent cases of applying concessions in Bosnia and Herzegovina at all government levels are concessions in the construction and use of water power for electricity generation. Concessions have different forms and models, with decades long right to use water, which can be extended.

In the realm of river protection and flow, concessions in BiH have a special place because they are issued for all types of watercourses, regardless of the flow, as well as for all areas, regardless of whether it is a protected area or an urban area.

f. Land and Property Rights

Land and property rights are defined in part by the special Law on Waters, which is a special law in relation to the "basic" law regulating property relations, which is the Law on Real-Estate Rights, which is in the power of Entities of BiH.

f. 1. The Law on Rights In Rem ("Official Gazette of the Republic of Srpska", No. 124/08, 3/09 – corrigendum, 58/09, 95/11, 60/15 and 18/16 – the Constitutional Court decision) and the The Law on Rights In Rem of Federation of Bosnia and Herzegovina, "Official Gazette of the Federation of BiH" No. 66/13 and 100/13) ²

Entities' laws on rights in rem define the acquisition, use, disposal, protection and termination of property rights, other real estate rights and the mortgage rights.

Rights in rem are: ownership right, right to build/construct, securities, easement rights, and mortgage.

Any natural or legal person may be entitled to property rights and other real estate rights.

Parts of nature which, by their characteristics, can not be property of a natural or legal person individually, but can be used by everyone under equal conditions, such as: air, water in rivers, springs, lakes and sea (hereinafter: General Goods) can not be owned or otherwise subject to rights in rem.

Public goods are objects (possessions) that by law are intended to serve everyone under equal conditions, such as public roads, streets, squares, and more. Minerals, water, game, fish and other free parts of nature become property when they are intercepted or separated from their deposit or habitat based on the license or concession of the competent authority. Independent real estate are buildings, constructions or facilities constructed on general or public good, legally separated from the general or public good by the concession and are the property of the holder of the concession. A special law regulates the use and management of general and public goods.

Goods of general interest, which are not common goods, such as construction land, agricultural land, forests and forest lands, protected parts of nature, plant and animal life, objects of cultural, historical and ecological importance, may be an object of property rights and other real estate rights. Persons entitled to property rights and other rights in rem, for goods of general interest, are obliged to exercise their rights in accordance with specific laws. A specific law in this case is the Law on Waters, which in a somewhat different and in a more complete way defines the ownership and management of the public water good. Goods of general interest have special protection, as prescribed in the Law on Waters.

Regarding the listed characteristics of the Law on Rights in rem and Water Law, as specific regulations, legal norms in BiH are similar or identical and with slight differences, and provide the same level of ownership protection.

² Translator's note: Serbian wording "Stvarna prava", which is in the title of the Law, does not fully correspond neither to "Real Rights" in English, nor "Property Rights". Phrase "Proprietary Rights" would, as the other two phrases, also be inadequate, since "Stvarna prava" denotes not only property (moveables and immovables), but also right to construct, securities (mortgage and hypothecation), easement, etc.

This implies that everyone entitled to a certain right related to public good, whether obtained within a contract/concession or without it, has the right in rem within the limits of the legal act by which he has acquired the right to operate and use it freely.

f. 2. Laws on Concessions

In Bosnia and Herzegovina, concessions are regulated at four levels of government.

These levels are:

- the level of joint bodies of BiH,
- Entity level,
- the level of Canton and
- the level of the Brčko District of BiH, which has an organizational-spatial distribution of the levels of a local community from any Entity in BiH.

f. 2. 1 Law on Concessions of Bosnia and Herzegovina (“Official Gazette of BiH” 32/02)

Article 1 of the Law of Concessions of B&H defines the manner and conditions under which concessions may be awarded in Bosnia and Herzegovina, jurisdiction for awarding concessions, institutional structure, jurisdiction and other issues related to the work of the Commission for Concessions of Bosnia and Herzegovina, tendering procedure, the content and operation of the concession contract, the rights and obligations of the concessionaire and other issues related to concessions, which are of significance for Bosnia and Herzegovina.

The Law also stipulates the conditions under which domestic and foreign legal entities may be granted concessions in sectors which, according to the Constitution of Bosnia and Herzegovina and the laws of Bosnia and Herzegovina, are under the jurisdiction of Bosnia and Herzegovina, and in case of representation of the international subjectivity of Bosnia and Herzegovina, as well as when the concessionary good spreads to the Federation of Bosnia and Herzegovina and the Republic of Srpska as follows: for the provision of infrastructure and services, the exploitation of natural resources and facilities for their exploitation, financing, design, construction, reconstruction, maintenance and/or management of the infrastructure and for its related objects and devices.

The aim of this law is to create a transparent, non-discriminatory and clear legal framework for determining the conditions under which domestic and foreign legal entities may be granted concessions in Bosnia and Herzegovina and stimulating foreign capital investments in the areas listed in the Law .

The definitions given in the Law are:

"Conceding Party" – all relevant ministries or authorities of Bosnia and Herzegovina designated by the Council of Ministries of Bosnia and Herzegovina to grant a concession.

"Concession" - the right granted by a Conceding Party to provide the construction of infrastructure and/or services and to exploit natural resources under terms and conditions agreed on by Conceding Party and Concessionaire.

"Concessionaire" - legal person founded pursuant to the laws of Bosnia and Herzegovina, owned by a local and/or foreign legal person who is granted a Concession and executing a concession contract pursuant to the Law.

The Council of Ministers of Bosnia and Herzegovina makes decisions on the type and subject of the concession, as well as the scope of the concession to be awarded, and the Parliamentary Assembly of Bosnia and Herzegovina confirms it.

The law prescribed and defined the existence of the Concession Commission of Bosnia and Herzegovina, as an independent regulatory body, which exercises its competencies in the capacity of the Commission for the award of concessions of Bosnia and Herzegovina or in the capacity of the Joint Commission on Concessions.

In case of joint competence of Bosnia and Herzegovina and/or the Federation of Bosnia and Herzegovina and/or The Republic of Srpska and/or Brčko District of Bosnia and Herzegovina for concession granting, the competent authorities harmonize the conditions and form of concession granting.

The method of awarding a concession is a public invitation or unsolicited proposal.

The law stipulates that in the public invitation procedure, the competent authorities and the owner of the facilities, i.e. the property, shall develop a feasibility study for each project envisaged for concession, prior to the public call of potential bidders. A study of economic justifiability is submitted to the Commission for consideration and approval.

The concessionaire is entitled to own and use the assets made available to him by the conceding party in accordance with the concession contract.

The provisions of the law are not sufficiently clear as to whether this Law applies to the river or its part or other public good.

Having in mind the laws on the waters of the entities, it is most likely that the rivers can not be treated by the said regulation.

f. 2. 2 Law on Concessions ("Official Gazette of The Republic of Srpska" No: 25/02, 91/06 and 92/09)

This Law regulates the subject, the modalities and the conditions concerning the granting of Concessions in the Republic of Srpska, different aspects of concession contract. The Law also sets the conditions under which local and foreign legal persons may be granted Concessions for providing infrastructure and services, as well as exploitation of natural resources, financing, design, construction, rehabilitation, maintenance and/or operation of such infrastructure and all accompanying facilities in sectors within the constitutional competence of the Republic of Srpska.

Concession is defined as the right to conduct business activities using public goods, natural resources and other goods of general interest, as well as the right to perform activities of general interest, in accordance with this law, and this right is given to the concessionaire for a fixed time, under the conditions prescribed by the Law, with the payment of a concession fee.

The aim of the law is to contribute to the economic development of the Republic of Srpska by creating a stimulating legal framework for attracting foreign and domestic investments while at the same time improving the transparency of the concession award procedure and

increasing the efficiency and long-term sustainability of concession projects and responsible management of natural resources and public goods.

Concession may be granted for, among other goods, use of public water resources: - water for the technological process in the performance of economic activities; - water and water land for the use of hydro-accumulations, baths, ponds; -water land for realization of some of the economic activities or for realization of other objects of concession in accordance with this law, - for extraction of materials from watercourses (gravel, sand, stone).

The policy of granting concessions is regulated and implemented by the Policy on the Concession Awarding Policy.

There are three forms of awarding a concession: a public invitation after the initiative of the competent authority, the initiative of the interested authority, the negotiation procedure.

The concession contract may be concluded for a term not exceeding 50 years.

Awarding authorities are the Government of the Republic of Srpska, as a conceding party (on behalf of the Republic) or the Assembly of the local self-government unit (on behalf of the local self-government unit).

The competent authority is the Ministry, (for the area of concession within its competence, which belongs to the concession for which the Government is competent) or the Mayor (for the subject of the concession within the competence of the local self-government units).

The Concession Commission is a permanent and independent regulatory body with the status of a legal entity and with the rights and obligations established by the Law. The members of the Concession Commission are appointed by the National Assembly, upon a proposal of the Government, after a public competition has been conducted.

The concessionaire is a company established in accordance with the regulations of the Republic, with which the conceding party concluded a concession contract.

The concessionaire is obliged to pay to the conceding party the concession fee in the amount and in the manner determined by the concession contract.

If for the implementation the concession it is necessary to expropriate the real estate, the costs, procedures and deadlines for payment of the exemption fee for real estate shall be determined in accordance with the regulations governing that area.

The right from the real estate concession contract is registered in the public real estate records, in accordance with the concession contract and the regulation governing the keeping of public registers of real estate.

f. 2. 3 Law on Concessions of the Federation of Bosnia and Herzegovina (“Official Gazette of the Federation BiH” No. 40/02 and 61/06)

The Law regulates: the subject, manner and conditions under which concessions may be granted to domestic and foreign legal entities for the provision of infrastructure and services and the exploitation of natural resources, financing, design, construction, renewal maintenance and/or management of work and infrastructure, and all for it related facilities and devices in the areas that are in the exclusive competence of the Federation of Bosnia and Herzegovina, the competence to grant concessions, the establishment of the Federation Concession Commission, the tender procedure, the content of the concession contract, termination of the concession contract, the rights and obligations of the concessionaire,

dispute resolution and other issues of importance for awarding concessions to the territory of the Federation.

The aim of the law is to create a transparent, non-discriminatory and clear legal framework for determining the conditions under which domestic and foreign legal entities may be granted concessions in the Federation and the stimulation of foreign capital investments in the areas specified in the law.

The subject of the concession, in accordance with the provisions of this law, among other things, is:

- use of watercourses and other waters; construction of hydroelectric facilities; construction and use or use of hydroaccumulations; research and / or use of energy and other mineral resources, including all types of salt and salt waters as defined by a special law.

The following definitions are given by law:

"Conceding party" - all competent ministries or authorities of the Federation that are appointed by the Government of the Federation of Bosnia and Herzegovina to grant a concession.

"Concession" - the right to engage in economic activities using natural resources, goods in general use and carrying out activities of general interest specified by this Law.

"Concessionaire" - a legal entity established in accordance with special federal laws owned by a domestic and/or foreign legal entity to which a concession is granted and executing a concession contract in accordance with the Law.

The authority competent for granting the concession is the Government of the Federation, which, at the proposal of the Minister in charge, issues the decision on the grant of the concession for a certain good.

In addition to the Government, there is the Concession Commission of the Federation of Bosnia and Herzegovina as an independent regulatory body that performs its competencies in the capacity of the Federation Concession Commission.

The method of granting the concession is a tender procedure and a self-initiative offer (unsolicited proposal).

After the conducted procedure, concession agreement between the conceding party and the concessionaire is concluded, for a certain period which can not be longer than 30 years.

f. 2. 4 Laws on Concessions of the Cantons of Federation of Bosnia and Herzegovina

The laws of cantons mainly regulate the concept of concessions, basic concepts, the subject of concessions, identify planning and preparatory actions for awarding the concession, establishment and competence of the concession commission, the concession granting procedure, the concession contract, the rights and obligations of the concessionaire, supervision, and other issues of importance for the realization of concessions in the cantonal area.

In general terms, it is defined that the concession represents the granting of the right to use natural wealth, goods in general use or performance of activities of general interest, which is awarded by the competent cantonal authority for a limited period of time, with payment

of concession fee, to a domestic or foreign legal or natural person registered for performing economic activities, under the conditions prescribed by the Law.

The conceding party is the Canton Government, for which the competent ministries conduct the concession granting procedure or conclude a concession contract.

The concessionaire is a legal entity established in accordance with special laws or domestic or foreign natural person to whom the concession is granted and which executes a concession contract in accordance with the law.

The concession contract is a contract concluded by the conceding party and the concessionaire, which contains provisions on mutual rights and obligations related to the use of the granted concession.

The concession fee is the fee paid by the concessionaire under the concession contract.

Concessions are granted, among other things, for the construction and/or use of energy facilities (hydroelectric facilities, thermal power plants, wind power plants, pipelines), of installed power up to 5 MW; - construction and/or use of water management and water supply facilities (hydro accumulation, water supply facilities, use of watercourses and other waters); - Utilities (water supply, heating of apartments, funeral services, etc.); - hydromelioration systems and systems for extracting materials from watercourses and water surfaces, and the like.

The concession is granted after a public invitation or a self-initiative offer (unsolicited proposal), and generally can not be shorter than five or longer than thirty years.

f. 2. 5 Law on Concessions of the Brčko District of Bosnia and Herzegovina

The Brčko District of BiH, in a very concise manner, defines the rules of allocation and treatment when concessions are concerned.

It thus defines that natural resources and goods in general use, as well as facilities and installations used by public companies founded by the District, may be given to a concession to another person, provided that these public companies can not provide their rational use, or undisturbed functioning in accordance with the regulations governing the performance of the activities of those enterprises.

Concessions are granted for, inter alia: - use of watercourses and other waters; - construction of energy facilities; - construction and/or use of hydro accumulations, except for the transmission of electricity; - research and/or use of energy and other mineral resources.

The Brčko District of BiH is the conceding party, i.e. the grantor of the concession, and the concessionaire is a legal entity established in accordance with the laws of the District owned by a domestic and/or foreign legal and/or natural person, to whom a concession is awarded and which implements a concession contract in accordance with this Law .

The concession is granted with a contract for a period of up to 30, for which the concession fee is paid.

g. Regulatory Structure: Mitigation/Offsets

As a result of the protection of public water and water resources from users, there are restrictions and prohibitions, as well as payment of fees for certain activities. Fees represent a type of "tax", or public revenue that is paid to the state budget for the use of public water resources of water and land.

The prohibition in the public water estate is defined as a prohibition of construction and use contrary to the law, except for: public infrastructure facilities, to improve the hydromorphological and biological characteristics of surface waters, to protect nature, to construct water protection facilities, to construct facilities for water protection, construction of tourist facilities, etc.

Construction of the abovementioned facilities is possible under the prescribed conditions and according to the obtained administrative water-law acts.

In addition to the prescribed prohibitions and restrictions, there is a financial aspect of the obligations of every user of public water resources. Thus, the "water fees" payable for water, water pollution or the use of public water resources are prescribed. Compensation is higher if the level of protection of water and public water resources is lower. The user of water and public water resources can lose the right to use and can be prosecuted and have other legally prescribed consequences due to excessive pollution of water and public water property or its use past the prescribed framework.

The amount of fees and payment terms are regulated by special bylaws adopted on the basis of the Law on Waters.

Example:

1.

A legal or natural person engaged in fish breeding and taking water from surface waters, surface or underground wells, is obliged to pay compensation for the affected and used water for the fish in the amount of 0,0001 KM/m³ of affected water.

Therefore, for a single cubic meter of affected water, the entity will pay the amount of 0.0001KM (Convertible Marks, or about 0.0000005USD).

2.

The electricity generation fee, for the electricity generated using hydro power is paid by legal entities and natural persons who use hydroelectric potential for the production of electricity or which deliver electricity from their own or other systems and facilities for the production of electricity on the basis of 0.001KM/kWh of electricity produced.

3.

The fee for the use of public water resources, land for the purposes of pond construction, water intake and similar, is 2 KM/m² of land, while the amount of 40 KM/m² of land belonging to the public water estate is paid for the construction of the mini hydro power plant.

The funds collected in this way are used to maintain the water system in the entities and local communities, for flood protection systems, melioration systems, water quality monitoring etc.

h. Sources of Funding

Sources of funding in the water sector in both entities in BiH are:

1. general water charges;
2. special water charges;
3. revenues on the basis of leasing of public water resources;
4. budgets of the Entities, budgets of the Cantons, Cities and Municipalities;
5. credit funds;
6. funds provided for in a specific law;
7. donations and other funds, in accordance with the law.

The sources of financing from the collected water fees are partly shown through the examples mentioned in chapter g.

Water charges can be general and special.

A general charge is only available in the Federation of BiH, about 51% of the territory of BiH, while in the Republic of Srpska there is no general water compensation.

The basis for the calculation of the general water fee is the net salaries of employees in employment for an indefinite and fixed time, i.e. gross wages reduced by contributions and taxes on wages. The general water fee is paid by the employer – entity paying the salary, in the amount of 0.5% of the net salary of all employees, at the same time as the payment of salaries of employees.

Special water charge is prescribed in both Entities in BiH and the payer is legal or natural person who uses water or pollutes water. The charge is prescribed similar to the examples in chapter g.

Sources of funding for institutions dealing with water management in both entities in BiH are from water charges.

Funding in the entities differs slightly.

In the Federation of BiH, the Agencies collect funds into their own account and spend them in accordance with the Plan approved by the Agency's Management Board.

In The Republic of Srpska, the Public Institution "Vode Srpske" passes the Work Plan and Financial Plan for a period of one year, which is subject to approval by the Government of the Republic of Srpska. Funding can only be within the framework of an approved plan for planned activities.

There are no direct "incentives" in the water charges, but there are indirect ones that are "hidden" – if the user is properly equipped and has less losses, the more they will have direct benefits from the taken water, and the less will pay for the water taken, since the total volume of water taken is considered.

If water polluters pollute less, the pollution charge is lower.

The regulations are set up to stimulate the protection of water and aquatic land.

Arrangements defined by the concession law are used to build dams on rivers. It is a BOOT system (build-own-operate-transfer).

i. Institutional Systems and Arrangements

The most important institutions for water management and use in BiH are:

Two Water Bodies in the Federation of Bosnia and Herzegovina, named "Agency for the Water Area of the Sava River" and "Agency for the Water Area of the Adriatic Sea".

Agencies manage waters within their territories and within their jurisdiction. They are implementing the Water Act, as well as by-laws enacted under the Water Act. They prepare Strategies, Plans, issue permits etc.

They are responsible for water management and water conservation in the area they manage.

There is one competent institution in the Republic of Srpska named Public institution "Vode Srpske" Bijeljina.

The institution is competent to manage the waters in the territory of The Republic of Srpska. It also implements the Law on Waters and by-laws that have been adopted on the basis of the Law, participates in the preparation of the Water Management Strategy, prepares the Water Management Plan, issues licenses, concludes contracts, and provides other administrative legal acts relevant for water management and public welfare.

In addition to these institutions, the authorities responsible for water management in Federation of B&H are: Federal Ministry of Agriculture, Water Management and Forestry in the Federation of BiH, and cantonal water-management ministries. Ministries within their competencies give opinions, participate in water management and give agencies certain consent. Also, the Federal Ministry carries out administrative control over the implementation of the Law on Waters. In the Federation Bi Hi will issue certain regulations and other acts. The Government of the Federation of BiH promulgates by-laws on the proposal of the Ministry, proposes to the Parliament of the Federation of BiH to pass or amend the water law and similar, participates in the granting of concessions.

Other competent authority in the Republic of Srpska is Ministry of Agriculture, Forestry and Water Management in the Republic of Srpska. The Ministry carries out administrative tasks, supervision over the work of the Institution, promulgates by-laws, proposes to the Government of the Republic of Srpska laws, regulations and other legal acts related to water and water management, participates in the issuance of water acts, participates in the granting of concessions. Parliament of the Federation of BiH, passes Laws related to water and environment. The Government of the Republic of Srpska, promulgates by-laws on the proposal of the Ministry, proposes to the National Assembly of The Republic of Srpska to adopt or amend the water law etc., and participates in the granting of concessions. The National Assembly of the Republic of Srpska passes laws on water, nature and the environment.

At the B&H level, the Ministry of Foreign Trade and Economic Relations of B&H coordinates the activities of the entity water authorities in water management when drafting strategies and activities related to European integration, as well as international projects.

j. Conclusions and Recommendations:

j. 1. Conclusions

- j. 1. 1. Laws and Regulations in force in B&H, at all levels of government, have a built-in mechanisms for protection of nature, water, rivers etc., harmonised with EU directives. This encompasses the protection of certain segments of environment. According to laws on protection of nature, there are options on how to protect an area for its exceptional scenery, but it is not defined as because of the river itself and its characteristics.
- j. 1. 2. There is no such term as river as an area of exceptional scenery or “wild” area, which would be protected – not even in water laws, as a result of WFD transposition. Rivers are referred to as crucial for aquatic, semiaquatic and land ecosystems dependent on water. The objective of maintaining “good surface water status” is pursued, which is achieved by a surface water body when both its ecological status and its chemical status are at least "good". "Ecological status" is an expression of the quality of the structure and functioning of aquatic ecosystems associated with surface waters, classified in accordance with Annex V of WFD, etc.
- j. 1. 3. Laws and regulations on nature protection define that if manner or scope of natural resources use directly endangers certain species, its habitat or natural ecosystem, minister in charge of environment protection can restrict or suspend that use by a decree. However, not even such a legal clause does not indicate protection of a river, but rather a general “suspension”, which is a discretionary decision of multiple individuals, and authorities, that usually will not, except for rare exceptions, act as it is prescribed, since their action must be backed by evidence, for which there is no process or procedure regulated nor the authorities defined.
- j. 1. 4. Laws and regulations on nature protection do not mention rivers as a component of nature, that should be protected – “landscape diversity” is protected. “Landscape” is defined as a concrete territory, with a certain structure and characteristics, specific wild species, natural ecosystems, with characteristics of cultural heritage, where there are coexistent and complement nature and elements of artificial environment, where the concept of river is indistinguishable. Other laws and regulations, such as those on environment protection, also do not mention river and river protection. There is only protection of certain components of environment.
- j. 1. 5. The result of fragmented legal perception of environment, nature, and protection thereof, is violation of different kinds of natural habitats, that are diminished both by its area and its substance. This statement is supported by hundreds of hydroelectric power plants of all levels of generating capacity that are being constructed on water streams, as well as construction of mostly private infrastructure, dominantly illegally, without license, with subsequent legalisation attempted. Such a construction and activity are especially present in river streams, from urban to rural and remote areas adjoining the river.

- j. 1. 6. River as a natural phenomenon is not protected as a whole – present river protection is based on specific segments of environment protection (plants, animals, area, etc.) rather than integral river protection of a river with all related plants, animals and areas.
- j. 1. 7. Water charges, prescribed as fees that natural and legal persons pay for water quality deterioration, or as user charges for the use of natural resource or exclusive right concerning exploitation of natural resource, often are unduly low, which is one of main causes of water and environment deterioration.
- j. 1. 8. Inspection supervision over the implementation of provisions of law on environment protection, water public good and concessions law, is quite moderate, with modest results.

j. 2. Recommendations

- j. 2. 1. Point out to competent authorities that river, as a base for life and scenic diversity, is insufficiently protected.
- j. 2. 2. Point out the fact that there is illegal and unplanned construction on rivers and river coasts throughout B&H.
- j. 2. 3. Point out the fact that previously mentioned reasons (1, 2) lead to deterioration, and often permanent loss of exceptional natural scenery and potentials on this area.
- j. 2. 4. Propose amending the laws and regulation as to improve and strengthen protection of rivers and river coasts, as a complete area with certain elements of environment.
- j. 2. 5. Propose elaboration and prescription of river classification based on river status, ranging from wild and intact (if any), than those that represent natural river scenery, with its areas and range, to rivers that are scenic and preserved, but have recreational and sport potential, and that have been artificially modified.
- j. 2. 6. Financial component of natural resources use and water charges, which are generally low, or sometimes even unduly low, raise to cost-effective level, adequate for protection of environment, water and nature.
- j. 2. 7. With regard to previously mentioned, it is definitely necessary to amend laws, strategic and planning documents in B&H, at relevant level of competent authorities.

j. 3. Possible effects

Implementation of the proposed measures would, in all of B&H:

- 1. raise substantial river protection and nature protection to a higher level;
- 2. raise awareness of the population with regard to the need of protection of each relevant river as a whole, and enable better public participation in river and environment management;
- 3. enable certain flora and fauna protection in protected river areas, which are natural and inseparable complex;
- 4. enable economic prosperity based on promotion of scenery, water, attracting directly or indirectly a number of nature lovers and their admirers;
- 5. enable sustainable protection and development of water, rivers and environment;

6. enhance the health of the population, with all other benefits (less healthcare costs, better public health, higher awareness, foreign tourism investments etc.).