

Template Outline for DRPM Country Report

Title: Investigation of the Legal, Policy and Institutional Feasibility of Establishing a Durable River Protection Mechanism (“DRPM”) in Slovenia (March 2019)

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 (name of country.) The study examines the existing legal context at the national level and at the local level of governments in (name of country) 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 (name of country) 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*

b. **Brief Overview of the Government Structure and the Legal and Institutional Framework in (name of country)**

Provide a brief overview of the government structure in Slovenia.

Slovenia was a part of Socialist Federal Republic of Yugoslavia that fell apart in the 1990s when Slovenia declared its independence. In 2004 Slovenia became a full member of the European Union and in 2007 adopted EURO as its currency. Slovenia is a democratic republic based on its Constitution and it endorses the parliamentary system of democracy. It is organised in a two-railed system, the national level and the local - municipal level to which the Constitution¹ grants self-governance. The legislative body is the General Assembly, the government is the executive body and courts are exercising judicial power. The president of the republic is the head of the state and the commander of defence forces. The Constitutional Court, Ombudsman, , Court of audit, Information commissioner, Commission for the prevention of Corruption and Central Bank of Slovenia act as independent bodies.

¹All relevant info in A guide to the Republic of Slovenia www.nyulawglobal.org/globalex/Slovenia.html; Constitution OF RS available in English on <https://www.us-rs.si/en/about-the-court/legal-basis/constitution/>, some other acts in English available on http://www.svz.gov.si/fileadmin/svz.gov.si/pageuploads/prevodi/List_of_Slovene_laws_and_regulations_in_English.pdf (15.2.2019).

How are laws enacted in the country? Are there other official actions that have the force of law? (E.g. executive orders, legislative proclamations, agency administrative designations?)

The legislative procedure is determined in detail by the Rules of Procedure of the National Assembly². In the majority of cases, the proposer of legislation in Slovenia is the government (acting according to the Rules of Procedure of the Government of the Republic of Slovenia³). A draft law may also be submitted by a deputy/parliamentarian, the National Council, or at least 5.000 voters. A draft law in the National Assembly undergoes three stages in the legislative procedure: the first reading (not obligatory) includes a general debate on the reasons for the adoption of the law and on the principles, goals and basic solutions of the draft law; the second is held within the working body of the National Assembly for a certain field (amendments can be proposed by deputies, a deputy group, certain working bodies and the Government – if it is not the proposer of the law); the new draft enters the third stage where it is discussed by the National Assembly as a whole (amendment may be proposed by deputy group, at least ten deputies, or the Government). The parliament's rules of procedure provide also for a shortened and urgent procedure for the adoption of a law. When a law is adopted, it comes into force by its promulgation on the part of the President of the Republic of Slovenia and by its publishing in the Official Gazette. However, there are two exceptions: 1. the National Council of the Republic of Slovenia may vote on a suspensive veto against the adopted law and the National Assembly has to decide again on the law as a whole and adopt it by the absolute majority of the votes (regular procedure the adoption is granted by the majority of votes cast by the deputies); 2. the National Council, one third of deputies or at least 40.000 voters can request that the adopted law be reconsidered on a subsequent referendum.

There are also other acts with force of law. The hierarchy of law is as follows:

- Constitution of Republic of Slovenia⁴, also international treaties (ratified and published) are directly applicable,
- Laws adopted by the General Assembly,
- Government regulations (mostly Decrees) if so specified in law and according to the Rules of Procedure of the Government of the Republic of Slovenia,
- Regulations issued by competent ministries if so specified in law.

Describe the Legislative, Executive and Judicial branches of government and how they interact with one another.

Legislative power, executive power and judicial power are strictly separated:

1. The National Assembly (90 deputies) is the supreme representative and legislative institution, exercising legislative and electoral powers as well as control over the Executive and the Judiciary. According to the Constitution, Slovenia has an "incomplete bicameral system", meaning that the upper chamber (National Council)⁵ does not have equal competences with the lower chamber (National Assembly)⁶ but it only supervises the work of the lower chamber. The National Council is

² Official Gazette of RS 35/02, 60/04, 64/07, 105/10, 80/13, 38/17 <http://www.pisrs.si/Pis.web/pregledPredpisa?id=POSL34> (15.2.2019).

³ Official Gazette RS. 43/01, 23/02 – popr., 54/03, 103/03, 114/04, 26/06, 21/07, 32/10, 73/10, 95/11, 64/12, 10/14, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=POSL32> (15.2.2019).

⁴ In English on website of Constitutional Court <https://www.us-rs.si/en/about-the-court/legal-basis/constitution/> (15.2.2019).

⁵ Information on <http://www.ds-rs.si/en> (15.2.2019).

⁶ Information on <https://www.dz-rs.si/wps/portal/en/Home> (15.2.2019).

the representative of social, economic, professional and local interest groups (40 representatives). The composition of the National Council should neutralize the influence of political parties, which are primarily involved in the legislative process through the National Assembly. Among its powers are legislative initiatives and suspensory veto on adopted law.

2. The government⁷ is a collective body presided by the Prime Minister. Other members are the ministers responsible for a certain field of work (currently 14 ministries and prime minister). We have the Ministry for environment and spatial planning with its bodies that is responsible for water management. The government is responsible to the General Assembly.
3. Judicial power consists of the court system⁸: Courts of General Jurisdiction, Labor and Social Court, Administrative Court, The Supreme Court and the Constitutional Court, as an autonomous and independent State body. The courts are independent.

Slovenia has a long tradition of regionalism and local self-government. The Local Self-Government Act stipulates that a municipality is the basic self-governing local community. The National Assembly decides on the boundary of a municipality based on a non-binding referendum of the inhabitants, usually acting in accordance with the outcome. There are 212 municipalities in Slovenia. The authorities of a municipality comprise a mayor, a municipal council and a supervisory committee, with the municipal council being the highest decision-making body. The mayor, who is a directly elected official, represents and acts on behalf of the municipality, and presides over the municipal or city council. The supervisory committee supervises the disposal of municipal property and public expenditure.

The constitutional changes of June 2006 introduced provinces as a form of local self-government but they are not yet established.

How are legislative representatives elected? How are agency or department officials appointed?

Elections:

1. National Assembly: according to the National Assembly Election Act in Slovenia, the proportional electoral system is prescribed for the election of deputies to the National Assembly. Under this system, the seats are allocated proportionally to the amount of public support received by individual candidates or lists. The Constitution of the Republic of Slovenia has established a four per cent threshold for the election to the National Assembly. The lists that do not obtain at least four per cent of votes at the state level are not included in the allocation of deputy seats. Candidates for a deputy may be nominated by political parties and by voters. The voting rights are universal (at age of 18 years) and equal. The National Assembly has 90 members elected for four years. Members of the Italian and Hungarian national communities with one seat each are represented in the National Assembly. The Assembly of the Republic of Slovenia is headed and represented by the President of the National Assembly. The mandates are distributed according to the proportional system, which has been corrected with some elements of the majority system. These elements include, in particular, the vote on individual candidates in electoral districts and the establishment of a threshold for entry into parliament. Members are elected by electoral units, which are formed in proportion with the number of inhabitants. Voters vote individual candidates on the list of candidates by individual constituencies.

⁷ Information on <http://www.vlada.si/en/> (15.2.2019).

⁸ Information on <http://www.sodisce.si/> (15.2.2019).

2. The National Council consists of 40 members, representatives of working and social interests (functional interests) and local interests (territorial interests). Namely, four representatives of employers, employees and farmers, craftsmen and independent professions, six representatives of non-economic activities and twenty-two representatives of local interests. They are elected for five years. Elections are regulated in the National Council Act. National councilors are elected through indirect elections in interest organizations or local communities by electoral bodies (through electors)
3. Local self-government: on local level the voting for mayor and municipal council is similar to the voting for members of the National Assembly according to Local Elections Act⁹.
4. Government: According to the Constitution and Government of the Republic of Slovenia Act¹⁰ the President of Republic, after consultations with heads of deputy groups, submits to the National Assembly a candidate for the Prime Minister, which is elected by majority votes of all deputies. The Prime minister submits to the National Assembly a proposal for ministers. The government consists of the Prime Minister and ministers. Ministers head ministries and determine political guidelines for their operation. The number of ministers is not determined in advance, and every government coalition decides on the number according to its needs and political goals and then proposes accordingly proposes the change of legislation. The function of the Prime Minister and ministers ends when the new National Assembly meets after the elections, but they must carry out current affairs until the election of the new Prime Minister and appointment of new minister is finished.
5. Judges are elected by the National Assembly on the proposal of the Judicial Council. The office of a judge is permanent. The age requirement and other conditions for election are determined by law.

Appointing officials:

The lower level of public officials is employed according to the Employment Relationship Act¹¹ and Public Employees Act¹². The directors of the ministries' bodies (and similar high officials in the ministries) are appointed by government on proposal of the minister of a certain area. They are appointed for 5 years. But a new minister can change them in one year without any reasons.

How are administrative arrangements established to implement policy objectives?

According to the State Administration Act¹³ administrative tasks shall be performed by ministries, bodies within ministries and administrative units (on local level). Also state agencies can be established by a

⁹ Official Gazette RS 72/93, 7/94, 33/94, 70/95, 51/02, 73/03 – odl. US, 54/04 – ZDoh-1, 72/05, 72/05 – ZLS-M, 121/05, 70/06 – odl. US, 54/07 – odl. US, 60/07, 45/08, 83/12, 68/17, <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO308> (15.2.2019).

¹⁰ Official Gazette RS 4/93, 71/94 – ZODPM, 23/96, 47/97, 23/99 – ZSOVA, 119/00, 30/01 – ZODPM-C, 52/02 – ZDU-1, 123/04, 109/08, 38/10 – ZUKN, 8/12, 21/13, 47/13 – ZDU-1G, 65/14, 55/17, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO242> (15.2.2019).

¹¹ Official Gazette RS 21/13, 78/13 – popr., 47/15 – ZZSDT, 33/16 – PZ-F, 52/16, 15/17 – odl. US, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5944> (17.2.2019).

¹² Official Gazette RS, št. 56/02, 110/02 – ZDT-B, 2/04 – ZDSS-1, 23/05, 62/05 – odl. US, 75/05 – odl. US, 113/05, 68/06 – ZSPJS-F, 131/06 – odl. US, 33/07, 65/08, 69/08 – ZTFI-A, 69/08 – ZZavar-E, 40/12 – ZUJF, <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3177> (17.2.2019).

¹³ Official Gazette RS 52/02, 56/03, 61/04, 123/04, 93/05, 89/07 – odl. US, 126/07 – ZUP-E, 48/09, 8/10 – ZUP-G, 8/12 – ZVRS-F, 21/12, 47/13, 12/14, 90/14, 51/16, version in English accessible http://www.svz.gov.si/fileadmin/svz.gov.si/pageuploads/prevodi/List_of_Slovene_laws_and_regulations_in_English.pdf (17.2.2019).

special act. The ministries are established with the State Administrative Act. Currently we have 14 ministries¹⁴. The environment protection is together with spatial planning under the Ministry for environment and spatial planning¹⁵. Other bodies for environmental protection within the ministry are:

- Slovenian environmental agency¹⁶,
- Institute for nature conservation¹⁷,
- Slovenian water agency¹⁸,
- Inspectorate for environment and spatial planning¹⁹,
- The surveying and mapping authority of the Republic of Slovenia²⁰,
- Slovenian nuclear safety administration²¹.

Some competences in the field of environmental protection lie also with the Ministry for agriculture, forests and food²² and its Institute for forests²³ and the Ministry for infrastructure, which is the authority for energy and infrastructure.

Describe the political dynamic in the country and how political forces influence legal and institutional arrangements for environmental protection in the country.

Political parties have great influence. The basis of this is the established political coalition in the General Assembly. If the winning party does not have enough votes in the Assembly (46), which is usually the situation, it has to go into a coalition with other compatible parties. The main space for implanting good perspectives for environmental protection is then the coalition agreement where the partnership in coalition is negotiated on some topics. The Government and the General Assembly vote according to the coalition agreement. On specific decisions or acts there are also initial negotiations inside the coalition prior it goes into procedure (Government decision or legislative procedure in General Assembly). Traditionally, the Ministry for environment and spatial planning does not have a powerful/influential position in the government and other interests prevail.

¹⁴ Information on http://www.vlada.si/en/about_the_government/ministries/ (19.2.2019).

¹⁵ Information on <http://www.mop.gov.si/en/> (19.2.2019).

¹⁶ Information on <http://www.arso.gov.si/en/> (19.2.2019).

¹⁷ Information on <http://www.zrsvn.si/en/default.asp> (19.2.2019).

¹⁸ Information on <http://www.dv.gov.si/en/> (19.2.2019).

¹⁹ Information on <http://www.iop.gov.si/en/> (19.2.2019).

²⁰ Information on <http://www.gu.gov.si/en/> (19.2.2019).

²¹ Information on <http://www.ursjv.gov.si/en/> (19.2.2019).

²² Information on <http://www.mkgp.gov.si/en/> (19.2.2019).

²³ Information on <http://www.zgs.si/eng/news/index.html> (19.2.2019).

c. Environmental Law:

Describe the framework for environmental law in the country.

How are environmental laws administered in the country?

Is there a process for conducting environmental assessments of the environmental impacts of major infrastructure projects in the country?

1. Constitution of the Republic of Slovenia²⁴

Protection of the environment is a constitutional right. The basis for the regulation of environmental protection is Article 72 (the human rights section of the Constitution), which stipulates that everyone has the right in accordance with the law to a healthy living environment. The state shall promote a healthy living environment. To this end, the conditions and manner in which economic and other activities are pursued shall be established by law, including under which conditions and to what extent a person who has damaged the living environment is obliged to provide compensation. According to Article 73 everyone is obliged, in accordance with the law, to protect natural sights and rarities and cultural monuments. Indirect protection is also ensured in Article 5, which mentions that the state has an obligation to conserve natural wealth and cultural heritage.

The Constitution invokes the protection of the environment through the provision of Article 67 when it determines the restriction of the right to property: "The manner in which property is acquired and enjoyed shall be established by law so as to ensure its economic, social, and environmental function." In the exercise of right to property, the interests of the community and interests of other parts of nature should also be taken into account.

In 2016, the Constitution was changed to include the Right to drinking water, according to which everyone has the right to drinking water and water resources shall be a public good managed by the state. As a priority and in a sustainable manner, water resources shall be used to supply the population with drinking water and water for household use and in this respect shall not be a market commodity. The supply of the population with drinking water and water for household use shall be ensured by the state directly through self-governing local communities and on a not-for-profit basis.

It should also be mentioned that Article 8 demands that laws and other regulations must comply with generally accepted principles of international law and with treaties that are binding on Slovenia. Ratified and published treaties shall be applied directly. For river protection the relevant ratified treaties are at least:

- The Convention on Biological Diversity,
- The European Landscape Convention,
- Alpine Convention,
- Danube River Protection Convention,
- The Convention Concerning the Protection of the World Cultural and Natural Heritage – the World Heritage Convention,
- The Convention on the Conservation of European Wildlife and Natural Habitats,

²⁴ Official Gazette RS 33/91-I, 42/97 – UZS68, 66/00 – UZ80, 24/03 – UZ3a, 47, 68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121,140,143, 47/13 – UZ148, 47/13 – UZ90,97,99, 75/16 – UZ70a, in English on <https://www.us-rs.si/en/about-the-court/legal-basis/constitution/> (19.2.2019).

- The Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus convention),
- The Convention on the Protection and Use of Transboundary Watercourses and International Lakes,
- Ramsar Convention on Waterlands,
- Framework Agreement on the Sava River Basin,
- All decisions of European Union authorities according to the treaties of EU, specially Water Framework Directive and Habitats Directive. EU environmental legislation determines around 80% of national legislation.

2. Environmental Protection Act²⁵

The Environmental Protection Act is the basic act for the overall protection of the environment in Slovenia. It regulates horizontal common instruments and principles as:

- The basic principles of environmental protection (also Principle of the ecological function of property),
- Environmental protection measures,
- Strategic documents for environmental protection,
- Strategic environmental assessment (according to EU SEA Directive), environmental impact assessment and environmental consent (according to EU EIA Directive), environmental permit (according to EU Industrial emissions Directive),
- Environmental monitoring and environmental information collection,
- Emission trading,
- Liability for environmental damage (according to EU Environmental Liability Directive),
- Conditions for nongovernmental organizations to gain the status in public interest in environmental protection – the NGOs with this status can be a party in some procedures (environmental assessment, permit),
- Inspection.

The Government of the Republic of Slovenia determines:

- all emission limit values that must not be exceeded under the normal operating conditions of an installation or while conducting an activity,
- environmental pollution reduction levels and related equivalent parameters and technical measures,
- the possible effects of the total and integral environmental burden equilibrium in the fish ecosystem.

The purpose, goals and principles of the environmental law are valid for the whole spectrum of environmental protection issues, but are inherently connected with one of the most important parts of nature, i.e. water and therefore the protection of rivers (Article 17). For determination of limit values, assessment and permitting procedures a number of executive regulations have been adopted as decrees by Government or rulings adopted by the minister.

²⁵ Official Gazette 41/04, 17/06 – ORZVO187, 20/06, 49/06 – ZMetD, 66/06 – odl. US, 33/07 – ZPNačrt, 57/08 – ZFO-1A, 70/08, 108/09, 108/09 – ZPNačrt-A, 48/12, 57/12, 92/13, 56/15, 102/15, 30/16, 61/17 – GZ, 21/18 – ZNOrg, 84/18 – ZIURKOE, <http://pisis.si/Pis.web/pregledPredpisa?id=ZAKO1545>, English version published on http://www.svz.gov.si/fileadmin/svz.gov.si/pageuploads/prevodi/List_of_Slovene_laws_and_regulations_in_English.pdf (20.12.2019).

It is important to stress that when spatial planning and construction permitting has impact on the environment, the environmental assessment (consent) is carried out within the procedure of spatial planning or construction permitting (Spatial Planning Act²⁶ and Building Act²⁷).

3. Nature Conservation Act²⁸

The Nature Conservation Act transposed the Convention on Biological Diversity into Slovenian legislation. It establishes biodiversity conservation measures (protection of wild plant and animal species, including their genetic material, their habitats and ecosystems) and the system for the protection of valuable natural features in order to contribute to nature conservation. Valuable natural features shall encompass all natural heritage in the territory of the Republic of Slovenia. In terms of the protection of certain areas, it is important to protect valuable natural features, Natura 2000 areas, ecologically important areas and protected areas. There are different types of protected areas:

- *A habitat type* shall mean a spatially explicit ecosystem unit distinguished by biotope or biotic characteristics (Article 31);
- *An ecologically important area* shall mean the area of a habitat type or a part thereof or a larger ecosystem unit that significantly contributes to biodiversity conservation (Article 32);
- *An area of special protection (Natura 2000 area)* shall mean an ecologically important area that is important within the territory of the EU for the maintenance or achievement of a favourable status of birds and other animal and plant species, their habitats and habitat types. Areas of special protection form the European ecological network named Natura 2000 (Article 33). The Natura 2000 areas are determined and regulated by the Decree on special protection areas (Natura 2000 areas)²⁹.
- *Landscape* is also “regulated” - it shall mean a spatially explicit part of nature with a specific distribution of landscape components resulting from the characteristics of living and non-living nature and human activity. Activities affecting the physical space shall be planned and carried out in such a manner that the conservation of landscape features referred to in the preceding paragraph and of landscape diversity are given priority. The Government shall specify the landscape features and landscape diversity important for biodiversity conservation and the guidelines for conserving biodiversity in a landscape that have to be taken into account in the spatial planning and use of natural assets. There is no guidance on this yet (Article 35).

The Nature Conservation Act has general measures on valuable nature features valid for all natural areas. Additionally, Chapter III of the act defines special measures for special protected areas. Valuable natural features can be of national or local importance and may be owned by natural or legal persons, or by the State or a local community. No one shall treat valuable natural features in such a manner that their existence is threatened.

Protected areas are established by the protection act for each area, which also determines (1) the boundaries of the protected area on a topographic map, (2) the type of protected area, (3) how to

²⁶ Official Gazette RS 61/17, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7341> (22.2.2019).

²⁷ Official Gazette RS 61/17 in 72/17 – popr., <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7108> (22.2.2019).

²⁸ Official Gazette RS 56/99, 31/00 – popr., 119/02, 41/04, 61/06 – ZDru-1, 8/10 – ZSKZ-B, 46/14, 21/18 – ZNOrg, 31/18, <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1600>, English version from 2014 published on http://www.svz.gov.si/fileadmin/svz.gov.si/pageuploads/prevodi/List_of_Slovene_laws_and_regulations_in_English.pdf (20.2.2019).

²⁹ Official Gazette RS 49/04, 110/04, 59/07, 43/08, 8/12, 33/13, 35/13 – popr., 39/13 – odl. US, 3/14, 21/16, 47/18, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED283> (22.2.2019).

determine the manner of conducting the public service of managing the protected area, (4) the potential obligation to adopt a management plan, and (5) the financial resources for the implementation of such protection and for the development of the local community (Article 53). In determining the type of protected area the criteria of those international organizations for the conservation of nature of which the Republic of Slovenia is a member shall also be taken into account³⁰.

Protected areas can be small-scale protected areas or large-scale protected areas. The small-scale protected areas may be: natural monument (Article 64), strict nature reserve (Article 65) and the nature reserve (Article 66). Large-scale protected areas shall be: national (Article 69), regional (Article 70) and landscape park (Article 71). In Slovenia we have only one national park, which was established by the Triglav National Park Act³¹.

In order to protect all these areas, it is necessary to carry out an assessment of the acceptability of plans, programs, schemes, spatial or other documents and an assessment of the acceptability of activities affecting nature (Article 33a). This is detailed in the Rules on the assessment of acceptability of impacts caused by the execution of plans and activities affecting nature in protected areas³². Appropriate assessment for plans is carried out within the strategic environmental impact assessment. Appropriate assessment of the activities affecting nature is carried out within the environmental impact assessment, if it is carried out. If the environmental impact assessment is not performed, the assessment of the acceptability of the impacts is carried out separately.

For general nature conservation, during the planning procedure specific nature protection guidelines must be obtained.

The Nature Conservation Act also determines:

- The permit for an activity affecting nature and nature protection consent: if construction permit is needed then they are carried out within the procedure of issuing the construction permit (Building Act);
- Conditions for non-governmental organizations to gain the status in public interest in nature conservation. Associations with this status shall have the right to act in the interest of nature conservation in all administrative procedures and judicial proceedings (Article 137);
- Inspection.

4. Waters Act³³

The Waters Act in its basic provisions defines the relevant concepts and lays down the basic water rules (it also transposes the Water Framework Directive). It emphasizes that water is a public good (Article 15) and that everyone is provided with access to it. The Act introduces the term water right and water consent. Water right means obtaining permission for special use of water (for example, fish farms, irrigation, and hydroelectric plants). Water consent is a document that permits intervention in the water area by influencing the water regime. In order to protect drinking water, protected water areas are defined, where the disposal of waste, the use of fertilizers, etc. is prohibited. Water management is defined in more detail by the specific water management plans. The Water Act also defines the basic principles of water management.

³⁰ Slovenia is a member of IUCN, <https://www.iucn.org/> (25.2.2019).

³¹ Official Gazette RS 52/10, 46/14 – ZON-C, 60/17, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5487> (22.2.2019).

³² Official Gazette RS 130/04, 53/06, 38/10, 3/11, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV5539> (22.2.2019).

³³ Official Gazette 67/02, 2/04 – ZZdrI-A, 41/04 – ZVO-1, 57/08, 57/12, 100/13, 40/14, 56/15, <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1244> (22.2.2019).

According to Article 7:

- *Water system* means an area from which all inland waters run through streams, rivers or lakes into a river that flows into the sea.
- *River system* means an area from which all inland waters run through streams, rivers or lakes into a river or lake.
- *Surface water body* means a significant and distinctive part of surface water.
- *Groundwater body* means a significant and distinctive part of groundwater within one or more water conveyors.

Inland waters and water lands are *a natural public water asset* (Article 15). A natural public water asset may be used by anyone if this does not have adverse effects on waters, the water regime and the natural balance of aquatic and semi-aquatic ecosystems, and does not restrict the same rights of others; *special use of a water asset* shall only be possible on the basis of a water permit or a concession, if all the conditions are fulfilled and if this does not substantially restrict general use (article 21).

The Republic of Slovenia has on its territory *two water systems* (Article 52), namely: (1) *the Danube water system* (formed by the Sava, Drava and Mura river systems) and (2) *the Adriatic Sea water system* (formed by the Soča water system and the water system of the Adriatic rivers). Further regulation is in the Decree on the water management plan in the Danube and Adriatic river basin districts³⁴. The water and river system shall form the territorial basis for water management and the boundaries of the water and river system shall be determined by the minister (Article 52) according to the Rules on the detailed methodology for determining the boundary of inland water land³⁵. The data on the boundary of water land is kept in *a water cadastre*. Water land and waterside land are defined by Act (Article 11), the management of both is the responsibility of the State (possibly also of the local community if the Act defines so).

The surface waters are classified into Class 1 and Class 2 (Article 8). In order to protect and improve the quality of water, surface water bodies are classified in classes according to their ecological and chemical status (Article 62).

General prohibitions - activities and encroachments in physical space on water and waterside land that could: 1. put the stability of water or waterside land at risk; 2. reduce protection against the adverse effects of waters; 3. obstruct the normal flow of water, wash and flottage; 4. render the viability and reproduction of water and waterside organisms impossible, are prohibited (Article 84).

Special protection areas are namely:

- *Protected water area* (Article 74 and 76) - in this area, activities that might threaten the quantitative or qualitative conditions of water sources in a protected water area may be restricted or prohibited; alternatively, owners or other proprietors of land in the protected water area may be obliged to carry out or allow the implementation of measures to protect the quantity and quality of water sources;
- *Bathing water area* (Article 77 and 77a) - prohibitions and restrictions are similar to those in the protected water area;
- *The protection area of surface waters* (Article 79b) – it shall be determined by the Government in an influential area of surface waters with a view to protecting surface water against pollution or other

³⁴ Official Gazette RS 61/11, 49/12, 67/16, <http://pisrs.si/Pis.web/pregledPredpisa?id=ODLO1596> (22.2.2019).

³⁵ Official Gazette RS 58/18, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV13051> (22.2.2019).

types of loading that could affect the quality of water. This act also lays down restrictions or prohibition of activities that could endanger the proper quality of water, and the restrictions apply to the same areas as the protected water area, as well as the possibility of depriving or restricting property rights.

The highest strategic national water management plan is a *national program*³⁶ (adopted by the National Assembly for a maximum of 12 years), while its *water management plans*³⁷ include the implementation action plans. For spatial planning special guidelines for planning in these areas are provided.³⁸

The competent body for water management is the Slovenian water agency. Certain expert and developmental tasks related to water management are carried out also by the Water Institute of the Republic of Slovenia³⁹. The Water act contains also some inspection provisions.

5. Special regimes

Triglav National Park Act⁴⁰: This Act establishes a national park, defines its area, protected areas and areas of narrower protected areas in the national park, rules of conduct and protection regimes, the manner of managing the national park, the participation of the public and the people of the national park in the management of the national park, a sustainable development orientation in the national park and in the areas of self-governing local communities in the national park and the manner in which they are implemented, financing, supervision, sanctions and other conduct related to the aims and purposes of this Act. The Triglav National Park is divided into three protection zones (Article 6, with special protection regimes – Article 15, 16 and 17). The upper part of the Soča river basin belongs to the area of the Triglav National Park.

Škocjan Caves Regional Park Act⁴¹: This Act declares the Škocjan Caves Regional Park as a regional park with the name Škocjan Cave in order to preserve and explore outstanding geomorphological, geological and hydrological sights, rare and endangered plant and animal species, paleontological and archaeological sites, ethnological and architectural features and cultural landscape, and provide opportunities for proper development. Protected areas and influence areas are regulated, and the security regimes are defined in chapter III.

Act on the designation of a protected area for the Soča River with tributaries⁴² (The Soča River Act): This Act determines a protected area for the Soča River with tributaries in order to protect the water and the main characteristics of the water regime, and to preserve the biological properties of the waters and

³⁶ For Danube River basin (2016-2021)

http://www.mop.gov.si/fileadmin/mop.gov.si/pageuploads/podrocja/voda/nuv_II/NUV_VOD.pdf, For Adriatic river basin (2106-2021) http://www.mop.gov.si/fileadmin/mop.gov.si/pageuploads/podrocja/voda/nuv_II/NUV_VOJM.pdf (22.2.2019).

³⁷ For Danube river basin (2016-2021)

http://www.mop.gov.si/fileadmin/mop.gov.si/pageuploads/podrocja/voda/nuv_II/NUV_VOD.pdf, For Adriatic river basin (2106-2021) http://www.mop.gov.si/fileadmin/mop.gov.si/pageuploads/podrocja/voda/nuv_II/NUV_VOJM.pdf (22.2.2019).

³⁸ For Danube river basin

http://www.mop.gov.si/fileadmin/mop.gov.si/pageuploads/podrocja/voda/nuv_II/Naravovarstvene_usmeritve_VO_Donava.pdf , for Adriatic river basin http://www.mop.gov.si/fileadmin/mop.gov.si/pageuploads/podrocja/voda/nuv_II/Naravovarstvene_usmeritve_VO_Jadransko_orje.pdf (2.2.2019).

³⁹ Information on <http://www.izvrs.si/?lang=en> (22.2.2019).

⁴⁰ Official Gazette RS [52/10](#), [46/14](#) – ZON-C in [60/17](#), <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5487> (23.2.2019).

⁴¹ Official Gazette RS [57/96](#) in [46/14](#) – ZON-C, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO469> (23.2.2019).

⁴² Official Gazette SRS, št. [7/76](#), [8/76](#) – popr., [29/86](#), <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO120> (2019).

the natural environment in this area. The Act *protects* only a certain area of the Soča river basin, and not its whole river basin and tributaries. In the protected area, the construction and reconstruction of water management facilities or installations and the construction and reconstruction of other facilities and installations that may affect the regime or water quality is prohibited (on protected areas that Act prevents accumulation).

Conditions of the Concession for Exploitation of the Energy Potential of the Lower Sava River Act⁴³

The Act determines the conditions for the implementation of concessions for the exploitation of the water energy potential in the area of Lower Sava from Suhadol to the state border with the Republic of Croatia on water bodies or parts of water bodies and the conditions, which must be fulfilled by the concessionaire in the planning and construction of facilities for the implementation of the concession. *The concession* applies to the use of water for the production of electricity in hydroelectric power stations Vrhovo, Boštanj, Blanca, Krško, Brežice and Mokrice with the exploitation of the water potential of Lower Sava.

Biosphere Areas of MAB⁴⁴: *Biosphere areas* are areas of terrestrial or coastal ecosystems, which are internationally recognized within the UNESCO MAB (MAB - Man and Biosphere program) to promote and demonstrate a balanced relationship between people and nature. The central areas of these reserves are under a more stringent security regime and are usually protected by the special national legislation of the countries where they are located. Very often these reserves are national parks or nature reserves, however this can also include areas protected by international conventions - for example, areas of internationally important wetlands or areas listed on the UNESCO list of natural and cultural heritage. Slovenia has four biosphere regions: The Biosphere Reserve of the Julian Alps (proclaimed in 2003) and managed by the Triglav National Park; The Karst Biosphere Reserve (proclaimed in 2004), managed by the Škocjan Caves Park; The Kozjansko and Obsotelje Biosphere Reserve (proclaimed in 2010), managed by Kozjansko Park; in 2018 The Mura - Drava region was also proclaimed, which will be an interstate biosphere region and will include areas in Slovenia, Austria, Croatia, Hungary and Serbia.

6. Other important regulations

There are also several **executive regulations** (decrees and rules) of Environmental Protection Act, Nature Conservation Act and Waters Act, that are not mentioned above (to ease the explanation), but are relevant for this research project.

The following acts also concern environmental protection: Spatial Planning Act, Building Act, Act on Forests, Agricultural Land Act, Freshwater Fishery Act, Marine Fisheries Act, Underground Cave Protection Act, Inland Waterways Navigation Act and Criminal Code (specially Article 332 and 336).

According to the Environmental Protection Act also **National plan and National Environmental Action Plan** are adopted by the National Assembly for certain period⁴⁵. These include also nature conservation plan that must be adopted in accordance with the Nature Conservation Act and the national water plan in accordance with Water Act.

⁴³ Official Gazette RS 87/11, 25/14 – ZSDH-1, 50/14, 90/15 in 67/17, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO6266> (23.2.2019).

⁴⁴http://www.mizs.gov.si/delovna_podrocja/urad_za_unesco/slovenske_enote_na_seznamih_unesco/biosferna_obmocja_mab/ (12.1.2019).

⁴⁵ The last one was adopted for period 2005 – 2012, <http://pisrs.si/Pis.web/pregledPredpisa?id=RESO41> (22.2.2019), new is in preparation.

Informational system for environment: the last report about the state of environment was in 2017⁴⁶ and included the atlas of environment⁴⁷, water atlas⁴⁸, nature conservation atlas⁴⁹, and spatial information system⁵⁰.

7. How are environmental laws administered in the country?

The main competent authorities for implementation of environmental protection regulation are:

- Ministry for Environment and Spatial Planning: for environment protection, nature conservation, landscape protection, spatial planning and construction permitting; strategic environmental assessments and environmental assessments within construction permits;
- Slovenian Environment Agency is competent for monitoring and screening of decisions in environmental impact assessment procedures, and issuing of environmental permits;
- Institute for Nature Conservation⁵¹ is competent for issuing of nature conservation consents and permits, for presenting opinions within building permits, for management of the protected areas that do not have a individual management body;
- Slovenian Water Agency⁵² is competent for water management planning and its managing;
- Inspectorate for Environment and Spatial Planning is competent for controlling of the offences
- Ministry for infrastructure is competent for energy and infrastructure.

The implementation of environmental protection regulation is not optimal, like generally in the EU (problem of implementation deficit), several executive regulations are still missing, and some institutes are not implemented. The inspectorate has not enough capacity to control everything. Also on the side of public (except NGO's and some experts) there is not enough pressure for improvement. The reason behind it is the fact that Slovenia is very green country and already has a high amount of protected areas (37,46 % of Natura 2000 areas in Slovenia, this is the highest % among the EU Member States). Additionally, the prevailing perception of the majority of the decision makers (in the economic and employment sector) is that the protected areas are an obstacle to economic growth.

8. Environmental impact assessments

There are basically four regimes of impact assessments:

- Strategic environmental assessment (SEA) for plans (Article 40 to 48 of Environmental Protection Act and Spatial Planning Act, in accordance with SEA Directive); if appropriate assessment or environmental impact assessment needs to be done, then strategic environmental assessments is obligatory;
- Environmental impact assessment (EIA) is done for certain projects (Article 50 to 50 to 65 of Environmental Protection Act and Building Act, in accordance with EIA Directive) – it has two phases: screening decision which is a decision, if EIA needs to be carried out; EIA itself with environmental consent (within construction permit or space permit if construction permit is not needed);

⁴⁶ http://www.mop.gov.si/fileadmin/mop.gov.si/pageuploads/pomembni_dokumenti/porocilo_o_okolju_2017.pdf (19.2.2019).

⁴⁷ http://gis.arso.gov.si/atlasokolja/profile.aspx?id=Atlas_Okolja_AXL@Arso (22.2.2019).

⁴⁸ <https://gisportal.gov.si/portal/apps/webappviewer/index.html?id=11785b60acdf4f599157f33aac8556a6> (19.2.2019)

⁴⁹ <https://www.naravovarstveni-atlas.si/web/> (19.2.2019).

⁵⁰ <http://www.pis.gov.si/> (19.2.2019).

⁵¹ Information on <http://www.zrsvn.si/en/default.asp> (19.2.2019).

⁵² Information on <http://www.dv.gov.si/en/> (19.2.2019).

- Appropriate assessment (Article 33a of Nature Conservation Act in accordance with Habitats Directive): it is done within SEA and EIA procedure, if there is no EIA procedure needed then separately;
- Assessment of the impacts of certain projects on waters (Article 150 to 153a of Waters Act in accordance with Water Framework Directive): if the EIA is carried out then assessment is done within EIA procedure; if no EIA is carried out, then the obligation is not clearly determined.

The procedure for determining the prevailing public interest: if there is within the planning procedure or construction permitting a conflict of different public interests, then the person responsible for the activity affecting nature may propose that the Ministry of environmental protection and spatial planning initiates the procedure for determining that another public interest prevails over the public interest in nature conservation or environmental protection. The Government is competent for this decision (Article 101f of Nature Conservation Act, Article 53 of Building Act, Article 19 of Spatial Planning Act)⁵³.

d. Water Resource Management:

What is the current system of river or watershed planning, designation, monitoring, enforcement and stakeholder involvement functions for freshwater conservation?

Planning

The general horizontal plan is National Water Plan (Article 54 of Water Act).⁵⁴ More operative plans are:

- The Water Management Plan for the Danube river basin district for the period 2016-2021
- The Water Management Plan for the Adriatic river basin district for the period 2016-2021.

That is prepared in accordance with articles implemented by the Decree on the water management plan in the Danube and Adriatic river basin district and adopted by the Government. On the basis of these plans Program of Water Management Measures is also adopted by the Government, who reports about implementation progress to the General Assembly.

Designation

The surface waters are classified into Class 1 and Class 2 (Article 8 of Waters Act) and surface water bodies. Waters classified into Class 1 are in the Attachment 1 to the Waters Act, others are Class 2. Water bodies are further classified in different types by the Minister for environment in accordance with the Rules of identification and classification of surface water bodies⁵⁵ (Article 9). Additionally they are classified in classes according to their ecological and chemical status by the Minister following the parameters defined in executive environmental regulations. The classification is visible in water management plans (Article 62). Special regime is for protected water areas for drinking water.

Monitoring

The Waters Act does not contain provisions about monitoring. In accordance with the Environmental Protection Act (Article 106) the Ministry for Environment and Spatial Planning should provide a report on the state of the environment in Slovenia every 4 years. Also the government should report to the National

⁵³ After adopting new spatial Planning act and Building Act in 2017 there is not clear how this procedure will be carried out.

⁵⁴ See chapter 6 under c) – last was valid till 2012, new one is in preparation.

⁵⁵ Official Gazette RS [63/05](#), [26/06](#), [32/11](#), [8/18](#), <http://pisrs.si/Pis.web/pregledPredpisa?id=PRAV6946> (23.2.2019).

Assembly about implementation and about progress of the Water Management Measures every two years. For water monitoring the Slovenian Environmental Agency together with Slovenian Water Agency and Institute for Waters of RS is responsible. But in reality the nature is not under suitable monitoring (due to the lack of data), which is confirmed by NGOs and also (unofficially) by the competent authorities.

Enforcement

As was explained in chapter 7 under c) it is also valid for water sector. There we some major organization changes in 2015, when water management was moved from the Slovenian Environment Agency to new Slovenian Water Agency. Through this measure implementation of water regulation was strengthened, however there still is some confusion (especially regarding assessments of impact on waters, when EIA is not carried out).

Participation

In the planning procedure the participation of all stakeholders is enabled. The Waters Act has the same provisions as the Water Framework Directive – long periods of preparation and public consultation about drafts of plans (Article 58 of Waters Act). The timeframe is as follows:

- Three years before the beginning of a new planning period there is a public announcement (webpage) and newspaper;
- One year is the period available to the public right to send suggestions and questions concerning the water management;
- Two years before the beginning of a new planning period the competent authority presents to the public the report on progress with plan preparation;
- One year before the beginning of a new planning period a draft plan is published;
- Six months are available to the public to send comments and suggestions on the draft plan;
- In additional three months the authority prepares comments and answers on comments from the public and in what way they were accepted or not.

Are there examples of river basin commissions in the country? (Or similar kinds of institutions that bring together stakeholders to oversee river management?) (Either local, regional, or national?)

Public participation in Slovenia is more or less the formal fulfillment of legislative provisions, rare examples show more proactive approach. We can estimate that the provisions about public participation in the management plans are contained in the Triglav National Park Act – special forum of interested public is institutionalized (Article 41). There is also international mechanism that bring together stakeholders for Danube river basin and Adriatic river basin.

Is there a requirement for river basin management plans to be prepared? Who prepares such plans? For which rivers are plans prepared? Once a plan is prepared and approved, how is the plan enforced?

As previously already explained, plans for river basins have to be prepared (see under d) above). Responsible authority for preparation is the Slovenian Water Agency (by expert help of the Institute for Waters of RS). The enforcement of plans depends mostly on how much financial sources support the implementation and enforcement. However, the enforcement of the environmental plans is generally not a priority and therefore rather weak.

What are the river basin governance mechanisms that exist once a plan is prepared? Are there examples of River Basin Commissions that oversee the management issues for the river?

Slovenian Water Agency was established in 2015 especially to strengthen the management of waters. We cannot evaluate how much the situation has improved as of today. The reason for this is that the problematic issues that were behind this reorganization are at different levels of importance and voice. The good state of nature and water is very important, but has a very “silent” voice, while the water rights (previous delays in issuing the water rights) also an important problem had a very “loud” voice. Dealing with the last one has certainly improved and the Agency has put a lot of effort in preparing the plans. The state of implementation will be more visible in the process of preparing plans for the next period.

Are there mechanisms in law to provide legally enforceable protections for all or sections of important rivers in the (country)?

Not in the way that there would be some provisions that would enable the enforcement of the protection for all or sections of the rivers. The protection can be established only through state acts and plans – there is no mechanism to force the state to establish protected areas for rivers or part of it. There is a possibility for legal remedies in the case when some constructions or interventions that affect waters are planned (in strategic environmental assessment, environmental impact assessment, water permit procedures, violation the law). Under some conditions NGOs with status in public interest in the area of nature conservation or environmental protection could have standing.

e. **Water Rights:**

Is there a system of ownership of water (e.g. water rights) in the country? How are water ownership rights asserted? How are water rights allocated? Is there an agency responsible for allocating water rights?

Water is a public good (Article 15 of Waters Act). According to the Constitution, special rights to use a public good may be acquired, its usage and exploitation shall be established by law (Article 70). The Constitution and the Waters Act do not contain provisions about ownership of water lands. However, there are some limitations: there is a provision about the right of pre-emption for the state when private owner is selling the land; the landowner has to allow free access to water for anyone; there are prohibitions about construction or interventions in the water area.

Water rights can be obtained by getting water permits or water concessions for exploitation (Article 199 and further of the Waters Act). Slovenian Water Agency is the competent authority for delivering water rights.

Can ownership of water rights be held separately from the ownership of land? Or is the right to water included in the ownership of land?

Yes, it can be held separately. If the person who is interested to get the water right is not the owner of land then he has to acquire the consent of the owner of this land for the restriction of his property right or acquire an easement or building right.

f. Land and Property Rights:

Describe the land tenure or land ownership system in the country.

The right to private property and inheritance is guaranteed in Slovenia (Article 33 of the Constitution). Article 67 of the Constitution stipulates that "the manner in which property is acquired and enjoyed shall be established by law so as to ensure its economic, social, and environmental function." Ownership rights to real estate may be revoked or limited in the public interest with the provision of compensation in kind or monetary compensation under conditions established by law (Article 69 of the Constitution).

The ownership right is the right to have a thing in possession, use it and enjoy it in the most comprehensive way. The right to property is governed by the Law of Property Code⁵⁶. The right to property in the Slovenian system is not an absolute right, but it has certain restrictions imposed by the law. The first limitation is the prohibition of abuse of rights and the requirement to act in accordance with good faith and fairness. Alternatively, the owner may also voluntarily limit his right for any purpose that is not legally prohibited unless otherwise provided by the law. The characteristics of the property right are that it is exclusive, as it is the widest right of the holder of the property right to things. The owner can discourage any third party from interfering with his business. Furthermore, the property right is unlimited in time, as it does not become obsolete. The right to ownership of land can be obtained on the basis of a legal transaction, inheritance law or a decision of a state body. In the case of a legal transaction, the acquisition of a property right requires the entry in the land register.

Regarding public goods the Constitution does not define anything about property. So in legal theory there are still two theories – one that public good can be only in ownership of state or local community and the opposite one, that the ownership can be also private. The real situation is that much of the land declared by law as public good is in private ownership.

The Physical Assets of the State and Local Government Act⁵⁷ regulates the management of the real property of the Republic of Slovenia and the real property of self-governing local communities. This law applies to all real property owned by the state and self-governing local communities, provided that the content of this Act is not regulated otherwise by a special law for a particular type of real property of the state and self-governing local communities, or if the application of the provisions of this Act is not explicitly excluded by law. The manager is responsible for dealing with real property and in the name and on behalf of the owner, exercises all rights and obligations related to real property, unless otherwise provided by the law.

Expropriation is one of the common tools to exercise property limitation because of social function of property (infrastructure). The expropriation is regulated in the Spatial Planning Act (Article 192-208). The property right on land may be withdrawn against compensation or compensation in kind or limited by the right to use for a fixed period, as well as burdened with temporary or permanent easement. Expropriation and restriction or burden of property right is permissible only for the public interest and if it is absolutely necessary to achieve public benefit and that the public benefit of the exemption is proportionate to the encroachment on private property. The expropriation beneficiary is a state or a municipality. For the expropriated property, the owner is entitled to compensation or an equivalent replacement property.

⁵⁶ Official Gazette RS, 87/02, 91/13, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3242> (25.2.2019).

⁵⁷ Official Gazette RS, 11/18, 79/18, <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7148> (25.2.2019).

What type of property rights may be held by private entities? Are there certain rights retained by the government?

Private entities and government can have all kinds of property. The only difference is property of common (public) goods/assets.

Public goods in the broad sense are things, goods and services for general use, everyone can use it under the same conditions. The public goods are divided on

- Natural public goods - are a component of the environment designated by an Act as a public good (Article 2 of Environmental Protection Act). For water such act is Waters Act. If a public good is declared by an act, the landowner shall allow or suffer some limitations of usage; the government shall determine areas in which general use of a water asset is restricted or prohibited;
- Built (constructed) public goods are land, buildings and parts of objects intended for such general use as determined by law depending on the purpose of their use. The built public good is of state and local importance (Article 2 of Spatial Planning Act, point 7). The built public good has to be declared by special decision by the Government (for state public good) or municipality (for local public good) after the requested conditions are fulfilled (one it is that the state or local community has to own the land under construction or has other contractual right for possession (Article 245 – 247 of Spatial Planning Act).

The Waters Act determines water lands (water, land under water and bedside water in defined distance) as natural public goods/assets (Article 15). It may be used by anyone, in the method and under the conditions set out in this Act, if this does not have adverse effects on waters, the water regime and the natural balance of aquatic and semiaquatic ecosystems, and does not restrict the same rights of others (general use). In order to enable general use of waters, a local community may determine that the status of natural public water asset be granted to a section of inland waterside land. The local community must first acquire ownership of the land via a legal transaction, or propose, for public interest purposes, the expropriation of this land pursuant to expropriation regulations (Article 16).

Describe the concession process for riparian areas, river access and river management. Are there partial interests in land such as a leasehold interest for river areas that provide control over use rights or development rights in river areas? Which agency (ies) are responsible for the granting of such concessions or leases? May such concessions be granted to any private party for any use or are there limitations on permitted grantees and permitted uses? May such concessions be granted to NGO's established for conservation and to hold interests in land?

There is no general Act for concession, concessions for natural goods are regulated in:

- the Natural Conservation Act (Article 44) – as general provision - according to which a concession shall be granted for the use of a valuable nature feature that is the property of the State or local Community (therefore shall be granted by state or local community);
- the Waters Act (Article 21 and 108-113 and 136-149) defines that special use of a water asset shall only be possible on the basis of a water permit or a concession, if all the conditions referred to in the preceding paragraph are fulfilled and if this does not substantially restrict general use;

- the concession can be regulated by a special decree for certain areas⁵⁸ or even an act⁵⁹.

Slovenian Water Agency is the authority for delivering the concessions. The concession is “open” to any legal or moral person and can be granted also to NGOs (the case is Birdwatch Slovenia – DOPPS for managing protected area Škocjanski zatok⁶⁰).

Additionally, it needs to be mentioned that some special rights are also granted to fisherman associations according to Freshwater Fishery Act⁶¹. They do not have any rights or obligations regarding water management, but are managing fish population, if the state transfers such management to the association by concession. It is their obligation to act as “protectors” of waters with the aim of keeping the fish population in a good condition.

Does the law provide for the conveyance of partial interests (e.g. less than the owner’s entire interest or specific rights) in the land? Is there a mechanism under law for restrictions to be placed on the use of land so that the land is limited in its use for conservation purposes?

The private property is limited by its social and ecological function (Article 67 of the Constitution), which is further elaborated in:

- Article 9 of the Nature Conservation Act: *On his or her land, a landowner shall permit harmless passage to other persons and any other general use in accordance with an Act and shall permit biodiversity conservation tasks and measures for the protection of valuable natural features to be carried out on his or her property.*
- Article 16 of the Environmental Protection Act: *In order to take into account the ecological function of property, the conservation and improvement of the quality of the environment and the conservation of valuable natural features and biodiversity shall be ensured in the enjoyment of a property right or a right to the general or special use of natural assets. Public natural good may only be used in such a manner that the environment or a component thereof having the status of a public natural good is not threatened and its natural function not precluded. For the purposes of nature conservation and improving the quality of human life, a special arrangement may be determined for the enjoyment of property and other rights of use for the performance of activities with regard to natural assets designed as ecologically important areas or valuable nature features.*

As already mentioned, for general use of waters local community can gain ownership of the land by expropriation (Article 16 of Waters Act). According to Nature Conservation Act every act for establishing a protected area defines regimes about using the land, limiting interventions and building.

Can land be owned by a non-governmental organization (NGO) if held primarily for conservation purposes? Are there specific examples of NGO’s owning land for conservation purposes?

⁵⁸ Decree on the concession for the use of a valuable natural feature Sečoveljske soline and on the concession for the management Sečoveljske soline Landscape Park.

⁵⁹ Conditions of the Concession for Exploitation of the Energy Potential of the Lower Sava River Act.

⁶⁰ Decree on Škocjanski zatok Nature Reserve.

⁶¹ Official Gazette RS, 61/06, <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3600> (25.2.2019).

Land can be owned by NGOs. It is not a condition for gaining the concessions for managing the protected area. It is not known that NGOs would own land for conservational purposes, maybe some smaller areas for ecological projects or ecological agriculture and research.

Can land be acquired and owned by the local government to keep the land undeveloped permanently?

Yes.

How are parks owned and managed? What agencies of government are responsible for park ownership and management? What procedure must be followed if land devoted to parks is proposed for conversion to a non-park use?

Ownership and management are not necessary connected. The management is determined by Nature Conservation Act (Article 53). The protected area is established by a special constitutive act adopted by the state (governmental decree) or local community (act of local council). It contains also provisions about conducting the public service of managing the protected area and financial resources for implementation of the protection measures.

The land of the park could be devoted to other usage to certain percentage. This was the case in the protected area Škocjanski zatok, where the Port of Koper wanted more land of the protected area for extension of its operating area. The adopted solution was that the protected area gained some additional land in the neighborhood to meet this percentage.

This procedure is carried out within the spatial planning procedure where different interests meet and have to be harmonized. If the nature protection is in question, the prevailing interest is weighted in the special procedure and compensatory measures shall be adopted (Article 101c of Nature Conservation Act and Article 19 of Spatial planning Act).

Does land use regulation exist? How is it administered? By which agencies? Are there riparian zoning regulations in the country?

Land use regulation exists within the spatial planning and is regulated by the Spatial Planning Act. Land use shall be determined in spatial plans. The land usage is determined in state spatial plans (for infrastructure) and municipality spatial plans in accordance with national strategy of spatial development,⁶² action plan for executing the strategy,⁶³ regional spatial plan,⁶⁴ basic principles for spatial planning and the Decree on Spatial order of Slovenia⁶⁵ (Article 35 of the Spatial Planning Act). Typology of usage is defined as areas for buildings, agriculture, forests, waters and others (in detail by rules adopted by the Minister for spatial planning). The responsible authority for spatial planning is the Ministry for Environment and Spatial Planning that prepares also state spatial plans, participates in and control the process of local spatial planning.

⁶² Ordinance on Spatial Planning Strategy of Slovenia, Official Gazette [76/04, 33/07](#) – ZPNačrt in [61/17](#) – ZUreP-2), <http://www.pisrs.si/Pis.web/pregledPredpisa?id=STRA12> (25.2.2019), the new one is in the process of preparation.

⁶³ Doesn't exist yet, it was introduced by new Spatial Planning Act in 2017.

⁶⁴ Doesn't exist yet because we don't have regions divided.

⁶⁵ Official Gazette RS [122/04, 33/07](#) – ZPNačrt in [61/17](#) – ZUreP-2, <http://pisrs.si/Pis.web/pregledPredpisa?id=URED3526> (25.2.2019).

Waters could be relevant also for forests management plans. According to the Act on Forests⁶⁶ (Article 11) part of forest management plan has to be also spatial plan for forests.

Waters Act determines also riparian zoning. The riparian zones are defined as land neighboring the water land (water land is defined according to Rules on the detailed methodology for determining the boundary of inland water land kept in water cadaster). For waters of Class 1 it is 15 m from water land (outside urban areas 40 m), for waters of Class 2 it is 5 m from water land. The government can define different border on the basis of defined reasons.

Is there a system of designating certain areas as ‘protected?’ How are such protections enforced?

The Waters Act defines special protected areas: 1) for drinking water (Article 74), 2) bathing waters (Article 77) and 3) protected areas and areas of possible impact on waters to prevent the pollution (Article 79a). These protection systems are intended more for the purpose of different usages and to sustain the quality of water. These protections are defined on by the Government. The Slovenian Water Agency is the competent authority for enforcing these governmental decrees.

Protection areas for protecting nature and biodiversity can be established on the basis of Nature Conservation Act (described in chapter 3, under c)). The act for establishing protected area determines also who will be managing the protected area (certain governmental bodies or other legal persons by concession). It is possible that the protected areas do not have a specific manager, and then the ministry is responsible for managing. Protected areas Natura 2000 do not have a specific manager, but the role is divided between the Ministry for Environment and Spatial Planning and the Ministry for Agriculture, Forests and Food (because they manage agricultural land and forest and then they are obliged to respect Natura 2000 regime on these lands).

Describe the protected areas programs in the country and the legal enforcement mechanisms that exist to ensure that protection goals are achieved. Do those mechanisms apply to rivers within protected areas?

Nature Conservation Act defines that the act for establishing a protected area can determine if the protected area will have a management program (which is obligatory for national and regional parks). Hence, it is possible to have a situation where not all protected areas have management plans (Article 53). But mostly the act for establishing a protected area defines the obligations for such act. Further the Nature Conservation Act defines the content of management program (Article 61) and management tasks (Article 133), but it does not define clear obligations that such plans should follow the protection goals.

In the practice there are numerous problems connected with management programs and their implementation:

- There is no obligation for all protected areas to have a specific management body and management program;
- If the program is obligatory or if it is defined by the act of establishing the protected area, it must be approved by the Ministry – these procedures take month or years, so the planning period is almost or already over;

⁶⁶ Official Gazette RS 30/93, 56/99 – ZON, 67/02, 110/02 – ZGO-1, 115/06 – ORZG40, 110/07, 106/10, 63/13, 101/13 – ZDavNepr, 17/14, 24/15, 9/16 – ZGGLRS, 77/16, <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO270> (27.2.2019).

- There are no legal enforcement mechanisms for managing protected areas towards achieving the protection goals, for which the protected areas were established.

The regime of protected areas is valid also for the rivers within protected areas – in this case also the Waters Act should be taken into account.

g. Regulatory Structure: Mitigation/Offsets:

Some governmental regulatory arrangements require landowners to produce conservation outcomes to comply with government permits or to offset the impacts of the proposed project. This is referred to as “mitigation” or ‘offset’ arrangements. Describe the existence or use of the ‘mitigation hierarchy’ (e.g. avoid, minimize, offset) in the country, if any.

In accordance to the Nature Conservation Act we have two types of measures (Article 102):

- Compensatory measures shall mean activities or actions by which the foreseen or caused degradation of nature is compensated for;
- Mitigation measures are activities or actions by which an activity affecting nature or its consequences are mitigated.

The form and manner of implementation of a compensatory or mitigation measure as well as the manner of and conditions for the implementation of an activity affecting nature or follow-up activities after the activity affecting nature has been carried out shall be an integral part of an environmental consent, nature protection consent, permit for an activity affecting nature and a building or any other relevant permit

The types of compensatory measures shall be:

- Establishing a substitute area with equal nature protection characteristics;
- Establishing another area important for biodiversity conservation or the protection of valuable natural features;
- The payment of the sum amounting to the value of the caused nature degradation, which shall be allocated for biodiversity conservation or the protection of valuable natural features.

The type of compensatory or mitigation measure by which the person responsible for an activity mitigates or compensates for the consequences of the activity shall be defined on the basis of nature protection guidelines, with regard to the foreseen or caused degradation of nature and the possibilities to compensate for such. In choosing the measures, establishing a substitute area with equal nature protection characteristics shall be given priority.

In practice this system is not effective:

- It is not clear which measures are compensatory and which mitigating;
- There is no proper control if they are properly executed. There is only one mechanism of control in the case when construction permit follows the procedure. Then in the final phase of operating permit procedure the competent authority checks if the measures were executed. What follows and how these “new habitats live” nobody controls.

Regarding water rights (Waters Act) only a payment is required in accordance with the Decree on the water fee⁶⁷ and the government yearly decides on the amount.

Have mitigation or offset programs been used to provide resources for river protection? Please cite examples.

The answer on this question would require analyses of SEA and EIA decisions for plans or projects with direct impact on rivers since from our experiences we do not know for any such cases. The frame or basis for such mitigation or offset should be in water management plans.

Are there examples of transfer of development rights programs? (E.g. one area is designated for protection while another area is designated for development at a more intensive level than would otherwise be permitted.)

According to our knowledge this is more of a political decision and depends on the distribution of political power in a certain period or put in other words, it depends on how much influence the energy lobby has on decision makers in a certain period. The energy lobby constantly exerts pressure on using rivers for hydropower plants. Hence, in the history some deals were made determining what river or parts of rivers will be designated for hydropower and this was put into water management plans. For instance, while the Soča river remained protected in accordance with the Act on the Designation of a Protected Area for the Soča River with Tributaries (which is constantly under pressure to change)⁶⁸, at a certain (opportune) moment the Conditions of the Concession for Exploitation of the Energy Potential of the Lower Sava River Act was adopted specially for the lower Sava river, although we already have regular regime and procedures for gaining concessions⁶⁹.

h. Sources of Funding

What are the amounts and sources of direct funding that are dedicated to the functions involved in river and/watershed management?

The whole current state budget is 10,160 billion EUR. For environmental protection and environmental infrastructure 297 million EUR has been devoted, with the special emphasis on climate change, water management and biodiversity protection⁷⁰. More detailed budget for water is not clear.

Are all or a portion of any concession fees (related to concessions for water use) are or could be dedicated to conservation or mitigation-related activities?

⁶⁷ Official Gazette RS [103/02, 122/07, http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED2657](#) (27.2.2019).

⁶⁸ Currently this is on the table of priorities on the Ministry for environment and spatial planning (informal info).

⁶⁹ This is not the only case, when the regular procedures would demand much more effort, coordination and harmonisation of interest, so the decision makers decide to avoid everything by adopting the act.

⁷⁰ Information on [http://www.mf.gov.si/fileadmin/mf.gov.si/pageuploads/mediji/Infografika_PRORACUN_2019.pdf](#) and [http://www.mf.gov.si/si/delovna_podrocja/proracun/sprejeti_proracun/sprejeti_proracun_republike_slovenije_za_let_2019/](#) (13.3.2019).

According to the Waters Act we have a special Water fund (Article 162). Its incomes are also payments for water rights. The fund is managed by the Ministry for Environment and Spatial Planning. Funds are used to finance:

- Water infrastructure, including the purchase of land needed for its construction,
- The construction of state and local infrastructure required for the construction of water infrastructure,
- Carrying out individual tasks of the Ministry in connection with the drawing up of water management plans, professional tasks related to the granting of water rights and issuing water consents, determining the boundaries of water and coastal land and professional tasks related to the determination of the plot of aquatic land,
- Construction and modernization of water containers intended for irrigation of agricultural land, which are state water infrastructure,
- The purchase of water and coastal land and the co-financing of the purchase of coastal land by local communities pursuant to Article 16 of this Act,
- Experts and development tasks for the implementation of this Act, carried out by legal entities governed by public law established by the Republic of Slovenia for this purpose,
- Inter-municipal or regional projects for the construction of facilities for pumping, filtering and collecting water and portable plumbing to ensure public drinking water supply in accordance with operational environmental protection programs; and
- Other expert and development tasks for the implementation of this Waters Act.

There are no publicly accessible data on the budget of the Water Fund, however, in the media we can spot some criticism about directing this fund mostly into hydro power plants⁷¹. In its report the Court of Audit auditing implementation of Waters Act in 2009 and 2010⁷² noted that the Ministry did not effectively manage the funds of the Water Fund. The objectives, criteria and priorities for identifying projects funded by the Water Fund were not determined on the basis of an analysis of the needs and expected effects of individual water uses. The report has also all data on collected and spent funds in 2009 and 2020 (collected 36.697.811 and 41.103.282 EUR respectively).

What are the amounts and sources of domestic funding versus international funding (EU, pre-accession funds, GEF, etc.) (It is noted that this may be time consuming to obtain, as not all information is readily transparent or available.)

This data is not accessible and we doubt it exist. But it is known that Slovenia is not successful at fully using available EU cohesion funds.

Are there examples of citizen votes or 'ballot initiatives' having been used to create funding for conservation programs or purposes?

Not that we would know.

Are there tax and/or other incentives that could be used to stimulate protection of river corridors and watershed lands?

⁷¹ Newspaper Delo, 28.11.2014, <https://www.delo.si/novice/slovenija/neizkorisceni-vodni-sklad.html> (14.3.2019).

⁷² http://www.rs-rs.si/fileadmin/user_upload/revizija/1290/MOP_ZV1_SP09-10.pdf (14.3.2019).

This should be financed from the sources of the Water Fund or by the constructor constructing a project if this is demanded in the environmental consent.

Are there incentives or subsidies provided to developers of dams that could be used to incentivize developers to avoid free-flowing rivers and to locate such facilities in more appropriate locations?

Not that we would know. Slovenia is a very small country, where inside politics deals are made regarding where it will be possible to build dams.

i. Institutional systems and arrangements

Which institutions are most relevant for freshwater protection and management? (Government Agencies, Parliament, Public Institutions?)

The Government for adopting decisions, the Ministry for Environment and Spatial Planning for creation and execution of environmental policy, the Slovenian Water Agency for water planning and water management, the Nature Conservation Institute for nature protection and protected areas and the Slovenian Environmental Agency for monitoring. Additionally, The Water Institute of the Republic of Slovenia acts as an expert body helping all above-named institutions with expert knowledge.

Which – if any – are the key agencies, ministries, departments, or institutions which are the current custodians or provide oversight of freshwater conservation?

The Slovenian Water Agency, the Nature Conservation Institute and the Ministry for Environment and Spatial Planning.

Are there laws, guidelines or institutions impacting freshwater conservation being reviewed or will be reviewed soon? What laws and institutions are being reviewed and what is the timetable for such review?

The Ministry for Environment and Spatial Planning plans to propose the changes of:

- Spatial Planning Act (changes),
- Building Act (changes),
- Environmental Protection Act (changes),
- Nature Conservation Act (changes),
- Waters Act⁷³
- Act on the Designation of a Protected Area for the Soča River with Tributaries⁷⁴.

Are there institutions in other sectors that may significantly influence realization of river protection – do these institutions take water concerns into consideration in decision making process (e.g. in concessions for HPPs, waste water treatment, energy, etc.)

⁷³ Informal info, it is not in the governmental legislative plan
<http://www.vlada.si/fileadmin/dokumenti/si/dokumenti/PDV2019DZ.pdf> (14.3.3019).

⁷⁴ Same as previous.

Yes, the energy lobby and the Ministry for Infrastructure, which is competent for energy and infrastructure. They see protecting regimes as obstacles in their urgency to achieve climate goals for renewable energy.

j. Conclusions and Recommendations:

State the recommendations for the most effective options (new legislation? Amend existing law? Administrative arrangements? Other?) to pursue to create a DRPM in the (name of country.)

1. Evaluation of the transfer of DRPM to the Slovenian territory

The water protection regime, which is the subject of this research, can be perceived in a broader or narrower manner:

- In a broader sense, it is understood as DRPM with the presented characteristics of planning, designation, enforceability, stakeholder involvement and funding;
- In the narrower sense, it refers to the sole determination of the regime, as defined in the US example, the US Wild and Scenic Rivers Act.

In terms of the definition of what kind of river quality should be protected, we can conclude that there is no system in place that would protect the rivers or their sections for their internal value and beauty. From the example of the American legislation, we can deduct that the protected value constitutes the following characteristics or potentials of the rivers:

- Their natural, wild flow: this quality can be recognized as a natural monument (natural value) in Slovenia and could be protected as such by the Nature Conservation Act. However, the Slovenian legislation does not provide for absolute prohibitions. It is also necessary to mention that there is no recognition that the "wild" in Slovenia existed, and therefore we do not have a classified protected area, which would be defined as wild according to the IUCN classification;
- Their aesthetic value, uniqueness, landmark:
 - o It can be protected as a natural monument (natural value) or a protected area. However, in practice it turned out that for important major complexes this was not an appropriate solution in terms of the importance of the protected regime, and therefore this area was regulated with a special act (e.g. the Act on the Designation of a Protected Area for the Soča River with Tributaries, the Triglav National Park Act, the Škocjanski Zatok Natural Reserve Act⁷⁵);
 - o On the other hand, the aesthetic value of the landscape itself is a value, which is not yet sufficiently protected in Slovenia (landscape diversity is protected under the Nature Conservation Act, however there still are no implementing criteria for assessment; the landscape is also recognized by the Spatial Planning Act and taken into account as a protected

⁷⁵ Official Gazette RS 20/98 in 119/02 – ZON-A <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO548> (28.2.2019).

- part of spatial arrangements; additionally, in the evaluation of impacts, it is necessary to take into account the effects on the landscape, there are some guidance for landscape protection in connection with biodiversity protection);
- It is not unimportant that before the adoption of the Nature Conservation Act (which transferred into the Slovenian legislation the Convention on Biological Diversity), natural and cultural values were regulated jointly by the Natural and Cultural Heritage Act within the competence of the Ministry of Culture (therefore, the Nature Conservation Act still has the term "natural monuments");
- Their recreational value: in nature protection regulations the recreational quality is primarily assessed as an activity that interferes with the quality of natural values and may need to be regulated either by its scope (for example, cycling in a natural environment is regulated in the Nature Conservation Act), or by payment for use (for example, payment of water rights). Spatial plans can define some area for recreational usage. Otherwise, this value borders on the economic activity of tourism, where there can be a conflict of interests - tourism with the agility of profit-making and nature with the restraint and fear that there will be no excessive damage.

However, if we take into account the wider DRPM framework, we can conclude that systemic planning, designation, enforceability, stakeholder involvement and funding are regulated in Slovenian system, whereby:

- Planning is even more regulated, especially for water, less for protected areas;
- The designation of qualities for future protection is less transparent, on the one hand, because the monitoring of the condition of the environment is not up to date (or it is very insufficient); on the other hand, the Nature Conservation Act does not have very clear definitions and is left to expert assessments. As expert evaluation criteria the act quotes: exceptionality, typicality, complex connection, and conservation, rarity and ecosystem, scientific-research or testimony importance (Article 37);
- Enforceability: there is no systemic assurance on the basis of which the protection regime would be enforced on two levels (also there is implementational deficit of environmental regulation on EU and national level):
 - Firstly, when the profession recognizes an area as the area necessary of protection, the area is designated as a protected area or is classified under a certain insurance scheme. However, such designation is largely dependent on the political will, which is conditional on the resources that can be given for the enforcement of the protected areas;
 - Furthermore, regarding the consistent implementation of protection regimes, when a certain protection regime is already in place, there are no mechanisms to force the state and its institutions to enforce these regulations. On the other hand, where management is well established, there are both administrative obstacles to validating management plans and lack of financial resources.
- Stakeholder involvement: in the field of water, thanks to the Water Framework Directive (WFD), the public participation is well-regulated, e.g. from the beginning of the process of preparing plans and preparation stages with sufficiently long periods for public response. How many proposals are taken into account is difficult to say; traditionally there is a very low observation of comments;

- Funding : with the Water Fund, the funding is exemplary, as this is a rare form when the funds that users or polluters have to pay for the use of natural resources (water), flow back for the purpose of protecting water. For example, other environmental taxes flow into the state budget, with the exception of the assets of the Climate Fund. The collection of funds is the best possible form of dedicated spending/return of funds. However, the collection and use of fund assets is not transparent, as found by the Court of Audit for 2009 and 2010, water refunds have not been charged and collected in sufficient amount, and consumption is not transparent and partly unintentional.

2. Finding a solution

When looking for solutions, one should be aware that Slovenia is a geographically and biotically fairly well-preserved country, with particularly rich water resources. The following should be considered with this fact:

- Lack of awareness of the need to protect this wealth (as long as there is some resource left);
- A number of safeguards: the nature conservation profession has always recognized and enforced the protection mechanisms. However, since the protection mechanisms were regulated at different times and in different political atmospheres, there is an accumulation of measures and separate management modes for individual areas or contents, which led to several acts, the content of which is complex, opaque, and not sufficiently harmonized among each other; the problem has extended with the accession to the EU, when the regulations have greatly multiplied;
- In nature, there are numerous overlapping regimes: for example, Natura 2000 is an ecologically important area, a national or landscape park, on which there can be one or more natural monuments, a water protected area, or a protected forest;
- This leads to reluctance of the protection regimes, both from the economy (protection regimes are the inhibitor of Slovenian development), spatial planners (because of the protective regimes nothing is allowed to be done), as well as by landowners (they feel too limited in their property rights);
- There is a pronounced pressure of the energy lobby on the use of water to generate energy, as Slovenia is lagging behind in achieving climate goals regarding the share of energy from renewable sources of energy (due to the opposition of the local residents regarding the placement of wind farms, the greater focus is on water);
- Water protection is spread between several competent bodies - some at the Ministry of the Environment and Spatial Planning, the Water Directorate, the Institute for Nature Conservation and the Slovenian Environment Agency, which weakens the protection of waters.

In view of the above, it does not seem reasonable to create a completely new, additional protection system, but it would be better if in the spirit of achieving the DRPM's goals, we try to tighten the system of protection of rivers, which has already been good so far (e.g. Soča river which is protected under law).

When designing solutions, the following contradiction should also be noted:

- It is positive that the waters are protected by a special Waters Act, however, the law is intended to protect waters, in particular, their quality and chemical composition (reduction of pollution, which

was an even bigger problem in the past) and protection against floods. Therefore, the body responsible for water management (Water Directorate) is primarily concerned with the (biological and chemical) quality of water, watercourse management, flood protection, and the maintenance of "controlled" water use.

- The protection of rivers in terms of natural values is regulated by the Nature Conservation Act, which primarily protects biodiversity and natural values (if it recognizes them), but does not manage water. At this point it is questionable to what extent can it persuade the Water Directorate of the needs to protect the river for its natural values, when the latter's focus is only on the use, flooding and regulation of watercourses.

There is no obstacle in the EU regulation that a certain national regulation can be stricter, if it does not conflict with other EU arrangements. It is possible to lay down higher standards than those laid down in the Habitat Directive and the Water Framework Directive. But in praxis Slovenia generally meets the minimum requirements.

3. Suggestions for concrete solutions

The DRPM, as we understand it, is a system that should allow for certain areas of a river course to be as intact and remain natural as possible. Therefore it needs a regime of restrictions or prohibitions. We estimate that the following options would be needed for the transmission of DRPM into the Slovene space:

Step 1 - identification:

Identification of rivers or parts of rivers that meet the criteria protected by the DRPM system is necessary to determine how many of the Slovenian rivers have adequate characteristics, but lack the necessary protection. It could be done like it was for wind power plants regarding birds protection (Birdcatch Slovenia prepared a map of areas where wind powerplants because of birds protection are not possible – it was matched with the map of possible areas for wind farms and the conflict between birds protection and renewable power "pressure" was settled).

Step 2 – setting criteria

- create and include the desired criteria for recognizing the value of the rivers that need to be additionally protected into professional criteria, on the basis of which the protection of a certain area is prepared (the possibility is reflected in the field of criteria for landscape protection);
- define which actions, interventions or facilities are totally/partly prohibited to preserve current state of "special" parts of the rivers;
- possibly include these in the river basin management plans for next period.

Step 3 – formal regulation:

3.1. Establishing new protected areas under the Nature Conservation Act;

3.2. normative regulation - the designation of new protected areas - possibilities:

- a) adoption of special Law for new system of protection rivers or their parts (natural river flow);
- b) incorporation of the additional regime of protection in the Nature Conservation Act or Waters Act;
- c) additional protection of existing protection of the river Soča, as "pilot case by:
 - o Changing the existing law for the Soča river,
 - o Extension of the area that is covered by the Triglav National Park Act,

- With the new law for a new high value area (similar as it is the Škocjanski Zatok Natural Reserve Act).

Advantages and disadvantages of solutions in the third step:

3.1. Establishment of new protected areas under the Nature Conservation Act:

- The advantage: it can be set up relatively quickly because the system is already in place and running (this means the time from the beginning of gaining political will to execution);
- The weakness: it does not have absolute limitations or prohibitions; the use of compensatory measures makes it possible to overcome other interests over the interests of nature protection for spatial interventions; especially since the objects of sustainable development can also be positioned if the quality of the water body is worsened (pursuant to paragraph 4 of the Article 4 of the Water Framework Directive;).

3.2.a) Adoption of special Law for new system of protection rivers or their parts

- The advantage: the solution with the act is more stable with regard to the protection regime, because absolute prohibitions can be included in the act;
- The weakness: the law that would include only nature protection mechanisms would hardly gain political support, unless the economic sector would see some advantages; the act can be proposed by the Government and also by the deputy of the General Assembly, but in this case the Government must give its opinion.

3.2.b) Incorporation of the additional regime of protection in the Nature Conservation Act or Waters Act

- The advantage: it is a perspective solution, because the existing regime would be only extended; both acts are planned to change (public consultation of the changes of the Nature Conservation Act is planned in May 2019). For this reason and because The Waters Act is fundamental act for the rivers, this is more suitable one. The Waters Act could determine additional system of the rivers or their parts classification as areas as “special value” and set some absolute prohibitions.
- The weakness: as Habitats directive (and therefore also the Nature Conservation Act) determines possibility of overriding public interest that prevail over nature conservation interests, also The Water Framework directive (and therefore also The Waters Act) determines possibility of deterioration of the good state of the water for sustainable development projects (under certain conditions). Therefore the question is how absolute can prohibitions would be accepted and political support gained for such changes. There is also nomotechnical limitation – only 1/3 of article can be change, otherwise the new law should be proposed – the ministries and the government want to avoid “opening” the whole act.

3.2.c) Additional protection of existing protection of the river Soča, as “pilot case”

- The advantage: if the subject is only certain area or tributary it would be easier to gain political support, because the existing regime for Soča is already strict and Soča river has publicly recognized value; the easiest way and opportunity will be by changing Soča River Act, which will be in the process in 2019; changing the Triglav National Park Act is not planned;

- The weakness: there are probably other (then conservation) political interests that dictates the Soča River Act to change and we will have to face them; the solution with Triglav National Park Act could be planned in the future (but demands lot of consultations with local affected local communities), special ne act for certain area is not probable.

We estimate that the most perspective solutions would be incorporation of new protection mechanisms into The Waters ACT (under 3.2.b above) or/and in The Soča River Act in the process of their planned changes.

What legislation might be needed or what legislative changes could be proposed for adoption by the country to create a DRPM. Assess or evaluate the prospects for securing enactment of such legislation.

According to the explanations given to the previous question, the introduction of the DRPM system in Slovenia appears to be the most feasible through the strengthening of the protection regime for the Soča river and its tributaries by preparing a new Act on the Designation of a Protected Area for the Soča River with Tributaries or adopting changes to the existing one, as planned by the Ministry of the Environment and Spatial Planning. We do not know what are the professional and other reasons behind the Ministry's intention to adopt the new act or the changes in it. If we assume that it is the pressure on the use of hydroelectric power to generate electricity, then serious efforts will be needed to preserve the current status of protection, and more so for its tightening.

If we look at the DRPM elements, then we can find that:

- There are no changes needed for planning, as this is well regulated in the Waters Act and is being implemented in practice;
- Regarding the definition of the necessary qualities for protection: here it is necessary to prepare a professional background that would show the validity of the quality and value, that should (additionally) be protected; on this basis, amendments can be proposed to extend the protection area of the Soča River with its tributaries and possibly lay down appropriate prohibitions;
- Enforcement: the only coercion for the implementation of new legislation in Slovenia is the coercion of the EU institutions (monitoring the harmonization of national legislation with the directives) - from this point of view, at least some EU guidelines that would provide an appropriate basis for protection should be adopted (possibly through landscape protection); otherwise, the will of a political coalition in power is needed to bring about such changes;
- Stakeholder involvement: in this regard, it would be appropriate to incorporate such provisions into the legislation, whereby it would be necessary to take cue form the Triglav National Park Act;
- Funding: the financial consequences of such changes to the legislation would have to be assessed - if it would be only for the extension of the protected area or the inclusion of additional prohibitions, then probably there would be no financial implications.

However, in terms of financing the water management, systematic changes would be necessary, especially the changes to the Waters Act, which apply to the Fund (Article 162):

- The collection of funds for the Water Fund and their consumption must become transparent;
- The public must be involved in the preparation of the programs for the use of the Water Resources Fund (drafts must be published and given a response time for the expert and the general public) - similarly to that for the Climate Fund under the Environmental Protection Act - the Government adopts the program of spending);
- To complement the possible ways of using the Fund assets so that they can also be used to achieve the protection objectives under the Nature Conservation Act.

In the Nature Conservation Act, it is necessary to improve the provisions regarding the management of protected areas so that planning and management will be directed towards the achievement of nature conservation objectives.

Are there administrative changes that could be recommended to accomplish the goal of creating a DRPM in the country?

The implementation of the DRPM does not require organizational administrative changes, however cooperation between the Ministry of the Environment and Spatial Planning, the Institute for Nature Conservation, the Water Directorate, the Slovenian Environment Agency and the Institute for Water of the Republic of Slovenia, is necessary for the integrated treatment of waters, both from the point of view of ensuring their favorable condition, the protection of valuable natural features, and their exceptional landscape features.

What stakeholder's groups are important to engage to secure enactment of the legislative or administrative changes needed for a DRPM in the country?

- Experts within the competent institutions, faculties and elsewhere, who would recognize the need for additional protection in order to preserve the inviolability of the natural flow of rivers or their parts;
- Decision makers: heads of the relevant institutions that would support expert proposals; and above all political decision-makers - Ministers in the Government (especially the Ministers of the Environment, Infrastructure and Economy) and parliamentary groups in the National Assembly;
- Inhabitants in areas of potential DRPM regime: in order to gain affection for protection;
- The Chamber of Commerce as a representative of the economy;
- The Energy Agency and the most powerful energy companies engaged in hydropower;
- Non-governmental organizations in the field of environmental protection.

Are there immediate next steps that should be pursued to advance the goal of enacting a DRPM in the country? Are there currently ongoing river protection initiatives in the country which could be supported to advance the cause of river protection in the country?

Concerning the Act on the Designation of a Protected Area for the Soča River with Tributaries:

- Inquire about the reasons for the amendment of the Act on the Designation of a Protected Area for the Soča River with Tributaries or a new act for the protection of the Soča river;
- Prepare appropriate expert backgrounds for the argumentation of the changes that could be proposed for the protection of the Soča river and formulate the necessary proposals.

Regarding additional new mechanisms for protection of other rivers or parts of rivers:

- Professionally "consider" which other potential parts of rivers could be protected by DRPM;
- Consider whether there are possible links with the Mura initiative, which suggests the immediate creation of a protected area for the Mura river (possible inclusion of DRPM elements in the protection act);
- "Mapping" of Slovenian territory (or selected part) in the way to establish which rivers and tributaries or their parts must be strictly protected and which can be used for hydro power plants or other interventions are possible.

Regarding better integration of competent water institutions:

- assess the current mode of interaction and cooperation among and within the the relevant institutions (the Ministry of the Environment and Spatial Planning, the Institute for Nature Conservation, the Water Directorate, the Slovenian Environment Agency and the Institute for Water of the Republic of Slovenia);
- Make proposals for establishing better cooperation among the relevant institutions (a permanent working body or any other form) to achieve integrated river protection.

With regard to funding:

- To obtain official data on the collected and used funds of the Water Fund (sources and purposes of consumption), plans for the use of funds for the last five years and official reports on the use of the funds of the Fund with a request for access to public information;
- Make amendments to the Waters Act (which is intended for amendments) concerning the Water Fund to include the achievement of nature conservation objectives for consumption purposes, more transparent collection and consumption of the funds, and the co-operative design of the spending program;
- To incorporate into the Nature Conservation Act amendments which will link the possibility of financing the measures for achieving the protection objectives for waters with the Water Fund.