

4. State in the service of the usurpers - Case Study Ada Bojana

Devastation of the mouth of the River Bojana is another plastic example of the supremacy of illegal builders over the state apparatus, which is also actively involved in violations of the laws and regulations.

Delta of the river Bojana with the island Ada Bojana is located near Ulcinj, on the very south of Montenegro. This area was declared a natural reserve and is protected by a series of laws and state plans that prohibit any construction activity.



Delta of the river Bojana and Ada Bojana

However, tens of thousands of square meters are occupied and hundreds of illegal buildings were built, some of which are the property of the state and local officials. Relevant data show that Montenegrin police officers joined the illegal builders. Moreover, some individuals were selling state land in the area of natural reserve, as if it was their own property, and earned profits that are estimated at around six million euros, causing irreparable damage to the state.

Competent institutions have watched silently the destruction of one of the most beautiful parts of Montenegrin coast and deprivation of the state property, until MANS brought this question up in public. In response to a strong pressure of public opinion, several buildings were destroyed, while criminal charges against those responsible for the devastation of Ada Bojana are still collecting dust in the drawers of state prosecutors.

4.1. Devastation of Bojana

In mid 2008 several citizens reported devastation of the area around river Bojana.

When visiting the site, we established the presence of numerous illegal buildings, mainly weekend houses and building machines which were digging the soil near the bed of the river Bojana and flattening the ground, thus preparing the plots for sale. At several locations we noticed advertisements for sale of plots although the entire territory is state-owned.



Devastirane zone ušća rijeke Bojane

After we had identified the key areas of devastation, we presented them to the public and invited the competent institutions to stop further devastation and punish perpetrators.

Since the illegal construction is considered a criminal offense¹, MANS asked the Local Police Office in Ulcinj to respond to seizure of the state land and illegal construction². The local police remained mute.

Representatives of MANS visited the area again in September and learnt while talking to local people that there were some suspicions that some police officers were involved in usurpation of public property and illegal construction apart from the local entrepreneurs, which could have been the reason for failure of the police.

Illegal builders threatened representatives of MANS at that event but they also offered land and a building in exchange for our silence.



¹ New criminal offenses were defined by the amendments to the Criminal Code: illegal construction of objects and connecting illegally built objects to the infrastructure services (power network, water supply and sewage etc.).

² On that occasion, MANS called upon Article 2 Items 3 and 4 of the Law on Police, which defines police works as “the exercise of prevention and detection of crimes and violations” and “finding and arresting perpetrators of criminal acts and violations and bringing them to the competent bodies”, which in the case of illegal construction bind members of Montenegrin police to respond to the reported illegal construction which is a criminal offense.

Then MANS addressed the Director of Police Veselin Veljović and requested him to examine all the details concerning the failure of the police officers from Ulcinj to react against illegal construction in that municipality, but also to examine some other details that may indicate that some of those police officers were directly involved in illegal business. The Director of the Police remained mute.

Meanwhile, a former civil servant, submitted us a Catalog of illegal buildings in the area of Ada Bojana which was prepared by the Public Company “Morsko dobro” (“The Coastal Zone Management Agency”)³ which is in charge of that land management. Data from the Catalog have shown that the competent institutions are very much aware of the level of devastation, but not ready to do anything concrete to stop further destruction of the protected areas.

The Catalog proved that 420 objects were built in the usurped territory, mainly weekend houses and several restaurants were built on the riverbank. Total size of these buildings by the mid 2008 amounted to more than 18.500 square meters of useful space while at least 30 thousand square meters of public land were usurped, not including the devastation caused by illegal construction of access roads.

It is worth mentioning that some investors have several facilities in Ada; so there is a certain Kolj Nuši from Ulcinj who has nine typical cottages. One of curiosities is the fact that Police of Ulcinj is among the owners and they owns a garage and speed boats on the river Bojana; another one is the fact that the Natural History Museum⁴ has a cottage of 12 square meters.



MANS has publicly presented data from the Catalog, requiring the state to respond and protect its property.

Finally, “Morsko dobro” (“The Coastal Zone Management Agency”) submitted to the Prosecutor’s Office data on illegal construction together with the famous Catalog; on 11th September 2008 the competent inspections in cooperation with the Police started the action of the removal of illegally constructed buildings on the banks of the River Bojana.

³ <http://www.mans.co.me/wp-content/uploads/2009/01/montazni-objekti-na-rijeci-bojani.xls>

⁴ According to the Catalog, majority of illegal cottages owners on the river Bojana are the people from Ulcinj, Rozaje and Podgorica ,and the rest are from Bar, Berane, Bijelo Polje, Pristina, but also from Ireland, Denmark and Russia.

OSNOVNI DRŽAVNI TUŽILAC – ULCINJ
G –din Goran Šćepanović

PREDMET: Informacija o bespravnoj gradnji, na području obala i ušća rijeke Bojane.

Javno preduzeće za upravljanje morskim dobrom u sklopu svojih aktivnosti vrši stalnu kontrolu obalnog područja u zoni morskog dobra, kao i u zajedničkim kontrolama koje vršimo sa nadležnim inspekcijским službama. Tokom 2007. i 2008. godine na području opštine Ulcinj, sa Glavnim Republičkim Urbanističkim inspektorom G-dom Željkom Vranić, kontrolisano je navedeno područje i konstatovali smo ekspanziju bespravne gradnje montažnih vikend kuća, na području obala i ušća rijeke Bojane.

Radi se o području na kome Prostornim planom područja posebne namjene za morsko dobro nije planirana izgradnja objekata, niti izgradnja privremenih objekata koju predviđa Plan privremenih objekata za 2008. godinu, za opštinu Ulcinj. Na osnovu inicijative iz Ministarstva za ekonomski razvoj, Javno preduzeće je tokom jula i avgusta mjeseca 2008. godine, uradilo katalog objekata na rijeci Bojani, sa fotografisanjem objekata i mjerenjem gabarita, te smo na taj način utvrdili stanje prostora odosno evidencijali postojeće već izgrađene objekte.

*Official letter of the Public Company "Morsko dobro" to the Prosecutor of Ulcinj,
3rd September 2008*

The action lasted several days and had only limited results since most buildings that were removed were immediately rebuilt after the completion of the action; the competent prosecutors have still not informed the public about their actions upon the complaints of "Morsko dobro".

In the course of action the responsible Minister Branimir Gvozdenović gave his statement during his visit to municipality of Ulcinj and said that he expected that illegal construction on Ada Bojana would be stopped, and that the Government had decided that the laws must be respected.

"So far we have had only random actions some which gave good results some did not. That is why the Government adopted the decision ten days ago that all republican authorities must fully and effectively implement their obligations from the scope of their competences. It is very important that these steps be implemented in Ada continuously and I'm sure everyone will understand that illegal construction must be stopped. I hope that the warnings and the activities of inspectors in the field will result with cessation of illegal construction and I expect that those who do not respect the rules on protection of space will be held responsible".

Branimir Gvozdenović, Minister of Spatial Planning, 13th September 2008.

Several days after this statement, the action was stopped.

U cilju zaštite prostora zone morskog dobra i zaustavljanja pojava bespravne gradnje, potrebno je sprovesti prekrivični postupak, indetifikovati počinioce u cilju procesuiranja - podnošenja krivičnih prijava za djela protivpravno zauzimanje zemljišta iz čl. 254. i građenje objekata bez građevinske dozvole iz čl. 326a Krivičnog zakonika.

U prilogu Vam u cilju Vaše informisanosti, dostavljamo neke od prijava koje smo podnijeli službenicima Republičke Urbanističke inspekcije - Ministarstva za ekonomski razvoj, sa foto dokumentacijom, kao i katalog objekata na rijeci Bojani u elektronskoj formi, budući da smo u njemu pored mjesta na kome je izgrađen objekat - lokacije, (katastarska parcela, površina objekta, spratnost i sl.) evidencijali lične podatke za neke vlasnike objekata koji su izrađeni u proteklom periodu.

S poštovanjem.

PRILOG: - Kopije prijava koje smo podnijeli
Republičkoj Urbanističkoj inspekciji,
sa foto dokumentacijom,

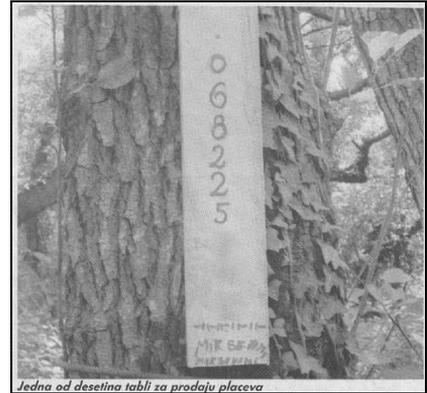
- Katalog objekata na rijeci Bojani
u elektronskoj formi.

In the meantime, representatives of MANS have called one of the phone numbers posted on the boards that advertise sale of state land.

In our conversation with the seller, while expressing our interest about the terms of sale, MANS has learnt that there is almost no "free" land on the banks of the river Bojana; instead there were plots for sale in immediate hinterland, just 30 meters from the coast⁵. While the plots on the coast were sold for 200 euros per square meter, in the hinterland the price was around 50 euros.

The seller informed us that there was the access road to each of the plots to enable delivery of materials and construction of buildings. Asked whether it would be possible to register the land as a property of the new owner, he told us that he could not guarantee, but that he could try.

MANS informed the police about everything and the police ignored the warnings that individuals traded in state land; the police did not notice the boards with visibly prominent phone numbers and services for sale which were places all over the area where the action of removal of illegal structures was taking place. Until now, the police did not inform MANS nor the public about initiating legal procedures against any illegal sale of state land. Sale of land continued.



One of the boards which advertises sale of state plots.

⁵ Based on the description of the location of the plot that we were offered for sale, MANS checked in the cadastre of Ulcinj who the owners of the land are and found out that it is the state property which was registered as the "zone of the Coastal Zone Management Agency".

4.2. Criminal charges against responsible civil servants

Based on the collected data, MANS filed several criminal charges in October, and individuals these charges refer to are still performing the same duties, while the prosecution is silent.

First criminal charges were filed by MANS on 9th October 2008 against the director of Ulcinj Electrical Power Supply Company and the official of the ruling Democratic Party of Socialists, Ljoro Nrekić.

Charges were brought upon a reasonable suspicion that by avoiding to take any actions the Director of the Electrical Power Supply Company of Ulcinj allowed illegal connection of illegally built facilities to electrical supply network and allowed the unauthorized use of electricity, and damaged the Electrical Power Supply Company of Ulcinj for the amount of uncollected fees for consumed electricity⁶.

Nrekić was suspected to have committed a criminal offense of unlawful occupation of land in order to gain profit from unlawful occupation of property, and of illegal construction of more facilities in the territory of Ada Bojana.

“According to the data of the Urban Inspection of the Ministry for Economic Development, Ljoro Nrekić has usurped the state land on the banks of the River Bojana and contrary to the law built a platform for setting up the facility. According to Željko Vranić, a Chief Urban Inspector, there is a suspicion that Nrekić apart from the aforementioned owns several buildings built on the river Bojana banks which are also placed on the usurped land. In addition, Nrekić has publicly confirmed on several occasions that he owns the afore mentioned platform on the river Bojana”.

Extract from criminal charges, 9th October 2008.

In the following year the prosecution reached no decision upon criminal charges nor did it inform us about the undertaken activities⁷.

MANS filed second criminal charges on 14th October 2008 against Vladan Laković and Sabra Buzuković on a reasonable suspicion that they have committed criminal offences of abuse

⁶ In explanation of criminal charges it is stated that Nrekić heads the company which distributes electricity in municipality of Ulcinj, and "within his position is required to care for protection of interests and property of the company he is heading and take protective measures when it is estimated that the interests of the company are threatened, as unauthorized use of electricity certainly is".

⁷ On 12th March 2009 MANS was informed by the Supreme State Prosecutor that the case was forwarded to the Basic Prosecutor of Ulcinj. At our next inquiry sent on 19th May we got the same answer from the Supreme Prosecutor's Office while we were told by the Prosecutor of Ulcinj that "he is not authorized to give such information, and to address the Supreme State Prosecutor".

of official position and negligent work in service while performing duties of Heads of the Regional Police Unit in Ulcinj.

Vladan Laković, the current Chief of the Police Unit in Bar headed until the end of September 2008 the Regional Police Unit in Ulcinj and was obliged to protect state property, to take measures of detecting, catching and prosecuting perpetrators of criminal offences of theft of electricity and illegal occupation of state land. Sabro Buzuković, who served as a Chief of the Police Unit until the appointment of Laković, had the same duties.

"By failing to exercise their duties of surveillance and negligent behavior in performing official surveillance within the scope of duties of the Chief of Security Division of Ucinj they have enabled for now the unknown number of private investors to earn unlawful profits by allowing them to occupy the land at the location of the mouth of the river Bojana, municipality of Ulcinj, against the law and damage the budget in the amount equal to the value of the occupied public land, and to use electricity illegally, which damaged the Electrical Power Supply Company of Ulcinj for the amounts of uncollected fees for consumed electricity".

Extract from criminal charges, 14th October 2008.

Two months after filing charges the Prosecution informed us that the Special Prosecutor for Corruption and Organized Crime took the case. In the official letter signed by at-the-time Special Prosecutor Stojanka Radović it was stated that collecting the necessary information was ordered and that some specific checks would be conducted by the Criminal Police Sector in Podgorica.

More than a year later, Laković and Buzuković are still in the positions they occupied at the time when criminal charges against them were filed while the investigation against them is still "in progress".