OPPORTUNITIES AND RESPONSIBILITIES OF LOCAL SELF-GOVERNMENT IN ENVIRONMENTAL ASPECTS OF THE EU INTEGRATION PROCESS FOR BIH

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Abstract

The EU environmental policy does not address consequences resulting from various segments of development, but their harmonization with environment, which is a milestone of every economic, social and cultural development. The EU environmental policy has been implemented on different levels. Therefore, harmonization and implementation of legislation in BIH is an indicator of good government, as well as local self-government. Every decision, regulation and conclusion issued at any level should be characterized by short-term, mid-term and long-term effects relating to the right of present and future generations to the equal use and management of limited natural resources. Although environmental policy has been identified as one of the priorities in the EU integration process, and legislation substantially harmonized with the EU legislation has been implemented in BIH, it is still insufficiently applied. The control level of implementing environmental permits and environment protection in general is relatively low. The responsible entity and cantonal (in the Federation of BIH) institutions insufficiently implement the required political, legal and institutional reforms in order to develop this framework. Neither national nor entity levels have undertaken significant steps for implementing programmes and strategies required by the signed agreements and contracts between the EU and BIH. Only few local communities show some dynamics and ability to join contemporary European trends in the environmental aspects of public utility infrastructure development and take advantage of existing opportunities that have been significantly increased after the Stabilization and Association Agreement EU – BIH has come into effect.

Keywords: Environment, Local self-government, Environmental infrastructure, EU – BIH.

Introduction

Local self-government presents a particularly important element regarding the support to the development and association of BIH to the EU. Citizens are most familiar

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with this level of government; positive improvements and reform consequences are also more prominent. In the post-war period, local self-government in BIH has been exposed to the series of problems. In addition, the needs and achievements of local self-government have been limited by partitioned political structure in BIH. Local self-government, or Municipalities in BIH, has been motivated to improve its operation, particularly within the EU integration process, but also and particularly as a consequence of the Stabilization and Association Agreement (SAA) from 2008. The right to local self-government has been guaranteed by the Laws on Local Self-government adopted in both entities. However, disadvantages in the area of municipal administrative services have been very noticeable. Some municipalities in BIH do not have capacities for monitoring, planning and ensuring their revenues and implementing budgets; neither for the implementation of necessary projects in order to motivate and improve development of their local communities. Therefore, the potential contribution of local government to the improvement of standard of living and sustainable development, without engaging new capacities, has been very limited. In July 2003, Bosnia and Herzegovina became a potential candidate for joining the EU after the completed negotiations at the meeting of the Council of Europe in Thessaloniki. On 16 July 2008, Bosnia and Herzegovina signed the Stabilization and Association Agreement (SAA). SAA has been ratified but it has not come into effect yet. This agreement forms a basis for cooperation between Bosnia and Herzegovina and the European Union. One of the cooperation segments, mentioned in SAA in Article 108, is environment: “The Parties shall develop and strengthen their cooperation in the environmental field with the vital task of halting further degradation and start improving the environmental situation with the aim of sustainable development. The Parties shall, in particular, establish cooperation with the aim of strengthening administrative structures and procedures to ensure strategic planning of environment issues and coordination between relevant actors and shall focus on the alignment of Bosnia and Herzegovina’s legislation to the Community acquis. Cooperation could also centre on the development of strategies to significantly reduce local, regional and trans-boundary air and water pollution, including waste and chemicals, to establish a system for efficient, clean, sustainable and renewable production and consumption of energy, and to execute environmental impact assessment and strategic environmental assessment. Special attention shall be paid to the ratification and the implementation of the Kyoto Protocol.”

Administrative capacities of BIH in the field environmental protection are very limited. In the European Commission Staff working document: Bosnia and Herzegovina Progress Report, the necessity for forming an agency for environment protection has been stressed. Its responsibilities will include monitoring and reporting on the state of environment in the entire country, since the existing administrative capacities – within the institutions responsible for environment – have been limited due to the partition of authority both vertically and horizontally. Environmental concern has been still limited in other sectors as well.
EU Environmental Policy and Local Self-government

Objectives and Principles of the EU Environmental Policy

The EU environmental policy objectives have been defined in a few provisions of the Treaty on the Functioning of the EU and the Treaty on the EU and it is necessary to interpret them in the segment of total objectives of the EU. The most clearly formulated objectives in the field of environmental protection are to be found in the provision of Article 191 of the Treaty on the Functioning of the EU, where it is stated that environmental policy of the Union has to contribute to achieving the following objectives: conservation, protection and improvement of environment, protection of human health, rational use of natural resources, promoting the application of protection measures at the international level in order to resolve regional or global environmental issues (Čavoški 2007 : 14-22).

The environmental policy principles have been based on the following international law principles of the environmental protection, commonly accepted principles and the best world practice. These are the following principles:

• Principle of natural resources protection/preservation – includes monitoring and application of existing environmental standards;
• Principle of precaution – includes human factor, i.e. the impact on the quality of environment and human health;
• Principle of hindering/prevention – refers to the activities of hindering negative environmental impacts instead of repairing damage, careful and economical use of environmental components along with the slightest possibility to cause environmental damage. Although majority of environmental policy has been directed towards mitigation or removal of adverse effects, it is much more simple and cheaper to prevent adverse environmental effects.
• Principle of substituting an activity possible to cause adverse environmental effects with another activity producing much less damage – includes the areas requiring the measures for solving problems. One of the examples of this principle is the application of BAT\(^1\) techniques in large (and small) industrial companies.
• Principle ‘polluter pays’ – includes the polluter’s obligation to compensate the costs of removing consequences of adverse environmental effects or damage compensation, i.e. charging the polluter for the environmental damage in the form of a penalty or a motivation not to do that again;
• Principle of cooperation, joint action and sharing the responsibility of all subjects for the purpose of environmental protection;
• Principle of integrated approach – it means that all environmental protection demands have to be taken into consideration while forming and implementing all types of the EU policies. This principle includes taking into consideration the

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\(^1\) BAT – Best Available Techniques
life-long cycle of substances and products, predicting potential consequences in all environmental components, implementation of measures to correspond with consequences;

- Principle of subsidiarity – this principle is the general EU principle stating that the EU does not undertake any actions, unless they are more effective than actions undertaken at national, regional or local level. The objective is to ensure effective decision making at the government levels closest to citizens;
- Principle of participation of public and enabling the approach to all citizens and organizations interested.

These principles have been defined by the Treaty on the EU and present examples, prototypes, in both defining environmental policies and issuing and implementing decisions with a possibility to have direct impact on environment, natural resources and human health at the national, regional or local level.

Environmental EU legislation

The EU approach regarding environmental protection has been changed a lot in the last 20 years. The basic EU objective is to preserve, protect and improve environment in member states, increase measures for solving environmental issues at the international level, identify common principles of environmental policy, and identify common decision making process on the environmental policy. The EU enacts measures on the basis of the decision of the Council, at the suggestion of the Commission and after consultations with the European Parliament.

The Treaty of Rome from 1957 does not specify any provision on the environmental protection. Only in the beginning of the 1970s was it perceived that environmental issues present a threat to the EU economy. Thus, in 1971, the first detailed plan regarding the EU environmental protection policy saw the light of day. In 1972, member states agreed on adopting environmental policy. According to this policy, economic growth has to be achieved along with the improved quality and standard of living (Črnjar 2002).

The Single European Act from 1987 contains special provisions on environment; the Maastricht Treaty from 1992 defines environment in more details; the Amsterdam Treaty from 1997 additionally determines the position of environment in the EU legislation; the term ‘high level of environmental protection’ is also introduced. In the Amsterdam Treaty, sustainable development has been incorporated in the EU objectives, while the environmental protection policy has been given a priority in relation to other EU policies.

European environmental legislative framework includes three key competency levels: European, national, and regional/local level (Anon. 2001; Anon. 2006b; Anon. 2009).
Every above-mentioned level presents a significant segment for the successful application and implementation of the EU environmental policy. When a legislative act is adopted at the EU level, member states take on obligation to harmonize national legislation with the act, and have to ensure the effective implementation in practice as much as possible. This transposition does not oblige only member states. It also concerns countries with a status of candidate for the EU membership (Anon. 2001; Anon. 2006b; Anon. 2009; Anon. 2012b).

Every country with a goal to become the EU member has to make transposition of the EU legislation. Acquis communautaire is a collection of rights and obligations referring to all member states of the EU and the countries that want to become members.

The EU environmental policy does not address consequences resulting from various segments of development, but their harmonization with environment, which is a milestone of every economic, social and cultural development. The EU environmental policy has been implemented on different levels. Therefore, harmonization and implementation of legislation in BIH is an indicator of good government, as well as local self-government (Anon. 2001; Anon. 2006b; Anon. 2009).

To be more precise, every decision, provision, conclusion issued at national, regional or local level should be characterized by short-term, mid-term and long-term effects relating to the rights of present and future generations to the equal use and management of limited natural resources.

European Charter of Local Self-government

Local governments have been promoting their interests since 1957 through a special representative body at the level of the European Community – the Congress of Local and Regional Authorities of Europe. Proposed by the Standing Conference of Local and Regional Authorities, member states of the Council of Europe adopted the European Charter of Local Self-government in Strasbourg on 18 October 1985 (Anon. 1985).

The objective of the European Charter of Local Self-government is establishing common European standards for identifying and preservation of rights of local governments, closest to the citizens, and offering the citizens a greater possibility for active participation in a decision making process about public affairs directly related to their interests (Anon. 1985).

2 CLRAE – The Congress of Local and Regional Authorities of Europe. The Council of Europe formed the Congress of Local and Regional Authorities of Europe in 1994 as an advisory body instead of the former Standing Conference of Local and Regional Authorities of Europe. The Congress helps new member states with practical issues in relation to their activities for creating effective local and regional self-government.
Therefore, the European Charter of Local Self-government commits signatories to apply basic rules guaranteeing political, governing and financial independence to local governments. The European Charter of Local Self-government consists of a preamble and three sections. Basic premises of the Charter are presented in the Preamble: vital contribution of local self-government in the development of democracy, efficient governance and power decentralization, the significance of the role of local governments in the process of creating Europe, the necessity for democratic constituting of local governments that will enjoy widely comprehensive autonomy (Anon. 2003a).

The European Charter of Local Self-government identifies local government bodies as one of the pillars of every democratic society, promotes the citizens’ right to participate in the public affairs management, the fact that this citizens’ right is to be exercised most directly at the local level, as well as the fact that existence, development and strengthening of local self-government in the European countries is an important contribution to creating Europe based on the principles of democracy and power decentralization (Anon. 1985; Anon. 2003a).

**European Standards of Local Self-government and experiences of Member States and States involved in the Stabilization and Association Process**

Regarding the European experience of organizing local self-government, it is important to emphasize a few elements: European government area, the principles of good rule and government, convergence, harmonization of local self-government in Europe, impacts, experience and learning, and development and codification. Regarding the models of the European self-government tradition, the following models exist:

- French centralistic model;
- German model (federation, principle of subsidiarity, detailed regulation of local affairs);
- British model (unwritten constitution, the parliament sovereignty, legal doctrine ‘ultra vires’); and
- Scandinavian model (large local units) (Anon. 2003a).

Common features of all above-mentioned models are europeanisation, harmonization, learning, while tradition and cultural difference represent their divergence.

Local self-government pursuant to the EU standards includes:

- European Charter of Local Self-government;
- Organization of public utility services in a metropolitan area (cooperative institutions, financial problems, the position of users, the liberalization policy...);
• Social services (social habitation and social assistance, health services, education, culture, sport...);
• Urban aspects (spatial planning, regulation of construction, development of settlements);
• Economic development;
• Financing peculiarities (typical fiscal forms, bonds, public-private partnership, etc. – an entrepreneurial city);
• Adequate relations between integration and internal decentralization;
• Strengthening of local-political government capacities;
• Harmonization at all national levels (performing activities of national government at the territory of local self-government units, dividing public activities, authorities and responsibilities, financing);
• Strengthening relations with citizens (legitimating deficits, direct election of a mayor, other forms of participation); and
• Legal standards (public procurement, protection of citizens’ rights – tax payers, public availability of contracts and information...) (Anon. 2003a).

Role of Local Self-government in environmental aspects of the EU integrations

Local self-government, i.e. local self-government units, is one of environmental protection subjects. In their scope, local self-government units regulate, organize, finance and improve environmental protection affairs of local/regional importance. The role of local self-government in environmental protection also reflects through establishing environmental protection programmes for local area. The EU environmental protection policy has been based on the prevention principle requiring the measures of environmental harm prevention to be employed at the locations of harm occurrence3 (Anon. 2012b).

It is normal that the role of local government is greater in the areas where it is possible to eliminate the causes of environmental risks through local activities and with the lowest cost, before the risks become national or international issue. Although transposition of the EU environmental regulations is completely the task of central government, by adopting laws and bylaws, the enforcement and application of national regulations meeting the EU membership obligations is usually divided between different governmental levels (Anon. 2012b; Anon. 2010; Anon. 2009).

A successful local government is reflected in how it coordinates its activities with other participants in a community, in order to improve the efficiency of its policy and minimize activities that are not closely related to the achievement of major strategic goals (Anon. 2012b).

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3 Article 191, paragraph 2 of the Treaty on the Functioning of the EU.
Local Economic and Infrastructure Development of SEE in the Context of EU Accession

In this respect, it is also important to emphasize that there are some environmental achievements at the local level in a region at the level closest to citizens, which often present the first step of the global problem solving (Anon. 2005: 135-164). Therefore, it is important to mention the Troyan Environmental Action Programme which started in 1992. This programme is one of the first programmes of local activities in the Central and Eastern Europe. Precisely on the principles of this programme, Local Environmental Action Programmes (LEAPs) have been developed and implemented to a certain degree in the majority of countries in the Central and Eastern Europe, including BIH as well. The Troyan Environmental Action Programme showed that local community, including active participation of citizens and effective planning methods, is able to turn environmental issues into priorities, develop economic strategies for solving these issues and create new partnerships in order to implement planned activities. The city of Troyan rehabilitated over 70 damages on the underground pipeline network and replaced almost one kilometre of pipeline, resulting in saving circa 10% of water (Anon. 2012b; Klasing and Kraemer 2002).

Preparation of guidelines for the sustainable development of the Municipality of Jelsa in Croatia is also an example of good practice. This example shows how important the process of planning is, along with the participation of public where local community has a proactive role, which is still not the common practice in the region. Very often, projects and programmers are developed; they will not be implemented since citizens do not consider them as their ‘own’ plans because they were not involved in the planning and decision making process and their various opinions, approaches, values and ideas have not been taken into consideration (Črnjar 2002). In the process of planning in Jelsa, a vision was defined. Afterwards, this vision was introduced to local government and, thus, the first step – usually the most difficult step – was made towards planning sustainable development.

The example of comprehensive waste management in the city of Ramnicu Valcea in Romania has shown the successful practical solutions for public waste management, one of the biggest problems regarding environmental protection in the region and beyond. Opening the first information centre for waste management in Romania has also improved communication between citizens, public administration, local government, and all participants at the local and national level. Results obtained through this project were crucial for decisions to award the city of Ramnicu Valcea the “City towards EU Compliance Award” three years in a row for an extraordinary success in the areas of waste management, water and air quality, and providing environmental information. This example has already been recognized and acknowledged at a summit in Johannesburg as one of the six successful practices from the Central and Eastern Europe in the area of urban technology of environmental protection (Črnjar 2002; Klasing and Kraemer 2002).
Another example from Romania, the city of Campeni, has emphasized technical and economical advantages in using wood waste as a fuel for central heating. Therefore, it represents a significant step forward in relation to environmental protection, reducing fuel consumption, and saving energy. The project also has a great potential for application in numerous urban areas with the wood industry and central heating system.

Furthermore, before joining the EU, Croatia achieved a lot regarding the compliance of national legislation with the EU environmental legislation. For instance, in the National Environmental Action Plan of Croatia, every area and every measure is stated, but also their relations with the EU legislation. In this document, primary focus is given to the analysis and harmonization of Croatian legislation with the EU legislation with the cost estimate. In addition, Croatia requires all new regulations to be in compliance with the EU regulations, and there are also mechanisms integrating environmental issues into other sectoral policies in accordance with the Article 6 of the Treaty on the EU (Črnjar 2002; Klasing and Kraemer 2002).

The experiences of candidate countries and member states show that the success of the EU integration process depends on the extent of involvement of national government and local self-government in this area, as well as the success of coordination at national and international level. In order for entire process to be as simple as possible, candidate countries have been directed towards regional cooperation and the use of technical-financial help of the EU. All this should result in a better environmental state in BIH and also greater wellbeing of citizens (Črnjar 2002; Klasing and Kraemer 2002).

Local Self-Government in BIH and EU integrations

Environmental management at the local level in BIH

Environmental management at the local level in Bosnia and Herzegovina is a very complex issue. Federation of BIH consists of 10 cantons and their authorities are defined by the Constitution of BIH. Every canton has its own government that adopts cantonal laws compatible with the federal laws.

What is particularly significant is the fact that there is no single form of organization or policy for ministries involved in environmental issues at the cantonal level.

Cantons in the FBIH (10 cantons) include 79 municipalities. Organization of work, as well municipal authorities, has been regulated by the Law on Principles of Local Self-government in the Federation of Bosnia and Herzegovina (Anon. 2006a). Article 8 of the Law on Principles of Local Self-government in the FBIH is particularly
significant. According to this Article, “individual authorities of the units of local self-government ... include a policy of spatial planning and environment, water management, waste management and natural resources management at the municipal level”, as well as some other self-governing authorities regulated by law (Anon. 2006a).

Local self-government unit has its own responsibilities defined by the Constitution and law. Every local self-government unit is independent in making decisions on issues belonging to its own authority, which cannot be limited and denied by federal or cantonal governments, except for the cases defined by the Constitution and law.

The Republic of Srpska includes 63 municipalities and their authorities have been regulated by the Law on Local Self-government (Anon. 2004). According to Article 12 of this Law, municipalities in RS have individual, independent authorities concerning the provision of public services, for instance, environmental protection and water management.

Municipalities in both FBIH and RS execute their environmental authorities through different sectors within Municipalities, such as sectors for public utility affairs, spatial planning, urbanism, development, inspections, etc.

**Environmental Legislation in BIH**

The Federation of BIH and the Republic of Srpska enacted a set of environmental laws 10 years ago, because previous legislation was inconsistent. These laws are mostly harmonized with the EU legislation and there are six of them:

- Law on Environmental Protection;
- Law on Air Protection;
- Law on Water Protection;
- Law on Nature Protection;
- Law on Waste Management;
- Law on the Fund for Environmental Protection.

The above-mentioned set of laws was the first set of laws in Bosnia and Herzegovina regarding environment. It was prepared with financial and technical support of CARDS. The purpose of this set was harmonization with the EU directives, as well as cohesion within both entities and the Brčko District.

Both entities, FBIH and RS, have enacted a new Law on Water, which annulled the above-mentioned Law on Water Protection. FBIH enacted the Law on Water in 2006 as a result of the Project on Institutional Strengthening of Water Sector in BIH. This

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4 CARDS – Community Assistance for Reconstruction, Development and Stabilization is an EU programme providing help to communities in terms of reconstruction, development and stabilization.
law is predominantly harmonized with the provisions of the EU Water Framework Directive.

Environmental protection strategy of the FBIH has been prepared pursuant to the Law on Environmental Protection and it is based on the principles of sustainable development. In accordance with the Law on Environmental Protection, Ministry of Environment and Tourism of the FBIH is responsible for preparing a proposal of the Federal Environmental Protection Strategy for the period of ten years. Ministry of Environment and Tourism of the FBIH signed a contract with the selected consultants regarding the preparation of the Federal Environmental Protection Strategy in December 2006 (Anon. 2009).

The Strategy is to be implemented for the period 2008–2018. The consortium hired for the preparation of the Strategy consisted of: Bosna-S Oil Services Company, Hydro Engineering Institute of the Faculty of Civil Engineering Sarajevo and IPSA Institute. Constituent segments of the Federal Environmental Protection Strategy are the following: (Anon. 2009 : 13)
• Federal Nature Protection Strategy;
• Federal Air Protection Strategy;
• Federal Waste Management Strategy;
• Federal Water Protection / Water Management Strategy, prepared separately.

Detailed analysis of the legislation of BIH, entities and the Brčko District has resulted in a conclusion that environmental legislation in BIH is very limited, particularly considering environmental legislation at the national level.

Deficiency in the national legislation has been reflected in the fact that Bosnia and Herzegovina does not have a law on environmental protection at the national level, although its adoption is one of the requirements for the EU integration. It is very important to emphasize that the same law is mentioned as one of the priorities in the Mid-term Development Strategy of Bosnia and Herzegovina.

A great effort has been made to form boards for preparing Draft Environmental Law in BIH. However, everything has remained as an effort without results.

In terms of vertical harmonization, there have also been many deviations and incompatibilities between entities and the national level, as well as between the Federation of BIH and cantons. In addition to horizontal, there is also a vertical incompatibility, i.e. incompatibility between the Republic of Srpska, the Federation of BIH and the Brčko District. Furthermore, analogue laws do not prescribe the relation between one entity and another; nor relation towards the national level regarding international relations and cooperation.
One of the problems of environmental legislation in BIH is the lack of certain secondary legislation prescribed by the above-mentioned environmental laws. Therefore, it is necessary to adopt a lot of secondary legislation in order to implement the prescribed measures.

**Deficiency in the Self-governing System in BIH**

Development of local self-government in BIH has occurred through two separate and substantially different subsystems, in the Republic of Srpska and the FBIH. Therefore, it can be concluded that different treatment of local self-government results from differences between entities.

This is particularly expressed through the authority of Municipalities as self-governing units in relation to local and higher government levels, and in relation to exercising entrusted authority. It is important to emphasize that the Constitution of BIH does not contain any clearly defined provision on local self-government. Only Article 3, paragraph 3b, mentions territorial organization of BIH, as well as obligation of the entities and their administrative units to comply with the Constitution and general provisions of the international public law.

In almost all developed countries, local self-government is treated as a citizen’s right guaranteed by the Constitution and law, with further detailed definition of local self-government. However, this is not the situation in BIH. There is no single provision in the Constitution of BIH guaranteeing the citizens’ right to local self-government.

This was also addressed by Trnka in his book “Constitutional Law”, stating that the Constitution does not contain a single general norm guaranteeing human right to local self-government. BIH is a signatory of the European Charter of Local Self-government since 1994 (Trnka 2006: 385). It means that the Charter is engraved into the BIH legal system, although not all constitutional and legal solutions in BIH are completely harmonized with the Charter. Since entity constitutions and laws define different provisions regarding authority, functioning and the number of municipalities, cities and other units of local self-government, it can be stated that two different systems of local self-government exist in BIH. Entity legislation determines normative framework; however, functioning and organization of local self-government is a long-term process (Trnka 2006).

Local self-government in the entities is very similar, although both models have their pros and cons. Major similarity is a problem common for both models. It is insufficient autonomy of local self-government, reflected in its normal functioning. Therefore, it is essential to implement a reform of local self-government in order
to create a successful model of local self-government and achieve progress in the above-mentioned areas relevant and significant for the EU integration.

There are three basic and equally important segments of the reform of the local self-government system:

• Reform of legislative and normative position of local self-government – modifications of constitutional, legislative and statutory formation of the position of local self-government in order to be harmonized with the principles of the European Charter of Local Self-government;

• Functional reform – this segment of the reform covers projects and solutions for a greater level of quality in providing services to citizens, and the segment of construction and maintenance of public utility infrastructure; and

• Reform of the territorial organization of municipalities – this segment of the reform presents dynamic category looking for solutions from politological, economic, legal, social and other fields, although with an objective of optimal solutions in territorial organization, in order for all municipalities to have demographic, spatial and economic background for self-sustainable development.

Reform of local self-government is an important segment of the process of the EU integration; in particular due to the fact that local governments have extremely important function in meeting conditions for the association, such as: employment level, quality of providing services to the citizens, development of the public utility infrastructure, spatial planning, life quality in local communities, functioning of public utility institutions, created systems of the humans rights protection and standards of environmental protection and preservation.

Towards new, European policy in BIH

Current state and activities undertaken for the EU Integration

It is difficult to determine actual environmental state in BIH. Its peculiarity, compared with other European countries, is reflected in the fact that some environmental segments, such as quality of forests, fresh water streams, but also air, are much better ranked than in other European countries; while other segments, such as waste, wastewater, mined areas, are significantly below the standard of other countries of Europe. Environmental issues are not sufficiently institutionalized, which also contributes to the imbalanced environmental state. Namely, in accordance with the Constitution of BIH, environmental management is the entity authority.

Both entities have one ministry responsible for environment: Federal Ministry of Environment and Tourism in the FBIH, and the Ministry of Spatial Planning, Civil Engineering and Ecology in the RS; in the Brčko District, it is a responsibility of the
Sector of Spatial Planning and Property Rights. Environmental management at lower levels in the FBIH belongs to cantonal ministries and municipalities, while in the RS there is only municipal level. The Federation and cantons are jointly responsible for environment. Due to the complex political situation after the war, there was very little concrete cooperation between the entities regarding environment. In relation to the names of these ministries, it is clearly visible that these institutions are not responsible only for environment; it is only one segment of their responsibility. However, in terms of water protection, as well as other aspects of water management, it is a responsibility of water management sectors in these ministries, which in both entities include both agriculture and forestry (Anon. 2012b).

In the past few years, environmental management system was created in BIH, based on the principles applied in the EU. Programmes of international help, including CARDS, have had a significant role in the implementation of this system. As a result, a set of environmental laws, entity laws, mentioned in the previous paragraphs, was prepared within the project “Preparation of Environmental Laws and Policies in BIH (BH 99-03)”. These laws are based on the key EU environmental directives. In addition, inter-entity National Environmental Action Plan for BIH (NEAP) has also been adopted. Significant contribution to capacity building of environmental management has been provided by the project REReP as well.

As stated in the EU Integration Strategy of Bosnia and Herzegovina, in terms of horizontal legislation, rulebooks regulating the procedure of issuing environmental permits have been enacted (Anon. 2006b : 120). Institute for Standards in BIH has enacted more than 200 BAS/ISO201 standards, out of which majority of standards are EN202 standards.

Development of Environmental Policy in BIH in the EU Integration Process

Although environmental policy was set as one of the priorities of the EU integration process, the legislation not completely enforced has been into effect. The level of environmental protection has been relatively low. The majority of responsible institutions have been insufficiently involved in the implementation of required legislative, legal and political reform in order to develop this framework. Financial limitations also pose a significant problem. Neither national nor entity levels have undertaken significant steps for developing programmes and strategies defined in the contracts and agreements BIH has signed (Anon. 2012b).

Stabilization and Association Agreement has indicated major priorities in the association process regarding the energy and environmental sector. Article 107 states: “Cooperation shall focus on priority areas related to the Community acquis in the field of energy, including, as appropriate, nuclear safety aspects.” This cooperation
will be based on the Energy Community Treaty, and developed with a purpose of gradual integration of BIH into the European energy markets. The Agreement emphasizes that contracting parties have to develop and strengthen environmental cooperation and establish cooperation in order to strengthen institutional structure and procedures, which would ensure strategic planning of environmental protection issues and coordination between relevant actors; it would also harmonize laws of Bosnia and Herzegovina with the Community acquis.

The cooperation is also going to be directed towards preparation of strategies with an objective of substantial reduction of local, regional and cross-border air pollution, including waste and chemicals; then towards establishing a system for efficient, clean, sustainable and renewable production and use of energy, as well as towards preparing Environmental Impact Assessment and Strategic Environmental Assessment. Particular attention should be directed towards ratification and implementation of the Kyoto Protocol (Article 108, SAA). “European Partnership” is a document emphasizing key steps for BIH during the association process:

• Adopt national environmental legislation for harmonized environmental protection;
• Continue with the implementation of legislation on environmental impacts;
• Ratify and begin the implementation of relevant international conventions, including the Arhus and the Espoo Conventions;
• Establish and ensure functioning of national and entity environmental agencies;
• Continue with strengthening administrative capacities of the environmental institutions, particularly at the national level; and
• Improve communication and coordination between these institutions.

Final observations

In a developed and democratic society, environmental awareness has become crucial part of the general social awareness and political orientation. Environmental protection has been increasingly becoming a criterion, objective and paradigm of the social actions.

Within the EU environmental policy, for local and regional authorities, effective environmental legislation and promotion of sustainable development are very important. Preparation of legal acts on environmental protection has to be modelled on the EU legislation. Moreover, particular attention has to be directed towards local units. This means that acts have to be equally applicable at all government levels since units of local self-government have different impacts on environment. They create preconditions for full development of the community, including environmental policy and the programme for sustainable development (Anon. 2012b; Anon. 2009; Anon. 2012a).
Inadequate and imprecise authority distribution between different government levels is a particular trait of the self-governing system in BIH and presents a difficult situation during the EU integration process. Territorial structure of local self-government is very inhomogeneous; there are significant oscillations regarding the size, or territorial coverage, of units of local self-government; all of them are characterized by a monotypic authority structure that often results in inefficient services, misunderstandings and conflicts in practice. Therefore, differences in legal status of the units of local self-government barely exist; however, differences in terms of development, urbanization level and infrastructure are very prominent, contributing to the dehomogenization of self-government in BIH. The reform of local self-government is an essential process regarding the progress of BIH on its way to join the EU integrations because local government has a particularly important function in meeting association criteria, such as standards for environmental protection and preservation. It is also important to state the necessity for the reform of constitutional structures. It is necessary to enact a law on environmental protection at the national level, which could be applied to the lower government levels to the largest possible extent (Anon. 2012b; Anon. 2012a; Anon. 2010).

Due to the inhomogeneous structures and non-harmonized activities of the BIH institutions at all levels, it is necessary to upgrade legislation and strengthen capacities and the personnel structure, along with enabling organizational and institutional development in accordance with the European practices of decentralized countries (Anon. 2012b; Anon. 2012a; Anon. 2010).

Furthermore, BIH legislation is very often – just like existing strategies and recommendations – too general. Therefore, elaboration of existing acts is urgently needed, as well as urgent enacting of the acts for the fields characterized by the lack of these acts. Transposition of the EU legislation is an essential feature of the EU integration process. Environmental policy at the entity level is partially harmonized with the EU acquis communautaire, and, thus, it is important to continue with upgrading the BIH environmental policy that will be based on the principles of sustainable development of BIH, along with the assistance from the EU institutions (Anon. 2012b; Anon. 2012a; Anon. 2010).

Environmental protection enables complete preservation of water quality, air, land, preservation of natural habitats, rational use of natural resources and energy in a manner most adequate for environment, as a basic precondition of sustainable development. The way an institution, body, company or any other organization or even an individual acts nowadays in relation to the environmental standards and sustainable development results in long-lasting consequences on the life quality of current and future generations (Anon. 2012b; Anon. 2012a; Anon. 2010).
The European Union and more successful developing countries have already successfully integrated environmental acquis communautaire in almost all other sectors. This is an excellent indicator of a direction for BIH too, as well as the requirement in the process of joining the EU. It is important for BIH to join conventions and protocols it has not joined yet, following the best practices from the region.

Conclusion

Environmental protection policy presents a new field of the European legislation. In the EU, healthy environment is an indicator of a progress for a country, improvement of life quality, and it presents a basis for economic development. In order to join the EU, a candidate country has to meet regulations of acquis communautaire; environment is one of its segments.

Environmental policy of the EU stresses the necessity to harmonize legislations between member states and candidate countries in the sector of environmental protection, which reflects economical, social and cultural development and indicates efficient government, i.e. self-government. This paper emphasizes the fact that transposition of the EU environmental regulations is entirely the task of BIH and entity governments, while implementation and application of national regulations fulfilling the requirements regarding the EU association is the task of different government levels. The necessity of transposition of the EU legislation into the BIH legislation at the state level is also emphasized.

Local self-government within the EU is characterized by the fact that it is based on the principles of the European Charter of Local Self-government. This is not the case with BIH. Just like the issues regarding environment, the sector of local self-government is not separately defined by the Constitution of Bosnia and Herzegovina. It is based on entity laws that are not based on the principles of the European Charter of Local Self-government, which is one of the features of the EU association process. Local self-government has been differently treated in entities, resulting in their asymmetry.

There are many deviations and incompatibilities between entities and the national level, as well as entities and lower government levels. There is no unique set of laws applicable at all government levels. There is no single organization or institution at the national level to deal only with environmental issues, which are not sufficiently homogeneously institutionalized.

Efficient local self-government can provide substantial flow of EU grants through well-developed planning, identification of sustainable development strategies, waste management strategy, reduction and removal of environmental issues, development
of local infrastructure and development of projects. This would significantly contribute to the recovery and progress of BIH.

Environmental issues must not be an obstruction to the development. On the contrary, actual development is feasible only with adequate environmental protection measures. Therefore, policies in all sectors, particularly those sectors substantially related to environment; have to incorporate the environmental protection policy as well.

References

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