



OIKON d.o.o.
Av. Dubrovnik 6-8, Zagreb

**NATURA 2000 INTEGRATION PROJECT
(NIP)**

**- CONSULTATIVE AND PARTICIPATORY ELEMENTS IN
THE PROTECTED AREAS AND LAND SURVEYING LAWS
OF CROATIA -**

Zagreb, September 2010

Content

1. BACKGROUND OF THE PROJECT	4
2. LEGISLATIVE AND REGULATORY CONSIDERATIONS OF PROCEDURES	5
2.1. Procedures for delineation of borders of protected areas.....	5
2.1.1. Procedure for establishment of protected areas.....	5
2.1.2. Register of Spatial Units	8
3. PUBLIC PARTICIPATION	13
3.1. Public Participation within the Nature Protection Act.....	13
3.2. Public Participation within the Law on State Survey and Real-Estate Cadastre....	14
3.3. Public Participation During Establishment of the NEN	14
3.4. Public Participation with the Law on Nature Impact Assessment (NIA).....	15
4. COMPENSATION FOR RESTRICTIONS IMPOSED BY PROTECTED AREAS OR AREAS OF NEN	16
4.1. Compensations of damages made by wild or protected organisms.....	16
4.2. Compensations for the restrictions of natural resources utilisation	17
4.3. Subsidies for nature protection.....	19
5. CONCLUDING REMARKS	21

EXECUTIVE SUMMARY

This report reviews the consultative and participatory elements in the protected areas, national ecological network, and land surveying laws of Croatia. It was prepared as part of the social safeguard screening process during preparation of the Natura 2000 Integration Project (NIP) to help better understand the existing legal framework and practices in Croatia. The report screened proposed activities supported through NIP (e.g. support for protected area-driven investments; a boundary delineation pilot, and a pilot program to promote agri-environment measures) against World Bank social safeguard requirements and has concluded that activities NIP supports will not require any special social safeguard measures. Key factors considered in reaching this conclusion were:

1. There is a clear legal distinction between sites which are designated as protected areas within the national ecological network, and sites which are within the ecological network but which are not designated as protected areas. The Nature Protection Act (NPA) and the Ordinance on establishment of the National Ecological Network (OENEN) address procedures that apply to these types of sites.
2. Existing practices and legal requirements in Croatia stipulate public participation in the preparation of protected area management plans, and the same participatory procedures apply for NEN site management plans.
3. The protected areas site designation process includes public participation in line with EU practices and is well described in the law. This includes provisions for temporary restrictions during the site designation process.
4. Establishment of the National Ecological Network of Croatia involved an extensive participatory process which has been summarized in this document.
5. Both the OENEN and the NPA describe policies and practices for compensation of restricted use of natural resources applicable to both users and land owners.
6. Both the OENEN and the NPA contain provisions for the use of subsidies to legal entities and natural persons to compensate for protection of biological and landscape diversity.
7. The boundary delineation pilot which seeks to test the most efficient legal and technical process to transcribe legally declared protected area borders into a spatially-defined register of protected areas, will be tested under NIP at two sites which already have been proclaimed using a participatory process. The law on State Survey and Real-Estate Cadastre (SSREC) will additionally apply to any land surveying work done under this pilot program. The public participation requirements in article 46 of the SSREC law are even more comprehensive than procedures contained in the NPA. Some examples of this are a stipulation for written confirmation from landowners that they were shown cadastral survey and technical reports and agree with the state gathered data; provision for an administrative procedure to handle complaints; and an appeals process against decisions to reject a complaint.

1. BACKGROUND OF THE PROJECT

National parks and park of natures cover approximately 8,5 % of the terrestrial area of Croatia. Analyzing land cover (CORINE) of the national parks and parks of nature it is seen that forests cover about 62 %, other natural vegetation cover 17 % of the area, agriculture 10 % and waters (mostly sea) 9 %. Settlements and marshes cover remaining 2 % of the area. Within these protected areas there are more than 300 settlements. According to land cover structure the most important human activities within protected areas are: tourism, agriculture, forestry, fishery and game management. It is seen that most of activities are use of natural resources.

In the past, before nowadays Nature protection law, the establishment of protected areas people felt like big restriction for their living and activities. In former laws of nature protection the compensations were not included. Croatia has established National Ecological Network (NEN - Official Gazette 109-2010) on 2,224,082 hectares. Most of that area will be designated as NATURA 2000 sites.

The analysis within this document will cover the project components potentially associated with restrictions of access, if any, the people likely to be affected, and the participatory processes by which the project was prepared and will be implemented. These analyses will be done for the main processes within the project:

- procedures for delineation of borders of protected areas,
- public participation for all procedures within nature protection and the set procedures for conflict resolution
- compensation for restrictions imposed by protected areas or areas of NEN.

2. LEGISLATIVE AND REGULATORY CONSIDERATIONS OF PROCEDURES

Protected areas and areas of NEN have been established according to Nature protection Act (NPA - Official Gazette no. 70/05, 139/08) and Ordinance on establishment of national ecological network (OENEN - Official Gazette no. 109/07). These two regulations are basic for the nature protection and NEN and base for establishment of Natura 2000. The parts of Ordinance on establishment of NEN (OENEN) are:

- list of internationally important bird areas,
- list of areas important for wild species and biotopes,
- list of corridors and
- lists of rules and measures for protection of NEN areas.

The lists are annexed documents to the OENEN and are not published in Official Gazette. They can be obtained directly from Ministry of Culture.

The lists of rules and measures for protection of NEN areas can be source of possible restrictions of resource accession and human activities in the protected areas and areas of NEN.

The basic connection between NPA and OENEN are managed on a way that OENEN is approved according to NPA. All procedures about management, finance, responsibilities of NEN areas (prescribed in OENEN) are referred to NPA and are the same for the protected areas and NEN areas. In changes of NPA (official Gazette no. 139/08) regulation about NEN is incorporated into NPA.

2.1. Procedures for delineation of borders of protected areas

Procedures for delineation of borders of protected areas are not strictly defined in the legislation but can be seen through the procedures for establishment of protected areas or NEN areas and regulation about register of spatial units.

2.1.1. Procedure for establishment of protected areas

Establishment of protected areas and correction of their borders are well prescribed in Nature protection Act. It is covered by chapter III DESIGNATION PROCEDURE CONCERNING PROTECTED NATURAL ASSETS and articles 21 - 26.

Article 21

- (1) A national park and nature park are designated by law by the Croatian Parliament (hereinafter referred to as: the Parliament).
- (2) Strict and special natural reserves are designated by the Government of the Republic of Croatia (hereinafter referred to as: the Government) by a regulation at the proposal of the Ministry.
- (3) A regional park, important landscape or forest park located on the territory of a county or the City of Zagreb is designated by the county assembly or by the town assembly of the City of Zagreb subject to prior approval of the Ministry and central state administration body competent for agriculture and forestry.
- (4) A nature monument or park landscaping monument located on the territory of a county or the City of Zagreb are designated by the county assembly or by the town Assembly of the City of Zagreb subject to prior approval of the Ministry.

- (5) Protected areas referred to in paragraph 3 and 4 of this Article located on the territory of two or several counties are designated by the Government by a regulation at the proposal of the Ministry.
- (6) Where the Ministry proposes protection referred to in paragraph 3 and 4 of this Article and the relevant representative body fails to pass the act on protection within three months from receipt of the proposal, such a natural asset shall be designated as protected by the Government.

Article 22

- (1) A proposal of an act of designation shall be founded on an expert base proposal drawn up by the National Institute for Nature Protection (hereinafter referred to as: the Institute) which shall establish the assets of the area to be protected, the method of administering the area, as well as on a statement drawn up by the body passing the act of designation concerning the funds granted for managing the protected area.
- (2) The expert base proposal referred to in paragraph 1 of this Article shall include a detailed description of characteristics and assets of the area to be protected, evaluation of the state of that area, consequences ensuing from the adoption of an act of designation, especially with regard to property rights and business activities presently obtaining, as well as the estimate and sources of funds necessary for implementing the act on the designation of the protected area.
- (3) The public shall be informed of the proposal for the designation of a protected area. Informing the public implies that access is accorded to the public concerning the proposed act on designation of the protected area as well as the expert base proposal containing cartographic documentation.
- (4) The procedure of providing public access to information in granting the status of national parks, nature parks, strict nature reserves and special nature reserves shall be organised and implemented by the Ministry, while the procedure of providing public access to information relative to other protected areas (park monument, regional park, important landscape, forest park and park landscaping monument) shall be organised and implemented by the county or the City of Zagreb.
- (5) Public access referred to in paragraph 4 of this Article shall be provided for a period of at least thirty days.
- (6) The body issuing the proposal on the act of designation of a protected area must issue an opinion on the observations submitted during public access, and the observations submitted and the opinions shall become an integral part of the documentation presenting the grounds for the proposal on designation.
- (7) Notification on the provision of public access shall be published in at least one mass media organ and it shall include instruction as to the place where cartographic and other documents related to the proposed protection may be examined.

Article 23

- (1) The act on designation of a protected area shall include:
 - the name and category of the protected area,
 - a delineation of the extent of the area protected,
 - an indication of the scale of cartographic views, or other site indication,
 - a cartographic view with delineated limits or site indication constituting an integral part of the act on designation.
- (2) With a view to preventing a threat to a protected area, the act on designation may specify an area of influence outside the protected area and prescribe measures for protection thereof.

Article 24

- (1) The act on designation of a protected area referred to in Article 21, paragraph 1, 2 and 5 of this Act shall be published in the Official Gazette, while the act on designation referred to in Article 21, paragraph 3 and 4 of this Act shall be published in the official journal of the county or of the City of Zagreb and in the Official Gazette.
- (2) The cartographic view with delineated limits or indication of the site shall be kept by the body passing the act of designation, and one copy of the act and the cartographic view must be forwarded to the Ministry and the Institute.
- (3) The act of designation shall be forwarded to a competent court for registry in land registers.

Article 25

- (1) Where the features for which the protected area was designated as such disappear, the body passing the act on designation may pass an act on cessation of protection subject to prior approval of the Ministry, according to the procedure stipulated for passing the act on designation of protection.
- (2) The act on cessation of protection shall be forwarded to a competent court for deletion of the record in land registers.

Article 26

- (1) The area ascertained by the Institute through an expert statement of reasons as having the characteristics of a protected area and/or for which a procedure to place it under protection has been launched, shall be designated to be under preventive protection by the passing of a decision on preventive protection. The decision on preventive protection shall be passed by the Ministry.
- (2) The decision on preventive protection shall establish the protected area and the designated period of preventive protection, which may not exceed three years from the date of passing the decision.
- (3) The provisions of this Act shall apply during the period of preventive protection of a natural asset.
- (4) The decision on preventive protection shall be forwarded to a competent court for registration in land registers.

2. Protected taxa

Establishment of NEN sites are prescribed in Ordinance on establishment of NEN, articles 1 and 2.

Article 1

- (1) This Decree promulgates ecological network of the Republic of Croatia with system of ecologically important areas and ecological corridors, conservation objectives and guidelines for protection measures which are intended to maintain or establish favorable conservation status of threatened and rare habitat types and/or wild taxa.
- (2) Sites of ecological network with conservation objectives and guidelines for protection measures set forth in Paragraph 1 are listed in Annexes 1.1. and 1.2., which are stored and can be obtained in Ministry of Culture (in further text: Ministry) and State Institute for Nature Protection, and form a part of this Decree not published in the Official Gazette.
- (3) Besides ecological network sites listed in Annexes 1.1. and 1.2., elements of ecological network are also all speleological objects according to Nature Protection Act (in further text: Act), including speleological objects in marine areas.
- (4) Sites of ecological network with conservation objectives which are habitat types and/or wild taxa listed in relevant regulations of the Republic of Croatia, international agreements signed by the Republic of Croatia, regulations/Directives of European Union

and acts of Council of Europe, are included in Annexes 1.1. and 1.2. and marked with label #.

- (5) Ecological network consists also of ecological corridors (migration routes) listed in Annex 2, which is stored and can be obtained in Ministry and State Institute for Nature Protection, and form a part of this Decree not published in the Official Gazette.

Article 2

- (1) Parts of ecological network are connected with natural or artificial corridors.
- (2) Habitat types threatened on global, European or national level are those listed in relevant annexes of international acts from Article 1 Paragraph 4 of this Decree, and habitat types listed in Regulation on habitat types, habitat map, threatened and rare habitat types and measures for conservation of habitat types (Official Gazette 7/06)
- (3) Wild taxa threatened on global, European or national level as well as endemic taxa, are listed in Regulation on strict protection and protection of wild taxa (Official Gazette 7/06) and/or Red list of Croatian threatened flora and fauna.

In all above mentioned legislation the method of establishment of borders and their changing is precisely prescribed. Most of the protected areas have been established before this legislation was adopted and their borders are not arranged according to rules in it. According to that the borders of protected areas should be more precisely define. This process is only technical process for refinement of borders in order to make them relevant according to mentioned legislation and applicable for registration into all relevant registers (especially cadastre).

2.1.2. Register of Spatial Units

Register about protected areas is established in Ministry of Culture according to NPA and Regulation on content and maintenance of Registry of protected natural values (Official Gazette no. 130/06).

Article 24

- (1) The act on designation of a protected area referred to in Article 21, paragraph 1, 2 and 5 of this Act shall be published in the Official Gazette, while the act on designation referred to in Article 21, paragraph 3 and 4 of this Act shall be published in the official journal of the county or of the City of Zagreb and in the Official Gazette.
- (2) The cartographic view with delineated limits or indication of the site shall be kept by the body passing the act of designation, and one copy of the act and the cartographic view must be forwarded to the Ministry and the Institute.
- (3) The act of designation shall be forwarded to a competent court for registry in land registers.

Beside that there are several legislation documents about borders of protected areas under competences of State Geodetic Administration:

- Law on State Survey and Real-Estate Cadastre (Official Gazette no: 16/07)
- Regulation on topographic survey (Official Gazette no: 109/08) and
- Regulation on register of spatial units (Official Gazette no: 37/08).

More precisely delineation of borders is defined in article 9 of ONEN.

Article 9

- (1) Look-up map of ecological network sites is shown on cartographic display (in further text: display) in scale 1:100 000, forms a part of this Decree as Annexes 3.1., 3.2., and

- 3.3. which are stored and can be obtained in Ministry and State Institute for Nature Protection and are not published in the Official Gazette.
- (2) State Institute for Nature Protection in cooperation with State Geodetic Administration, are obliged to outline the borders of ecological network sites on Croatian Basic Map in scale 1:5000 which is, when needed, supplemented with orthophoto map, or on Croatian Basic Map in scale 1:10 000 or cadastre plan.
 - (3) Data on borders of ecological network sites is obtained in a way that GIS layer in the scale 1:5000 (Paragraph 2) is overlapped with digital cadastre plan.
 - (4) When determining the borders from Paragraph 3, total area of cadastral plot is considered to be within the site when half or more than half of its surface lies within the ecological network site borders. Exceptions are forest areas in State ownership for which ecological network sites include only the part of the cadastral plot which lies within the site borders¹.
 - (5) When there is a doubt whether a certain area falls within the ecological network, for this area cartographic display in scale 1:5000 will be made before conclusion of work stated in Article 11 Paragraph 2, according to Paragraph 2 of this Article.
 - (6) Prior to the changes of ecological network borders, opinion of the bodies responsible for physical planning, environmental protection and other elements of the environment has to be obtained according to special regulations.²
 - (7) Display from Paragraph 1 and/or 2 of this Article will be provided by the Ministry to the developer of the physical planning document without compensation.

"Public Authorities for Management of Protected Areas" are responsible for Management of protected areas and NEN areas (article 72 of NPA and article 4 of ONEN).

Article 72 NPA

- (1) Protected areas shall be administered by public entities.
- (2) Public entities in charge of administering a national park and nature park shall be established by the Republic of Croatia by virtue of a regulation adopted by the Government of the Republic of Croatia.
- (3) Public entities for administering other protected areas and/or other protected natural assets shall be established by the regional government units or the City of Zagreb by virtue of a decision by the county assembly or the Municipal Assembly of the City of Zagreb.
- (4) The county assemblies may transfer shareholder rights over the public entity referred to in paragraph 3 of this Article to the municipality or city whose territory hosts the protected area.
- (5) Protected areas designated by the Government, county assembly or Municipal Assembly of the City of Zagreb, if located on the territory of a national park or nature park or adjacent thereto, or located just by the border thereof, shall be administered by the public entity administering the national park or nature park.

¹ This article is relevant for the two areas of the pilot project proposed: Đurđevački pesci and PN Papuk). In the special reserve Đurđevački pesci the all of the area is state owned land. All cadastral parcels on the edge of the reserve that are now divided by the border of the reserve will be affected. There are two possibilities according to this article: entire parcel will be included or excluded. This will have a slight relevance because all affected parcels are already within the reserve. IN the park of nature Papuk the most of the area (about 80 %) consists of the big parcels of forests owned by state. For such parcels exceptions mentioned in article will be made.

² In that phase opinions that should be captured are specialist opinions about nature and environmental protection. Land owners can make comments after the draft proposal is finished.

Article 4 of ONEN

- (1) In case an ecological network site is at the same time protected area according to the Act, management is implemented by Public authority for management of protected area.
- (2) In case area of ecological network is outside of protected area according to the Act, and is not protected in any other way, management is implemented by the Public authority for management of protected areas established by local (regional) government unit or the City of Zagreb, in area of which ecological network site is established.
- (3) Area of ecological network that covers territories of more than one county is jointly managed by Public authorities for management of protected areas of all counties concerned.

According to that for both, protected areas and NEN areas management plans should be prepared in order to ensure proper treatment. During preparation of management plans public participation should be ensured (articles no. 80, 81 and 166 of NPA and article no. 5 of OENEN). Conditions and rules for the public participation of management plans are the same as for establishment of protected areas.

Article 80 (NPA)

- (1) The administration of a strict natural reserve, national park, nature park, regional park, special nature reserve and protected landscape shall be exercised in accordance with a governance plan.
- (2) The management plan shall be adopted for a period of ten years.
- (3) The management plan shall set out development guidelines, the method of implementing protection, the use and administration of the protected area, as well as more detailed guidelines for protection and conservation of natural assets of a protected area, taking into consideration the needs of the local population.
- (4) Legal and natural persons exercising an activity in a protected area must adhere to the management plan.
- (5) Following the expiry of a period of five years the implementation of the management plan shall be analyzed along with results achieved and as circumstances require the audit carried out in a manner and in the procedure stipulated for the adoption thereof.

Article 81 (NPA)

- (1) The management plan for a protected area referred to in Article 80, paragraph 1 of this Act shall include:
 - a) The objectives and policies in administering the protected area, with the following components:
 - perspective, mission and objectives for a protected area,
 - protected area administration policy.
 - b) Protected area protection guidelines with the following components:
 - state evaluation for the protected area and zone of influence,
 - concept for protection of the entire area and its integral parts (zones),
 - monitoring the state of protected area and its assets,
 - protection and administration of the natural and cultural assets and the resources of the protected area (programmes for protection, etc.),
 - development of authorized activities in a protected area,
 - visiting the protected area (programmes of visits, interpretations, etc.),
 - establishing connections between the protected area and its neighboring areas,
 - impact on environment and socio-economic complex.
 - c) Implementation of the plan, with the following components:
 - guidelines for integrating sectoral plans,
 - activities in implementing the plan,

- control of implementation of the plan,
 - costs of implementation of the plan,
 - method and sources of financing,
 - institutional structure and bodies responsible for administering the protected area.
- (2) The governance plan shall be implemented by an annual programme for protection, conservation, use and promotion of the protected area.
- (3) The public entity must provide public access to the governance plan draft proposal, pursuant to provisions of Article 166 of this Act.

Article 166 (NPA)

- (1) In the course of drafting legislation or acts on designating protected natural assets, administration plans for protected areas and plans for the use of natural resources as well as the generally applicable and legally binding regulations and documents in the field of nature protection, the participation of the public shall be provided for.
- (2) In the course of the procedure referred to paragraph 1 of this Article the public must be informed via public announcement.

Article 5 (ONEN)

- (1) Protection of areas of ecological network is ensured by implementation of protection measures and nature protection requirements issued by the body competent for nature protection according to provisions of the Act.
- (2) Management plan is developed for ecological network sites with the aim of protection of every site within ecological network, conserving biological and landscape diversity and protection of natural values.
- (3) In case an ecological network site is at the same time protected area according to the Act, management plan for protected area is considered to be management plan for ecological network site and is developed according to the Act.
- (4) In case ecological network site is outside of protected area according to the Act, management plan is adopted by Public authority for management of protected area hosting ecological network site. In a Plan-adopting process a public participation procedure is conducted according to the Act.
- (5) Natural resources utilization in an ecological network site is conducted on the basis of natural resources utilization plans which include protection measures and requirements according to the Act.
- (6) Care of ecological network site may be, except in a case of Paragraph 5 of this Article, conferred to the owner or holder of the right on real estate by concluding a contract regulating mutual rights and liabilities between public entity administering the ecological network site and the owner or holder of rights on the real estate, in a way regulated by the Act.
- (7) Care of ecological network site may be, except in a case of Paragraph 5 of this Article, conferred, on a basis of public tender, to an entity which is not the owner or holder of the right by concluding a custodial contract under conditions established by the Ministry. The tender procedure shall be conducted by the public entity administering the ecological network site according to the Act.

Other regulation acts in which NEN areas are mentioned or treated are:

- Regulation on biotopes, map of biotopes, endangered and rare biotopes and measures for protection of biotopes (Official Gazette no. 7/06)
- Strategy and action plan of protection biological and landscape diversity of Republic Croatia (Official Gazette no. 143/08)
- Ordinance on nature impact assessment (NIA) (Official Gazette no. 118/09)

In all three documents the impacts and possible influences on protected areas and NEN areas are treated as well as measures for their protection. In Ordinance on NIA the procedure, content and responsibilities of reduction of impacts on NEN areas are prescribed. Within COAST project (GEF project coordinated by UNDP) the guidelines for NIA of plans and projects are prepared.

3. PUBLIC PARTICIPATION

3.1. Public Participation within the Nature Protection Act

The procedure for establishment of protected area includes public participation (article 22 and 166 of NPA). Public participation is also prescribed by Ordinance on procedure of public participation during the process of establishment of protected areas (Official Gazette no. 44/05). Public participation should be announced in media. Public participation procedure should last at least 30 days. During that period all relevant documentation about establishment of protected areas should be displayed to all private persons, NGOs, official bodies from different sectors and all others. At least one public presentation should be held in the area of proposed protected area. All comments, suggestions and remarks should be taken into account and answered.

Article 22 (NPA)

- (1) A proposal of an act of designation shall be founded on an expert base proposal drawn up by the National Institute for Nature Protection (hereinafter referred to as: the Institute) which shall establish the assets of the area to be protected, the method of administering the area, as well as on a statement drawn up by the body passing the act of designation concerning the funds granted for managing the protected area.
- (2) The expert base proposal referred to in paragraph 1 of this Article shall include a detailed description of characteristics and assets of the area to be protected, evaluation of the state of that area, consequences ensuing from the adoption of an act of designation, especially with regard to property rights and business activities presently obtaining, as well as the estimate and sources of funds necessary for implementing the act on the designation of the protected area.
- (3) The public shall be informed of the proposal for the designation of a protected area. Informing the public implies that access is accorded to the public concerning the proposed act on designation of the protected area as well as the expert base proposal containing cartographic documentation.
- (4) The procedure of providing public access to information in granting the status of national parks, nature parks, strict nature reserves and special nature reserves shall be organized and implemented by the Ministry, while the procedure of providing public access to information relative to other protected areas (park monument, regional park, important landscape, forest park and park landscaping monument) shall be organized and implemented by the county or the City of Zagreb.

Article 166 (NPA)

- (1) In the course of drafting legislation or acts on designating protected natural assets, administration plans for protected areas and plans for the use of natural resources as well as the generally applicable and legally binding regulations and documents in the field of nature protection, the participation of the public shall be provided for.
- (2) In the course of the procedure referred to paragraph 1 of this Article the public must be informed via public announcement.

3.2. Public Participation within the Law on State Survey and Real-Estate Cadastre

Article 46 of Law on State Survey and Real-Estate Cadastre

The cadastral documentation for the Real Property Cadastre is made on the basis of the data gathered and processed through cadastral surveys or technical reambulation, the data gathered during the public review of the cadastral survey or technical reambulation report (hereon: public review) and the data transferred from the established or renewed Land Register.

The public review is carried out by a State Geodetic Administration commission appointed by the Director General at the same time and in connection with the establishment or the renewal of Land Registers.

During the public inspection process, persons shown as the real property title holders in the cadastral survey and technical reambulation report will confirm in writing that they were shown the cadastral survey and/or technical reambulation data and that they agree with the state of the gathered data.

A book of complaints is kept during the public review.

Field inspections are compulsory upon the receipt of a complaint.

If it is necessary on the basis of the carried out field inspections to change the data contained in the cadastral survey or technical reambulation report, the changed data will be on public review again.

Unfounded complaints will be rejected through a decision passed in an administrative process.

Appeals are allowed against a decision to reject a complaint.

The Director General shall pass regulations governing the public review process

According to procedure for the changes of borders of protected areas public presentation should be held (Official Gazette no. 44/05). In this case of borders changing it is only case of refinement or technical changes. Our opinion is that there are no needs for procedures prescribed by NPA. It is so because the changes of data in cadastre and land register should pass public review and inspection that is stricter than procedure for public participation in NPA (article 46 of Law on State Survey and Real-Estate Cadastre). In such way two different and separate procedures will be avoided and public review will be done using stricter procedure and all affected owner or holder of the right will be informed. Also, a Working group on the border delineation and registration together with SGA will be formed under the NIP in order to define the methodology and approach to the issue based on the pilot areas. Preliminary talks about their scope of work are showing the awareness of SGA and MoC on the sensitivity towards public participation. A developed methodology should be shared with the World Bank team before the endorsement.

3.3. Public Participation during Establishment of the NEN

During establishment of NEN a wide public participation and consultations have been held within the PHARE project entitled "Institutional building and implementation of NATURA 2000 in Croatia". Number of workshops with stakeholders, institutions, NGOs, companies and other interested participants has been organized and a variety of publications have been published during that project (www.Natura2000.hr).

3.4. Public Participation with the Law on Nature Impact Assessment (NIA)

According to Ordinance of NIA public participation in the process of NIA is also prescribed (article 10). As the NIA is part of the process of strategic impact assessment (SEA) and environmental impact assessment (EIA) the public presentation of NIA should be done together with SEA or EIA according to procedures for their public presentation (Regulation on strategic environmental assessment of plans and programmes - Official Gazette no. 64/08, and Regulation on environmental impact assessment - Official Gazette no. 64/08).

NEN are also treated in sectors legislation:

- environmental protection
 - o Environmental protection Act (Official Gazette no. 110/07)
 - o Regulation on strategic environmental assessment of plans and programmes (Official Gazette no. 64/08)
 - o Regulation on environmental impact assessment (Official Gazette no. 64/08)
- spatial planning
 - o Physical Planning and Building Act (Official Gazette 76/07, 38/09)
- water management
 - o Water Management Act (Official Gazette no. 153/09)
 - o Strategy of water management (Official Gazette no. 91/08)
- forestry
 - o Forestry Act (Official Gazette no. 140/05, 82/06, 129/08)
- agriculture
 - o Genetically modified organisms Act (Official Gazette no. 70/05)
- and other.
 - o Strategy of sustainable development of Republic of Croatia (Official Gazette no. 30/09)

According to all mentioned sectoral regulations plans (spatial and management), strategies and reports (SEA and EIA) should be produced. For all that documents measures and requirements for nature protection for protected areas and NEN areas are given by Ministry of Culture (articles 123 and 124 of NPA).

4. COMPENSATION FOR RESTRICTIONS IMPOSED BY PROTECTED AREAS OR AREAS OF NEN

Better definition (delineation) of borders will not raise the restriction or it will be on very limited areas. Pilot site Đurđevački pesci was proclaimed in 1963 as *special reserve* and all of the area is under state ownership. Another pilot site *Nature park Papuk* (part in Virovitičko-podravska County) proclaimed in 1999 is area of more than 90 percent state ownership.

Following the nowadays rules for establishment of protected areas it is prescribed that cadastre parcel should be fully incorporated in the area if more than half of their area contain the phenomena that should be protected. In that case the restriction will be enlarged to the whole parcel (article 9 of OENEN).

Restrictions in protected areas can be results of:

- Reduction of use of natural resources prescribed by management plans or NPA
- Restrictions as a result of following measures and requirements for nature protection and
- Restrictions established during appropriate assessments.

Restrictions in natural resources utilization within protected areas and NEN areas that are result of following measures and requirements for nature protection should be compensated as well as loss of income and damages that are made from wild protected organisms. The law also supports the use of subsidies and favorable credit financing of protection actions to help stimulate the utilization of natural resources, treatments, and management of habitats or areas in protected areas and NEN to promote protection of biological and landscape diversity.

4.1. Compensations of damages made by wild or protected organisms

Compensations of damages that are results of activities of protected wild taxa are regulated by NPA (article 119).

Article 119

- (1) An injured party shall have the right to indemnity in the amount of the actual damage inflicted by the animals of strictly protected taxa if he/she has undertaken statutory procedures and projects.
- (2) An injured party must notify the Ministry or the expert authorized by the Minister of the occurrence of damage without delay, and no later than eight days from the date of occurrence of damage.
- (3) The injured party and the expert shall ascertain at the place of occurrence of the damage the facts essential for establishing the occurrence of damage, and the cause and level of damage, and the expert shall write up minutes thereon.
- (4) If an injured party has duly reported the damage, and the expert does not attend for examination within three days from the receipt of notification, the injured party may submit a damage claim to the Ministry within an additional period of fifteen days.
- (5) The procedures and projects referred to in Article 118 of this Act and the operation methods and procedures of the expert in the procedure of establishing damage, as well as the amount of indemnity (tariff) or criteria for evaluating damage shall be prescribed by ordinance by the Minister.

- (6) The amount of indemnity shall be established by agreement between the Ministry and the injured party by virtue of the minutes on examination referred to in paragraph 3 of this Article, and in the case of dispute concerning the amount of indemnity, the matter shall be referred to the courts.
- (7) A list of experts shall be published in the Official Gazette.

4.2. Compensations for the restrictions of natural resources utilization

Restrictions of natural resource utilization can be results of expropriation or limitation of ownership rights necessary for the sake of implementing the protection and conservation of protected natural assets (article 114 NPA), restrictions and prohibitions referred to in NPA, provisions of management plans, ordinance of Minister (article 126) or following measures and requirements for nature protection. For all that cases compensations are established within NPA.

Article 115

- (1) The Republic of Croatia must, at the request of the owner of a property in a protected area so designated by the Croatian Parliament or the Government, purchase at market price, or offer another property of equivalent value in exchange for, any property which owing to restrictions and prohibitions referred to in this Act can no longer be utilized for the activity for which it was utilized prior to the award of protection, or can be so utilized only to a reduced extent.
- (2) The county or the City of Zagreb must, on request of the owner of a property in a protected area, so designated by virtue of this Act, purchase at market price, or offer another property of equivalent value in exchange for, any property which owing to restrictions and prohibitions referred to herein can no longer be utilized for the activity for which it was utilized prior to the award of protection, or can be so utilized only to a reduced extent.
- (3) The owner of a property shall have the right to offer such property for sale pursuant to this Article within two years from the date of entry into force of the act that gave rise to restrictions and prohibitions on the property.

Article 116

- (1) A legal or natural person whose prevailing opportunities for earning income are significantly impaired owing to restrictions and prohibitions referred to in this Act or of the acts on protection passed on the basis of this Act, if such impairment cannot be compensated by authorized activity within the framework of the statutory protection regime within the protected area, shall be entitled to remuneration resulting from restrictions to which he/she is subjected.
- (2) The Remuneration referred to in paragraph 1 of this Article may be disbursed if the state administration office has previously ascertained that the legal or natural person subjected to restrictions implements prescribed nature protection requirements.
- (3) The level of remuneration shall be established by agreement, and in the case of dispute concerning the level of remuneration, the matter shall be referred to the courts.
- (4) The remuneration referred to in paragraph 1 of this Article shall be the liability of the State Budget or the budget of the county or the City of Zagreb
- (5) A legal person in the majority ownership of the Republic of Croatia shall not be entitled to remuneration on the grounds of restrictions it is subjected to in administering property.

Article 126

- (1) Should the method or extent of use of natural resources directly endanger the favorable state of a particular species or habitat type, the Minister may by order restrict or temporarily suspend the use while the threat prevails.
- (2) For restrictions they are subject to by virtue of the order referred to in paragraph 1 of this Article, owners and right-holders shall be entitled to remuneration in proportion to their reduced income.
- (3) The amount of remuneration shall be established by agreement, while in case of dispute concerning the amount of remuneration, the matter shall be referred to the courts. Remuneration shall be the liability of the State Budget.
- (4) Any owner or right-holder that does not proceed in compliance with the order referred to in paragraph 1 of this Article shall be liable for any damage to a species or habitat type occurring after adoption of the order.

Article 130

- (1) Should the use and exploitation of a protected area for particular designated purposes be restricted or prohibited, the owner or holder of the right on such protected area shall have the right to remuneration owing to any restrictions to which he/she is subjected.
- (2) The amount of remuneration shall be established by agreement. In the case of dispute concerning the amount of remuneration, the matter shall be referred to the courts.
- (3) Remuneration shall be the liability of the State Budget or budget of the county, the City of Zagreb, city or municipality.

Article 131

- (1) Care of natural assets in a protected area may be conferred on the owner or holder of the right to real estate by concluding a contract regulating mutual rights and liabilities between the public entity administering the protected natural asset and the owner or holder of rights on the property concerned. Should the natural asset be a forest, concluding the agreement shall require securing prior approval from the central state administration body competent for forestry.
- (2) The contract referred to in paragraph 1 of this Article shall establish:
 - the natural asset which is the object of care contracted,
 - safeguard measures which the owner or right-holder must undertake during the contract period,
 - the amount of remuneration for enforcing statutory and contractually established safeguard measures,
 - other mutual rights and obligations with respect to care for a natural asset.
- (3) Should the natural asset referred to in paragraph 1 of this Article be a protected wild taxon, a contract shall be concluded by the Ministry.

Article 132

- (1) The protection of a natural asset in a protected area may, on the basis of a conducted public bidding procedure, be conferred on a person who is not its owner or holder of the right to it, by concluding a contract on tutelage, under conditions established by the Ministry. The bidding procedure shall be conducted by the public entity administering the protected area hosting the natural asset.
- (2) A person who meets prescribed requirements and concludes a contract with the public entity referred to in paragraph 1 of this Article shall become the trustee of a natural asset.
- (3) The contract referred to in paragraph 1 of this Article shall regulate the issues stipulated in Article 131 of this Act.

Article 133

Where a particular activity or use of a natural asset or real estate property in the protected area is restricted or prohibited in a particular manner or with a specified purpose, entailing thereby damage to the owner or holder of the right to such a natural asset, he/she shall be entitled to remuneration for restrictions he/she is subjected to pursuant to provisions of this Act.

4.3. Subsidies for nature protection

Subsidies for utilization of natural resources in a way to preserve or improve natural assets, biotopes or nature protection at all are arranged by NPA (article 61) for protected areas. The same issue for NEN areas is arranged by article 7 of OENEN in which is prescribed that all above mentioned articles from NPA are valid for NEN areas.

Article 61 (NPA)

- (1) Conservation of endangered wild taxa, indigenous domesticated taxa and endangered habitat types shall be supported by financial incentives and compensations, as well as by providing favorable loans for safeguard operations.
- (2) Financial and other incentives shall also be set aside for protection and conservation of biological and landscape diversity, and particularly for stimulating a management that recognizes and enforces biological and landscape diversity conservation measures not harmful to nature, as well as for granting compensations to legal entities and natural persons who owing to protection of biological and landscape diversity suffer respective constraints or damages.
- (3) The financial incentive and compensation referred to in paragraph 1 and 2 of this Article shall be laid down by *leges speciales*.

Article 7 (OENEN)

- (1) Financial means for protection of ecological network are provided through the State budget and through the budgets of local (regional) government units and City of Zagreb.
- (2) For implementation of nature protection requirements and measures in the ecological network sites, financial means are provided by physical and legal entities which utilize nature resources, execute interventions and actions into nature in the ecological network sites according to Nature protection Act, public authorities that manage protected area(s) and entities that have contractual obligations of implementation of nature protection requirements and measures.
- (3) Conservation of threatened wild taxa, indigenous domestic breeds and threatened habitat types in the sites of ecological networks is supported by financial subsidies and compensations as well as with favorable credit financing of protection actions, all according to the Act and special regulations.

There are still sectors that are not incorporated NEN/Natura 2000 areas in their legislation (fishery, mineral exploitation etc.) or incorporated particularly (not in basic regulation - agriculture).

It is important to define mechanisms for reduction of influence of possible restrictions in protected areas and NEN sites especially in agriculture. Farmland covers more than half of the total Croatian land area. Agriculture is therefore one of the most important factors influencing Croatia's biodiversity and a large number of potential NATURA 2000 sites are located in agricultural areas. In Croatia, on preliminary designated NATURA 2000 sites there are about 739,000 ha (33%) agricultural habitats.

It is a requirement of the EU Birds and Habitats Directives that habitat and species are maintained in a favorable conservation status. Because high biodiversity is usually associated with low-input, small-scale farming, most of the farmland in proposed NATURA 2000 sites is in marginal farming areas rather than intensively managed arable areas. Given the fact that one in three hectares of NATURA 2000 sites in Croatia will be managed by farmers, it is necessary to develop conservation measures that can easily be adopted by farmers who live and work in these regions.

European Agricultural Fund for Rural Development (EAFRD) is one of the main funding mechanisms for the implementation of NATURA 2000, especially its Axis 2: Improving the environment and the countryside. EAFRD focuses on land managers as beneficiaries and its potential lies in supporting specific land management practices. Several measures under the Axis 2 are contributing either directly or indirectly to nature protection, the most important being agri-environment programmes, support to less-favored areas and payments for NATURA 2000 areas.

Croatia has yet to formulate an agri-environmental policy, thus the NIP project proposes a program of activities to help develop an Agri Environmental program in close cooperation with the Ministry for Agriculture and other relevant public bodies.

5. CONCLUDING REMARKS

According to analysis of NIP outputs and Croatian legislation several conclusions can be made:

1. Management, use, monitoring and all other actions with areas, wild taxa and habitats protected by Nature Protection Act are well prescribed. All participatory procedures that are valid for protected areas are also valid for National Ecological Network by harmonization of Nature Protection Act (NPA) and the Ordinance on Establishment of National Ecological Network (OENEN).
2. Public participation in all processes of nature protection, ecological network and Natura2000 are well prescribed by Croatian legislation and is in harmony with good practice in EU countries. Public presentations, reviews, inspections take place in all phases of nature protection process and management and all interested individuals, stakeholders, NGOs and institutions can be informed and participate in these actions.
3. Restrictions in natural resource utilization arising from measures and requirements of nature protection can be compensated according to Nature Protection Act. That is valid for protected areas as well as for NEN areas.
4. Better definition of borders of protected areas are not substantial but technical refinement to adjust the existing situation of borders (established before this law) with new regulation in Nature Protection Act and Ordinance on Establishment of National Ecological Network that requires all protected areas to be incorporated in a register prescribed by Nature Protection Act and Law on State Survey and Real-Estate Cadastre. According to the regulations, public participation and informing owners and holders of their rights are obligated and should be done.
5. It was concluded that the procedures within the Law on Real Estate Cadastre are even more strict than the Nature Protection Act and will be applied in any case to any land surveying work that is supported by NIP.