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WATER CRIMES – A CONTEMPORARY (SECURITY) ISSUE

Abstract: A scarcity of clean drinking water resources is becoming one of the crucial problems of the 21st Century. Human race is dependent on water, because we not only drink it and need it for our survival, but it is also used for energy production, in the industrial production and in farming. Nowadays, despite the fact that we are living on a 'blue planet', the amounts of freshwater is decreasing, therefore its preservation is so much more important. What is more, any form of pollution or theft or other illegal activity against the water resources is thereby so much serious form of crime. In case of any violation of water protection legislation we talk about crimes against water. The purpose of this paper is to discuss about water crimes as a contemporary (security) issue and to focus on the situation in Slovenia and compare it with the situation in Serbia. Both countries are very rich with water resources and therefore possible targets of foreign (beverage) companies that need water for their functioning. In the conclusion the most important findings about the jeopardized drinking water resources with it related challenges are discussed.

Key words: water, environment, pollution, crime.

1. INTRODUCTION

On the 9th March, 2016, UK Business Insider¹ announced the list of the fine greenest countries in the world. The Yale's Environmental Performance Index (EPI) uses ranking of the top-performing countries for the environment. This is done each year done, where countries are compared according to their environment protection, including protecting human health and vulnerable ecosystems. The results reveal that all five countries are European. This would not be surprising, if Slovenia would not be ranked fifth. The description of the Slovenia was:

„Slovenia came in fifth, scoring 88.98 overall. It took the eighth spot for biodiversity and habitat, and 15th for forests. Air quality hurt Slovenia's rankings, as nitrogen dioxide and PM2.5, common airborne pollutants, continues to pose

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1 UK Business Insider <http://uk.businessinsider.com/most-environmentally-friendly-countries-2016-3>, 9. mart 2016.

problems for Slovenia's residents. But Slovenia is also the global leader for habitat protection – it received perfect scores for terrestrial protected areas and species protection."²

Yes, as a Slovenian citizen, one must be very proud that Slovenia is ranked so high in the world. But as a green criminologist, being aware of the growing lack of the natural resources and with it connected (security) issues and remembering the first attempt of the so called 'forced water privatisation' by European Union Directive that fortunately was not accepted by the member states, this title is a bitter sweet and nascent questions, such as: 'Is there a hidden intention behind all this?'; 'Who and why is paying for such analysis and comparative studies?'; 'Are our national natural resources (and with them our national security) safe?'

Slovenia is situated at the beginning of the Balkan Peninsula. Largely intact nature, especially rich water resources and forested land (two-thirds of the country) are unique to Slovenia and common to other countries in the Balkan region. Balkan can be understood as a historical or geographical term, defining an area and countries of the South-Eastern Europe: Albania, Bosnia and Herzegovina, Bulgaria, Greece, Croatia, Macedonia, Serbia, Monte Negro, Romania, and the European part of Turkey.³ For the purpose of the present paper author employs the narrow understanding of the Balkan region, including only the countries of the former Socialist Federal Republic of Yugoslavia: Bosnia and Herzegovina, Croatia, Kosovo, Former Yugoslav Republic of Macedonia, Serbia and Slovenia. Furthermore, the paper will focus on the crimes against water as an contemporary issue in Republic Slovenia and compared it to the Republic of Serbia, once common republics of the former Socialist Federal Republic of Yugoslavia.

A scarcity of clean drinking water resources is becoming one of the crucial problems of the 21st Century. Thus the modern society is faced with the contemporary key challenges including emerging trends and external drivers that influence the water demand and its availability. Further problem is that in many countries water is not a human right and the access to it cannot be guaranteed, what can present the origin of many kinds of water crimes. Thereby, the purpose of this paper is to present the opposite perspective of the so called tag 'the greenest country' in the world, where with the nowadays fast consumption and use of natural resources a scarcity of one of them, like (drinking) water, can turn the greenest country in the 'wanted' country, not only due to its positive reputation but also due to its rich resources that are necessary 'material' to various companies, corporations etc. Besides the general discussion on various forms of crimes against water, paper will focus more on the situation in Slovenia and compare it with the situation in Serbia. In the conclusion the most important findings about the jeopardized drinking water resources with it related challenges are discussed and reflected to the Republic of Serbia.

2 UK Business Insider, *ibid*.

3 K. Eman, G. Meško, B. Dobovšek, A. Sotlar /2013/: Environmental crime and green criminology in South Eastern Europe – practice and research, *Crime, Law and Social Change*, no. 59, pp. 341–358.

2. WATER AS A NATURAL WEALTH

Water can be found almost everywhere on Earth. Approximately 70 % of our planet's surface is covered with water. We know and we see it in the form of oceans, seas, lakes, rivers and streams, canals and ponds, waterfalls and underground water caves, thermal springs, icy Arctic and Antarctic areas as well as lesser known underground reservoirs. Water is known as the second most important natural element, besides air, for the survival of the human (and many other) species. Furthermore, approximately 75 percent of human body is composed from water. Water can be defined as natural transparent liquid that is also colourless, odourless and tasteless. Chemical description of water would be that it is a chemical compound and polar molecule, under standard conditions with a liquid chemical molecular formula H₂O – one water molecule consists of two hydrogen and one oxygen atoms. From the physical perspective water can be in liquid, solid (i.e. ice) and gas (water vapour) condition.

Water is crucial, because it is an element of our planet that cannot be bartered. It is not only necessary for the survival of human, but also majority of other living species. The fact that more than two-thirds (approx. 70 %) of planet's surface is covered with water, leads to conclusion that water is often presenting the ecosystems – living environments for numerous species, being the cradle biodiversity, which is particularly important due to creation and preservation of the sustainability in the ecosystems. It is an unwritten rule that in every ecosystem each species plays specific specialized roles because of the maintaining of ecological balance. Sometimes it seems that all other living species, except humans, remember and fulfil their role. Only humans have apparently forgotten where they come from and what is indispensably for their existence on the planet Earth. Here we clash to increasing problem of drinking water scarcity and with it related threat to areas and countries that are rich with water as natural wealth.

In the last hundred years a consumption of drinking water has increased for six times. The main reasons for this are the population growth and the loss of water resources due to climate change. Furthermore, the number of toxic emissions into the water is increasing and making many water sources useless.⁴ World Water Council believes that by 2020 due to the population growth and climate change the amount of water will be for 17% insufficient according to the required amount. Karnani⁵ emphasizes that the world is already facing a water crisis, because data reveal that one of seven persons today does not have an appropriate access to safe drinking water. Therefore, Karnani⁶ concludes, that drinking water represents the second major problem of this millennium, after global warming.

Nowadays, we can witness two extremes; on the one hand, the lack of water, the consequences of which are reflected in the poverty, starvation and death. On

4 ARSO /n. d./ *Vode*. <http://www.arso.gov.si/vode>, 22. mart 2016.

5 A. Karnani /2014/: Corporate social responsibility does not avert the tragedy of the commons. Case study: Coca-Cola India. *Economics, Management, and Financial Markets*, no. 9, pp. 11–33.

6 A. Karnani: *ibid.*, p. 23.

the other hand, unforeseen large amounts of water (flooding, tsunamis, etc.) are emerging, causing pollution of drinking water sources and consequently various diseases and death. Brisman and South⁷ stress out that the reason for such extremes is climate change caused by global warming and human interference with nature-environment. Likewise, it seems that the progress and technological development reached a critical limits of the (ab)use of the environment, causing the human moving on the thin line, where only a slight touch is necessary and humanity will begin to slide towards the (unstoppable) destruction of the civilization.⁸

Approximately four billion people (two-thirds of the world's population) at least for one month every year have to struggle with severe water shortages. The most effected countries are China, India, Bangladesh, Pakistan, Nigeria, Mexico and parts of USA. With other words, „levels of groundwater are falling, lakes are drying up, less water is flowing in rivers, and water supplies for industry and farmers are threatened”.⁹ This presents a huge threat to scarcity of freshwater on the global level. What is more, access to clean water is additional problem in some countries over the world. Clean water is one of the basic requirements for health and development, although according to the World Health Organisation only half (54 %) of the world's population can access the water through a household connection to a piped system.¹⁰ The scarcity of drinking water together with difficulty access to it is just two among various reasons why people are even leaving their homes (i.e. migrations due to environmental issues); although the most terrible reason for moving is prohibited access to always available water resources, that were bought by corporation.

What is more, water is extremely unevenly provided public good, where major differences occur between rural and urban areas. However, many goods provided as public services, such as clean water, are not public goods in the strict sense. Clean water, for example, is subject both to rivalry and excludability. Given limited quantities of clean water, one person's use of that water lowers its availability to another person. And given the equipment and infrastructure necessary to convey clean water across distances and deliver it into households, it is certainly possible for governments to exclude certain people from access or to privilege others. For example, study of water access in the Mexico City metropolitan area revealed large variations between societal groups, variation he attributes to differences in the political power of those groups.¹¹ Similar cases are unequal distribution of freshwater in Brasilia where indigenous people were forced to live land where their cattle daily drink water for decades before private company bought the land or example of almost dried out Aral and Chad lake and Ogallala Aquifer in USA.¹²

7 A. Brisman, N. South /2012/: A green-cultural criminology: An exploratory outline. *Crime media Culture*, no. 9, pp. 115–135.

8 G. Meško, K. Eman /2012/: Organised crime involvement in waste trafficking – case of the Republic of Slovenia, *Kriminalističke teme*, no. 5/6, pp. 79–96.

9 M. Gonzalez Rivas /2014/: Ethnolinguistic divisions and access to clean water in Mexico, *Latin American Research Review*, no. 2, pp. 129–151.

10 M. Gonzales Rivas: *op.cit.*, p. 144.

11 M. Gonzales Rivas: *ibid.*

12 N. Slaček /2016/: Tiha privatizacija vode. <http://radioprvi.rtvsllo.si/2016/02/tiha-privatizacija-vode/>, 26. mart 2016.

It can be concluded that human race is dependent on water. We not only drink it and need it for our survival, but it is also used for energy production, in the industrial production and in farming. Nowadays, despite the fact that we are living on a 'blue planet', the amounts of freshwater is decreasing, therefore its preservation is so much more important. What is more, any form of pollution or theft or other illegal activity against the water resources is thereby so much serious form of crime. In case of any violation of water protection legislation we talk about crimes against water.

3. CRIMES AGAINST WATER

To be more precise, on the Planet earth there is 97% of brackish water and 3% of freshwater, but only 1% of this 3% is actually drinkable; 2% of freshwater is in form of ice. This means that entire human race is dependent on only 1% of freshwater on our planet. What is more, attempts of rich and powerful people to gain the control over these freshwater resources is spreading, often using various illegal methods (i.e. corruption, intimidation in pursue of indigenous people, etc.). Furthermore, water is often polluted or affected indirectly, as a side effect of other crimes against the environment, such as illegal waste disposal, air pollution (i.e. acid rain), pollution of soil etc.

In advanced countries, unlike still developing countries, water supply pipes and cleaning systems to enable the supply of drinking water. Nevertheless, the water presents the market goods for some companies already two decades. Many companies are selling bottled water, which is actually ironic, because bottled water is obtained from spring water and for one litre of bottled we need three litres of spring water. What is more, bottled water contains various additives to have a longer shelf life. This means that the quality is much worse; although its consumption is increasing.¹³

Water crimes belong in the group of environmental criminality. In some countries, where some countries on the Balkan Peninsula are no exception, crime against environment (and within it crime against water) is still something 'new' and not very well known. Environmental crime is frequently characterized in very broad terms that can sometimes be completely different¹⁴ and the international community increasingly considers the right to basic environmental integrity for a fundamental issue of self-preservation and self-determination, which undoubtedly influences and reflects on the offered definitions of environmental crime.¹⁵

Elliott¹⁶, Joldžić¹⁷ and Batričević¹⁸ define environmental crime as involving the already illegal production and/or distribution of goods and services (e.g., ille-

13 A. Brisman, N. South: *ibid.*, p. 120.

14 M. Clifford /1998/: *Environmental crime: Enforcement, policy, and social responsibility*, Gaithersburg, p. 7.

15 K. Eman /2012/: *Crimes against the environment – comparative criminology and criminal justice perspectives: doctoral dissertation*, Ljubljana: 67.

16 L. Elliott /2009/: *Eco-crime and justice: Essays on environmental crime*, Turin, pp. 55–78.

17 V. Joldžić /1995/: *Ekološki kriminalitet u pravu i stvarnosti*. Ecologica, Beograd.

18 A. Batričević /2013/: *Ekološka krivična dela – zločini bez žrtve?*, *Temida*, no. 1, pp. 110–121.

gal trade in wildlife, trafficking of ozone-depleting substances, illegal transport and trade of hazardous or radioactive waste, illegal fishing and poaching, timber logging, etc.) and emphasizing the problem of it as often a 'crime without victims'.¹⁹ Clifford,²⁰ Ignjatović²¹ and Stojanović²² derive from legal perspective and claim that environmental crime is actually a 'creation' of environmental legislation, because behaviour, however threatening or aggressive, which does not violate the legislation, is not a criminal act. Thereby the law determines what will be defined as environmental crime.²³ We define environmental crime as: *every temporary or permanent act or resigned activity, determined and defined as deviant by the (inter)national legislation, which causes any form of harm (an artificial change, worsening, burden, degeneration or destruction) to one or more of eight elements (air, water, soft soil, mineral materials, human species, animal species, plant species, and microorganisms) that compound the natural environment or interrupt the environments' natural changes. The violator could be anyone or every one of us (corporations, companies, groups, individuals, state, etc). Environmental crimes' special characteristics are victims, because besides or directly through the environment (biotic and abiotic natural elements) it harms people as well.*²⁴

Going deeper, taking into consideration that water is *one of eight elements that compound the natural environment*, definition of water crime would be:

Water crime (i.e. crime against water) is every temporary or permanent act or resigned activity, determined and defined as deviant by the (inter)national legislation, which causes any form of harm (an artificial change, worsening, burden, degeneration or destruction) to water (one of eight elements that compound the natural environment) or interrupt the natural changes in the water. The violator could be anyone or every one of us (corporations, companies, groups, individuals, state, etc.) although water-related crimes are often linked to fraud, corruption, trafficking, falsification of documents etc. Water crimes' special characteristics are victims, because besides or directly through the water, people can be victims too.

The consequences of crime against water are usually disastrous for the animals, plants and other living creatures in the exposed area. One such example of the devastating effects is Shell's operation in Nigeria, where oil spills often happen. In this area water is contaminated with hydrocarbons which are, according to the United Nations Environment Programme (UNEP) forecasts present round 25–30 years. A similar example is the Chevron/Texaco's pollution in Ecuador, where contamination of water resources by product of the oil extraction occurred. The local inhabitants, as well as people in Nigeria, were actually condemned to the use of contaminated water for everyday purposes. How long-term can be the

19 M. Matijević /2015/: Specifičnosti suzbijanja ekološkog kriminaliteta, *Ecological Safety in Post-modern Environment*: Plenary lecture. Banja Luka.

20 M. Clifford: *op. cit.*

21 Đ. Ignjatović /2011/: *Kriminologija*. Dosije studio, Beograd.

22 Z. Stojanović /2012/: *Krivično pravo – opšti deo*, Pravna knjiga, Beograd.

23 Đ. Ignjatović: *op. cit.*

24 K. Eman, *op. cit.*: p. 34.

consequences of water pollution is well seen in the case of the city Bhopal, India. More than 36 years after the accident, which due to a technical fault led to the release of dangerous chemicals, this is still considered one of the poorest areas in India and water is still contaminated. Hereby Jagger²⁵ emphasizes that the biggest problem in all three cases is that the victims had no one to whom they can turn to and have been sentenced to life in such a situation, which is often the case not only in developing countries, but also in the leading countries, where such accidents happen to poor (and weak) people.

In addition to the water pollution the over-exploitation of water resources is the second problem. Examples for this are water resources in India and the Aral Sea. In India, a huge water resource is used by farmers for irrigation of agricultural land. Spoor (1998) stressed out almost two decades ago that with no appropriate changes the water resources will run out until 2050. Furthermore, Aral Sea is 'disappearing' precisely due to irrigation in agriculture, where the main tributaries of rivers were in fact due to this very reduced.²⁶

Dunn²⁷ discusses about the fact that certain percent of population is convinced that in the future water may be the cause for war. Although the water seems like an unexpected reason, it would nevertheless be constituted as a possible conflict reason of the 21st Century. Such concern is reasonable, because people need fresh water to live. Population growth and the drainage of existing resources due to climate change can quickly lead to conflict. In the past, this did not pose any problems, as people simply moved to another area if there a shortage of water occurred. Nowadays, these options are greatly reduced due to the development of nations, cities and policy. Namely the emergence of a real war has very few options, since the issues would be addressed by the agreements, as has already been demonstrated in the past. Studies on this are actually more studies focusing on how to avoid such conflicts so that they would never occur. One illustrative example is the agreement between India and Pakistan on the Indus River. With the cooperation and assistance of the World Bank the Indus River was between 1954 and 1960 divided between the countries; thereby the problem of the new water sources was successfully solved.²⁸

It can be summarized that water crime is every act (or resigned activity), which causes any form of harm to water or interrupt the natural changes in the water. Most often we are dealing with cases of pollution or theft of water, where other illegal activities against the water resources more rarely occur, as discussed in the next chapter.

25 B. Jagger /2014/: Crimes Against Present and Future Generations, *Challenge*, no. 57, pp. 41–59.

26 A. Karnani: *ibid.*

27 G. Dunn /2013/: Water Wars A Surprisingly Rare Source of Conflict. *Harvard International Review*, no. 2013, pp. 46–49.

28 G. Dunn: *ibid.*, p. 47.

4. WATER CRIMES IN SLOVENIA AND SERBIA

In general, attitude towards natural environment diverse between countries in the Balkan Peninsula. This area is well known due four bio-geographical areas: Mediterranean, Central European, Alpine and Pannonian and is therefore characterised by diversity of geography and ecosystems. In the 1990s, the collapse of socialist political systems and conflicts led to the dissolution of the Socialist Federal Republic of Yugoslavia and to several changes in the region. Environment protection was one among these changes – new and broader environmental protection legislation together with stricter financial regulations. On the other hand, the overall lack of coordination and inconsistencies between the criminal justice agencies can be classified as negative change.²⁹ Unfortunately the literature review revealed a lack of past studies focusing on crimes against water in this area.

When talking about environmental crime in general, despite differences between the former republics of Socialist Federal Republic of Yugoslavia some common characteristics can be identified. For example, air, water, and soil pollution caused by corporations and state-owned facilities are common forms of environmental damage (i.e. coal dust and ash and thermal power-plant pollution of air and water) in Albania, Bosnia and Herzegovina, Serbia and Kosovo). Waste trafficking and illegal waste disposal, white-collar environmental crime, animal and plant species trafficking, and poaching and illegal fishing, are also pervasive in this area, with heavy influence of organized crime (marine and coastal ecosystems pollution in Croatia, hunting tourism in Serbia, Croatia and Bosnia and Herzegovina, timber logging in Albania, Bosnia and Herzegovina, and Macedonia).³⁰

Eman and colleagues³¹, Ljuština³² and Ignjatović³³ emphasize that environmental offenders from these countries have an incredible ability to adapt their *modus operandi* to changing socio-economic relations and new legal governances in the field of crimes against the environment. These perpetrators are „using different loopholes in environmental protection legislation, as well as exploiting gaps in infrastructure and enforcement, criminals commit environmental offences without being processed and punished.”³⁴ Above described behaviour (i.e. *modus operandi*) is in both countries evident also in the area of crimes against water.

If we move from a global perspective back home, it can be stated that Slovenia has huge luck concerning the water reserves. According to the Environmental Agency of the Republic of Slovenia (Agencija Republike Slovenije za okolje – ARSO) in 2013 Slovenia had 2500 cubic meters of groundwater per capita available (i.e. high quality drinking water). Furthermore, 3.6 percent of those volumes were in the same year pumped from aquifers for drinking water supply, manufacture of beverages, for the purposes of health resorts etc. According to estimates of the ARSO

29 K. Eman, G. Meško, B. Dobovšek, A. Sotlar: *op. cit.*, p. 356.

30 K. Eman, G. Meško, B. Dobovšek, A. Sotlar: *ibid.*

31 K. Eman, G. Meško, B. Dobovšek, A. Sotlar: *ibid.*

32 A. Ljuština /2010/: *Ekološki delikti i policija*. Zadužbina Andrejević, Beograd.

33 Đ. Ignjatović: *op. cit.*

34 K. Eman, G. Meško, B. Dobovšek, A. Sotlar: *op. cit.*, p. 352.

the quantitative status of Slovenian groundwater is generally favourable, except in Murska basin, the groundwater level is gradually reduced. Slovenia is without doubt of among the with water rich countries.³⁵ This exceptional strategic advantage does not mean that water is granted and always available, but at this moment is very important to understand that water is becoming increasingly desirable goods.

In Slovenia water is relatively cheap; according to the ARSO's data costs in 2016 for the use of water for drinking water supply is approximately 6 cents per cubic meter for beverage and technological purposes, for needs of the bathing areas and natural spas the cost is nine cents per cubic meter. Thus, the concession for thousands of litres of bottled groundwater for 2016 is 1.91 Euro, which is 6 cents lower than last year. What is more, the state expects that the year of remuneration for the needs of bathing, heating etc. will receive little less than one and a half million Euros and that beverage producers will pay more than 330 thousand Euros.³⁶ Given the relatively low prices of water resources in Slovenia it is not entirely without grounds to believe that the companies for the production of beverages are interesting to foreign corporations because of the access to water resources, allowed by the concession contract. In 2015 such case occurred with the brewery Pivovarna Laško that was bought by Holland company Heinen (primarily because of the access to water resources). Latter revealed that the company was interested only in the concession for the beverage production, because the returned other concessions (i.e. for the communal waters etc.) to the municipality explaining that they have no intentions to invest in the communal water infrastructure, as in the past Pivovarna Laško always did.

From the reports of the Environmental Inspection Service and data base of the criminal offences against the environment, space and natural resources investigated by the Slovenian police derives, that the water crimes (usually water pollution, intensive agriculture, industrial emissions, uncontrolled discharges of waste water etc.) is one of the common and problematic environmental offense in Slovenia.³⁷ The table 1 below reveals that the number of officially recorded criminal offences against water is relatively small:

Table 1: Crimes against water according to Penal Code of the Republic of Slovenia

Criminal offence \ Year	2006	2007	2008	2009	2010	2011	2012	2013	2014
Burdening and destruction of environment and space	12	9	14	57	31	33	21	47	34
Marine and water pollution by ships	/	/	/	0	0	1	0	/	/
Contamination of drinking water	0	4	4	3	0	2	4	5	5

35 N. Slaček: *op. cit.*

36 N. Slaček: *ibid.*

37 K. Eman: *op. cit.*, p. 78

The table shows that crimes against water are not very numerous criminal acts in Slovenia. Contamination of drinking water and pollution of rivers, lakes etc. (included in the group 'Burdening and destruction of environment and space') also happens (round 5 to 10 times a year). In Slovenia, the object of the crime is most frequently drinking water or free water in nature, such as rivers, ponds, etc. Most of the offense is pollution of free water sources and in most cases the perpetrator is unknown.

If we move now further to Serbia, environmental criminality represents approximately 2 % of all reported crime on the yearly basis (e.g. 2000 criminal offences of approx. 100,000 criminal offences). Furthermore, approximately 75% of these environmental crime offences is illegal logging and thefts of wood, which leaves only 25% of other crimes against environment among which is also water crimes. Although, many Serbian researchers³⁸ believe that the real number of crimes against environment in Serbia is much higher thus there is a large gray field of environmental crime. Matijević³⁹ emphasizes that air, natural environment as such, water, woods and animals are the most threaten subjects when talking about environmental crime.

Similar to Slovenia, Serbia is also very rich with water resources, not only due to Sava and Danube rivers, crossing the country, but also due to the various mountain springs and other sources. In Serbia pollution is more often the case of crimes against water, especially because perpetrators often use their connections with governmental officials and the loopholes in environmental protection legislation.

Table 2: Crimes against water according to Penal Code of the Republic of Serbia

Criminal offence \ Year	2006	2007	2008	2009	2010	2011
Pollution of environment	16	19	21	16	7	12
Damaging of environment	4	7	2	16	8	6
Pollution of food and water for the feeding of animals	5	1	3	12	5	3

Source: Jović /2011/

The table 2 reveals that there is a difference in division of the crimes against water compared to Slovenia. Serbian Penal Code does not have a specific act defining the pollution or 'damaging' of water, but these acts are included in 'Pollution of environment', 'Damaging of environment' and 'Pollution of food and water for the feeding of animals'. Like in Slovenia, the most often crime against water is pollution of different water sources. What is surprising in both countries that they do not have

38 Z. Stojanović /2012/: *Krivično pravo – opšti deo*, Pravna knjiga, Beograd. V. Jović /2014/: Politika suprotstavljanja ekološkom kriminalitetu u Republici Srbiji i njegov uticaj na ekološku bezbednost, *Megatrend revija*, no 4, pp. 321–342; M. Matijević, *ibid*.

39 M. Matijević: *ibid*.

a special act in the Criminal Code, talking about the theft of water (this offence is defined in other environmental protection law).

In both countries legal authorities are facing not so rare changes in the legal environmental protection (also of the criminal law), although, environmental protection legislation remains vague and too specific as well as (too) lax in some areas – also in the case of water crimes.

The scope of environmental crime in the Penal Code of the Republic of Slovenia⁴⁰ is defined in Chapter 32 as crimes against the environment, space and natural resources. Chapter covers 16 offences (articles 332–347). The majority of environmental criminal acts are blanket clauses and have their basis outside criminal law, in other environmental protection legislation. The legal basis for the so-called blanket dispositions is non-criminal law, other regulations in the field of environmental protection, particularly in Environmental Protection Act, which is an umbrella act on the field of the environmental protection.⁴¹

At the international level of environmental protection the ineffectiveness of conventions and declarations (e.g., Kyoto Protocol) is evident. It is necessary to highlight the ‘active’ link between the EU and the Republic of Slovenia as a member of the European Union. The abundance of regulations and directives of the European Parliament, the Council of Europe and the European Commission concerning environmental protection is enormous. EU membership is the reason for the very rich and systematic arrangement of environmental justice in our country, but on the other hand, exactly the active adoption of legal provisions on environmental protection at the level of the European Union impacts the scope of legal protection in Slovenia as a member state. Slovenia has been facing constant changes and adaptation of legal norms since it acquired the „status” of a joining member state. Therefore, also in Slovenia, one is facing the overload of legal norms on the environment and the consequent difficulties both in implementation and in execution of these regulations. In Slovenia, the transfer, promotion and implementation of (criminal) sanctions in the field of environmental protection remains the domain of the criminal justice system of the EU member state.⁴²

The Criminal Code of the Republic of Serbia⁴³ contains 18 criminal offenses against the environment, systematized in a separate chapter XXIV, entitled *Crimes against the environment*. Like in Slovenia, also in Serbia not all offenses against the environment are contained in a single regulation, because some (called quasi, secondary or „unclean” crimes against the environment) are contained in the penal provisions of other regulations aimed at protecting the environment.⁴⁴ Neverthele-

40 Kazenski zakonik Republike Slovenije (KZ-1) (2008). *Uradni list RS*, br. 55/2008, 66/2008, 39/2009, 55/2009.

41 K. Eman: *op. cit.*, p. 82.

42 K. Eman: *ibid.*, p. 84.

43 Krivični zakonik Republike Srbije (2005). *Službeni glasnik RS*, br. 85/2005, 88/2005, 107/2005, 72/2009, 111/2009, 121/2012, 104/2013 i 108/2014).

44 T. Gajinovi, Z. Vig /2012/: *Problem ekološkog kriminala i unapređenje sistema krivičnopravne zaštite životne sredine u Republici Srbiji*. 10. Međunarodni naučni skup sa Sinergija 2012. Univerzitet Sinergija.

ss, as a candidate state of the European Union, Serbia is slowly going into direction of the harmonisation process that will include also the environmental protection legislation and abolish some loopholes in this field.

5. FINAL DISCUSSION – HIDDEN INTERESTS IN THE BACKGROUND

The analysis revealed that crimes against water exist and occur in both countries, Slovenia and Serbia, but their number is (according to the police statistics) low – approximately 10 to 15 water crimes per year, although we have to have in mind that they grey field of criminality exists also in this area. In both countries pollution of different water sources prevails.

In both countries, Serbia and Slovenia, there is a wide campaign on environmental protection and citizens' attitude towards the environment is importantly changing into positive direction. People do not want to live in polluted environment anymore. The environmental protection campaign often includes also the terms of declaring specific areas (e.g. rivers, lakes, spas, mountain areas) for areas of particular social concern for the environment. This way environment is additionally protected (at least should be).

The most evident difference between compared countries is the 'membership' in the European Union, that reflects in the field of environmental protection legislation. Slovenia already has very good legislation protection natural environment, including water, whereby Serbia is in the process of approaching the membership. One of the upcoming changes is also the modification of the criminal justice legislation in the field of environmental protection. In this filed especially better, more successful and more efficient repressive action, which is always resorted to only after exhausting all preventive mechanisms is necessary to implement. Gajinov and Vig⁴⁵ emphasize that treating the environment for independent primary object of protection, new incriminations, alignment of all crimes against the environment in one head, and the introduction of the institute of liability of legal persons for criminal offenses, are important steps to improve legislation in this area.

From the perspective of a country, being rich with water resources, a caution is newer too much in this era of 'lack of (drinking) water' as new security issues of the 21st Century. An example of Slovenian brewery Pivovarna Laško reveals that foreign companies can have hidden intentions or interests behind their actual behaviour and acts. Slovenia successfully avoided the attempt of the 'forced' privatisation of water that was planned to be forced to all EU members by directive (the lobbying of the beverage companies at the European Commission was not successful, but it also did not end), but the beverage companies are searching different ways to come to water resources (i.e. takeover of the Pivovarna Laško). For this reason it is very important that Serbia protects the water resources and companies that use them according to national regulation (no similar case of purchase of company or water

45 T. Gajinov, Z. Vig, *ibid.*

resource in Serbia is known to us). Only this way one can avoid the worst case scenario – the ‘usurpation’ of national water resources by foreign companies or states). Only this way our national natural resources (and with them our national security) will stay safe and in our hands (at least a little longer).

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KRIVIČNA DELA U VEZI SA VODNIM RESURSIMA – JEDNO SAVREMENO (BEZBEDNOSNO) PITANJE

REZIME

Oskudica resursa čiste pijaće vode postaje jedan od presudnih problema XXI veka. Ljudski rod zavisi od vode, jer mi ne samo da je pijemo i da nam je neophodna za opstanak, već je i koristimo za proizvodnju energije, u industrijskoj proizvodnji i zemljoradnji. Danas, uprkos činjenici da živimo na „plavoj planeti”, količina slatkih voda opada, pa je njeno očuvanje tim značajnije. Otuda je svaki oblik zagađenja, krađe ili druge zabranjene aktivnosti u odnosu na vodne resurse ozbiljan vid zločina. Cilj ovog rada je da razmotri krivična dela u odnosu na vodne resurse kao savremeno pitanje bezbednosti, usredsređujući se na situaciju u Sloveniji i poredeći je sa situacijom u Srbiji. Obe zemlje su veoma bogate vodnim resursima i otuda moguće mete stranih kompanija koje proizvode napitke i kojima je za njihovo delovanje neophodna voda. U zaključku se razmatraju najvažnija otkrića i odgovarajući izazovi u pogledu ugroženih resursa pijaće vode.

Ključne reči: voda, životna sredina, zagađenje, zločin