

PRIJEDLOG ZAKONA O
POTVRĐIVANJU

**IZMJENA I DOPUNA PROTOKOLA
O ZAŠTITI SREDOZEMNOG MORA OD
ONEČIŠĆAVANJA S KOPNA,**

S KONAČNIM PRIJEDLOGOM ZAKONA

I. Ustavna osnova za donošenje Zakona

Ustavna osnova za donošenje Zakona o potvrđivanju Izmjena i dopuna Protokola o zaštiti Sredozemnog mora od onečišćavanja s kopna sadržana je u članku 138. Ustava Republike Hrvatske («Narodne novine», br. 41/01-pročišćeni tekst i 55/01).

II. Ocjena stanja i cilj koji se donošenjem Zakona želi postići

Protokol o zaštiti Sredozemnog mora od onečišćavanja s kopna treći je Protokol Konvencije o zaštiti Sredozemnog mora od onečišćavanja (Barcelonska konvencija) usvojene 1976. godine u Barceloni, te izmjenjene i dopunjene u Barceloni 1995. godine i preimenovane u Konvenciju o zaštiti morskog okoliša i obalnog područja Sredozemlja, koju je potvrdio Hrvatski sabor 27. studenog.1998. godine («Narodne novine», – međunarodni ugovori br. 17/98).

Protokol o zaštiti Sredozemnog mora od onečišćavanja s kopna usvojen je 17. svibnja.1980. godine u Ateni i stupio je na snagu 17. lipnja.1983. godine. Protokol je izmjenjen i dopunjen 7. ožujka.1996. godine u Siracusi i preimenovan u Protokol o zaštiti Sredozemnog mora od onečišćavanja iz izvora i djelatnosti na kopnu, LBS protokol.

U svrhu zaštite i praćenja stanja morskog okoliša Sredozemlja kao i sveobuhvatno planiranje razvoja i upravljanja pomorskim dobrom potaknuta je suradnja vlada država Sredozemlja i Europske unije odobravanjem Plana djelovanja u Sredozemlju (Mediterranean Action Plan, MAP 1975), koji je dio Programa Ujedinjenih naroda o zaštiti okoliša (United Nation Environmental Programme, UNEP). Republika Hrvatska je članica MAP-a i aktivno sudjeluje u aktivnostima u skladu programa zaštite Sredozemlja. Navedena Barcelonska konvencija i pripadajući Protokoli osobito su važni i značajni za Republiku Hrvatsku koja kao srednje europska i mediteranska država provodi zaštitu okoliša mora, obale i otoka i koja se ostvaruje kao dio ukupne regionalne strategije zaštite Sredozemlja. Strategija je utemeljena na razmjeni iskustva i izravnoj suradnji s institucijama i stručnjacima stranaka. Stranke prema odredbama LBS protokola provode Strateški plan djelovanja (Strategic Action Plan). Republika Hrvatska je prepoznala opasnost koja nastaje za morski okoliš, žive resurse i čovjekovo zdravlje uslijed onečišćavanja iz izvora i djelatnosti na kopnu te ozbiljne probleme koji proizlaze iz istih u obalnim vodama i ušćima rijeka Jadranskog mora, prvenstveno zbog nepročišćenog, nedovoljno pročišćenog ili neodgovarajuće obrađenog ispuštanja iz kućanstava ili industrije, a koje sadrži tvari koje su toksične, postojane i sklone biološkoj akumulaciji.

Republika Hrvatska svijesna je da zaštita okoliša kao i smanjenje ispuštanja opasnih i štetnih tvari u okoliš je prioritetni cilj i zadatak očuvanja okoliša i ispunjenja održivog razvoja. Ovim izmjenama i dopunama LBS protokola iz 1996. godine mijenja i dopunjuje se Protokol iz 1980. godine u svrhu jačanja suradnje između stranaka, odredba zakonske regulative i primjena najboljih raspoloživih tehnika i najboljih raspoloživih postupaka za zaštitu okoliša.

Osnovni ciljevi:

Cilj ovog Protokola je poticanje suradnje stranaka za zaštitu Sredozemnog mora te zaštita okoliša mora, obale i otoka kroz smanjenje, suzbijanje i uklanjanje ispuštanja opasnih i štetnih tvari iz izvora i djelatnosti na kopnu. Stranke Protokola obvezat će se na poduzimanje potrebnih mjera i aktivnosti u svrhu ispunjenja navedenih ciljeva dajući prednost postepenom ukidanju unošenja tvari koje su toksične, postojane i sklone biološkom akumuliranju. Sukladno opredjeljenju Republike Hrvatske za očuvanje vlastitih prirodnih resursa smatramo da je potvrđivanje Izmjena i dopuna Protokola o zaštiti Sredozemnog mora od onečišćavanja s kopna od interesa za našu državu. Potvrđivanje Protokola osigurava međusobno

izviješćivanje stranaka o poduzetim mjerama, postignutim rezultatima i mogućim poteškoćama u primjeni Protokola; također osigurava izvješćivanje o ispuštanjima koja potječu iz točkastih i raspršenih izvora i djelatnosti na kopnu na području ugovornih stranaka, a koja mogu izravno ili neizravno utjecati na područje Sredozemnog mora.

Također potvrđivanjem Protokola otvara se suradnja u promicanju dostignuća i razmjene iskustva u zaštiti morskog okoliša između ugovornih stranaka i mogućnost dobivanja financijskih potpora.

III. Osnovna pitanja koja se predlažu urediti ovim Zakonom

Osnova za potvrđivanje Izmjena i dopuna Protokola o zaštiti Sredozemnog mora od onečišćavanja s kopna je provedba članka 4. stavak 5. i članaka 8. i 21. Konvencije o zaštiti Sredozemnog mora od onečišćavanja (Barcelonska konvencija) usvojene 1976. godine u Barceloni, te izmjenjene i dopunjene u Barceloni 1995. godine. Republika Hrvatska potpisnik je Barcelonske konvencije («Narodne novine», – međunarodni ugovori br. 17/98) koja predviđa da će ugovorne stranke poduzeti sve odgovarajuće mjere kako bi spriječile, smanjile i suzbile onečišćavanje područja Sredozemnog mora iz izvora i djelatnosti na kopnu. U svrhu poduzimanja aktivnosti za provedbu izmjena i dopuna Konvencije pripremljene su izmjene i dopune Protokola. Izmjenama i dopunama Protokola mijenjaju se i nadopunjuju članci Protokla kao što su i dodani novi Dodaci. Ovim Protokolom se ugovorne stranke obvezuju da pojedinačno ili putem bilateralne ili multilateralne suradnje poduzimaju potrebne mjere za uklanjanje onečišćenja koja potječu iz izvora na kopnu i da postepeno ukidaju unos tvari koje su toksične, postojane i sklone biloškoj akumulaciji za područje Sredozemnog mora. Primjena ovog Protokola osigurava da se u svrhu zaštite okoliša koriste najbolje raspoložive tehnike u industriji i najprikladnije mjere i strategije za nadzor u okolišu.

Protokol se sastoji od 16 članaka koji su grupirani u slijedeće odsjeke:

uvod, opće odredbe, definicije, područje Protokola, primjena Protokola, opće obveze, sustav izdavanja dozvola ili uređivanja, zajedničke smjernice, standardi i kriteriji, praćenje, znanstvena i tehnička suradnja, tehnička pomoć, prekogranično onečišćavanje, rješavanje sporova, izvješća, sastanci, donošenje planova djelovanja programa mjera, završne odredbe i dodatak I, II, III i IV.

Protokol se odnosi na područje Sredozemnog mora kako je utvrđeno u članku 1. Konvencije, a uključuje hidrološki bazen područja Sredozemnog mora, voda s kopnene strane osnovne crte od koje se mjeri i prostire širina teritorijalnog mora, a kod vodotokova do slatkovodne granice, zatim bočaste vode, obalne slane vode uključujući slane močvare i obalne lagune te podzemne vode povezane sa Sredozemnim morem.

IV. Ocjena sredstava potrebnih za provedbu ovog Zakona

Provedba ovog Zakona neće zahtijevati dodatna financijska sredstva iz Državnog proračuna Republike Hrvatske. Financiranje aktivnosti navedenih u Izmjenama i dopunama Protokola provodit će se sredstvima od naknada za zaštitu voda koja prikupljaju Hrvatske vode, a provedba aktivnosti prema ovom Zakonu je u skladu s Državnim planom za zaštitu voda.

V. Razlozi za donošenje Zakona po hitnom postupku

Temelj za donošenje Zakona o potvrđivanju Izmjena i dopuna Protokola o zaštiti Sredozemnog mora od onečišćavanja s kopna po hitnom postupku nalazi se u članku 159. Poslovnika Hrvatskog Sabora («Narodne novine», br. 6/02, 41/02, 91/03, 58/04) i to u drugim osobito opravdanim državnim razlozima. S obzirom na razloge navedene u točkama II. i III. Prijedloga zakona, potrebno je što žurnije ispuniti sve potrebne pretpostavke za stupanje na snagu Izmjena i dopuna Protokola o zaštiti Sredozemnog mora od onečišćavanja s kopna i u odnosu na Republiku Hrvatsku. S obzirom na prirodu postupka potvrđivanja međunarodnih ugovora, kojima država i formalno izražava spremnost da bude vezana već potpisanim međunarodnim ugovorima, kao i na činjenici da se u ovoj fazi

postupka ne mogu vršiti izmjene ili dopune teksta međunarodnog ugovora, predlaže se ovaj Prijedlog zakona raspraviti i prihvatiti po hitnom postupku objedinjavajući prvo i drugo čitanje. Republika Hrvatska je usmjerena na razvoj pomorskog gospodarstva, turizam i oprijedjeljena za zaštitu i očuvanje okoliša mora, obale i otoka. Republika Hrvatska kao potpisnica Barcelonske konvencije iz 1976. godine, izmjenjene i dopunjene 1995. godine, a potvrđene 1998. godine, potvrđivanjem Izmjena i dopuna Protokola o zaštiti Sredozemnog mora od onečišćavanja s kopna omogućava suradnju na promicanju i razmjeni znanja i iskustva u zaštiti okoliša mora, obale i otoka. U skladu načela o održivom razvoju i zaštiti okoliša navedene aktivnosti iz Protokola pozitivno će utjecati na razvoj gospodarstva u Republici Hrvatskoj.

VI. Konačni Prijedlog zakona o potvrđivanju Izmjena i dopuna Protokola

Na temelju članka 16. Zakona o sklapanju i izvršavanju međunarodnih ugovora («Narodne novine», br. 28/96), a polazeći od članka 139. Ustava Republike Hrvatske, pokreće se postupak za donošenja Zakona o potvrđivanju Izmjena i dopuna Protokola o zaštiti Sredozemnog mora od onečišćavanja s kopna.

Konačni prijedlog Zakona o potvrđivanju Izmjena i dopuna Protokola o zaštiti Sredozemnog mora od onečišćavanja s kopna glasi:

**KONAČNI PRIJEDLOG ZAKONA O POTVRĐIVANJU IZMJENA I DOPUNA
PROTOKOLA
O ZAŠTITI SREDOZEMNOG MORA OD ONEČIŠĆAVANJA S KOPNA**

Članak 1.

Potvrđuju se Izmjene i dopune Protokola o zaštiti Sredozemnog mora od onečišćavanja s kopna usvojene 7. ožujka.1996. godine u Siracusi u izvorniku na arapskom, engleskom, francuskom i španjolskom jeziku.

Članak 2.

Tekst Izmjena i dopuna Protokola iz članka 1. ovog Zakona u izvorniku na engleskom jeziku i u prijevodu na hrvatski jezik glasi:

**AMENDMENTS TO THE PROTOCOL FOR THE PROTECTION OF THE
MEDITERRANEAN SEA
AGAINST POLLUTION FROM LAND-BASED SOURCES**

A. Title

The title of the Protocol is amended as follows:

**PROTOCOL FOR THE PROTECTION OF THE MEDITERRANEAN SEA AGAINST
POLLUTION FROM LAND-BASED SOURCES AND ACTIVITIES**

B. Preambular paragraphs

The first preambular paragraph of the Protocol is amended as follows:
Being Parties to the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976 and amended on 10 June 1995,

The third preambular paragraph of the Protocol is amended as follows:
Noting the increasing environmental pressures resulting from human activities in the Mediterranean Sea area, particularly in the fields of industrialisation and urbanisation, as well as the seasonal increases in the coastal population due to tourism.

The fourth preamble paragraph of the Protocol is amended as follows:
Recognising the danger posed to the marine environment, living resources and human health by pollution from land-based sources and activities and the serious problems resulting therefrom in many coastal waters and river estuaries of the Mediterranean Sea, primarily due to the release of untreated, insufficiently treated or inadequately disposed of domestic or industrial discharges containing substances that are toxic, persistent and liable to bioaccumulate.

The following paragraph is added as the fifth preambular paragraph:
Applying the precautionary principle and the polluter pays principle, undertaking environmental impact assessment and utilising the best available techniques and the best environmental practice including clean production technologies, as provided for in Article 4 of the Convention.

The sixth preambular paragraph of the Protocol is amended as follows:
Determined to take, in close cooperation, the necessary measures to protect the Mediterranean Sea against pollution from land-based sources and activities

The following paragraph is added as the seventh preambular paragraph:
Taking into consideration the Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities, adopted at Washington, D.C., on 3 November 1995,

C. Article 1

A title is inserted and the text is amended as follows:

General provision

The Contracting Parties to this Protocol (hereinafter referred to as 'the Parties') shall take all appropriate measures to prevent, abate, combat and eliminate to the fullest possible extent pollution of the Mediterranean Sea area caused by discharges from rivers, coastal establishments or outfalls, or emanating from any other land-based sources and activities within their territories, giving priority to the phasing out of inputs of substances that are toxic, persistent and liable to bioaccumulate.

D. Article 2

A title is inserted, and the text of paragraphs (a) and (d) are amended as follows:

Definitions

(a) The Convention means the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976 and amended on 10 June 1995;

(d) The hydrologic basin means the entire watershed area within the territories of the Contracting Parties, draining into the Mediterranean Sea area as defined in Article 1 of the Convention.

E. Article 3

A title is inserted and the following new paragraph is added:

Protocol area

(abis (renumbered as (b))

(b) The hydrologic basin of the Mediterranean Sea area;

Paragraph (b) is renumbered as paragraph (c). Paragraph (c) is renumbered as paragraph (d) and amended as follows:

(d) Brackish waters, coastal salt waters including marshes and coastal lagoons, and ground waters communicating with the Mediterranean Sea.

F. Article 4

A title is inserted and the texts of paragraphs 1(a) and (b) are amended as follows:

Protocol application

1. This Protocol shall apply:

(a) to discharges originating from land-based point and diffuse sources and activities within the territories of the Contracting Parties that may affect directly or indirectly the Mediterranean Sea area. These discharges shall include those which reach the Mediterranean area, as defined in article 3(a), (c) and (d) of this Protocol, through coastal disposals, rivers, outfalls, canals, or other watercourses, including ground water flow, or through run-off and disposal under the seabed with access from land;

(b) to inputs of polluting substances transported by the atmosphere to the Mediterranean Sea area from land-based sources or activities within the territories of the Contracting Parties under the conditions defined in Annex III to this Protocol.

The following new paragraph is added:

3. The Parties shall invite States that are not parties to the Protocol and have in their territories parts of the hydrologic basin of the Mediterranean area to cooperate in the implementation of the Protocol.

G. Article 5

A title is inserted and the texts of paragraphs 1, 2 and 4 are amended as follows:

General obligations

1. The Parties undertake to eliminate pollution deriving from land-based sources and activities, in particular to phase out inputs of the substances that are toxic, persistent and liable to bioaccumulate listed in Annex I.

2. To this end, they shall elaborate and implement, individually or jointly, as appropriate, national and regional action plans and programmes, containing measures and timetables for their implementation.

Paragraph 3 is deleted.

4. (renumbered as 3)

3. The priorities and timetables for implementing the action plans, programmes and measures shall be adopted by the Parties taking into account the elements set out in Annex I and shall be periodically reviewed.

The following new paragraphs are added:

4. When adopting action plans, programmes and measures, the Parties shall take into account, either individually or jointly, the best available techniques and the best environmental practice including, where appropriate, clean production technologies, taking into account the criteria set forth in Annex IV.

5. The Parties shall take preventive measures to reduce to the minimum the risk of pollution caused by accidents.

H. Article 6

A title is inserted and the text is replaced by the following:

Authorisation or regulation system

1. Point source discharges into the Protocol area, and releases into water or air that reach and may affect the Mediterranean area, as defined in Article 3(a), (c) and (d) of this Protocol, shall be strictly subject to authorisation or regulation by the competent authorities of the Parties, taking due account of the provisions of this Protocol and Annex II thereto, as well as the relevant decisions or recommendations of the meetings of the Contracting Parties.

2. To this end, the Parties shall provide for systems of inspection by their competent authorities to assess compliance with authorisations and regulations.

3. The Parties may be assisted by the Organisation, upon request, in establishing new, or strengthening existing, competent structures for inspection of compliance with authorisations and regulations. Such assistance shall include special training of personnel.

4. The Parties establish appropriate sanctions in case of non-compliance with the authorisations and regulations and ensure their application.

I. Article 7

A title is inserted. The texts of paragraph 1(e) and paragraph 3 are amended as follows:

Common guidelines, standards and criteria

1.

(e) Specific requirements concerning the quantities of the substances discharged (listed in Annex I), their concentration in effluents and methods of discharging them.

3. The action plans, programmes and measures referred to in Articles 5 and 15 of this Protocol shall be adopted by taking into account, for their progressive implementation, the capacity to adapt and reconvert existing installations, the economic capacity of the Parties and their need for development.

J. Article 8

A title is inserted and the text is amended as follows:

Monitoring

Within the framework of the provisions of, and the monitoring programmes provided for in Article 12 of the Convention, and if necessary in cooperation with the competent international organisations, the Parties shall carry out at the earliest possible date monitoring activities and make access to the public of the findings in order:

(a) systematically to assess, as far as possible, the levels of pollution along their coasts, in particular with regard to the sectors of activity and categories of substances listed in Annex I, and periodically to provide information in this respect;

(b) to evaluate the effectiveness of action plans, programmes and measures implemented under this Protocol to eliminate to the fullest possible extent pollution of the marine environment.

K. Article 9

A title is inserted and the text is amended as follows:

Scientific and technical cooperation

In conformity with Article 13 of the Convention, the Parties shall cooperate in scientific and technological fields related to pollution from land-based sources and activities, particularly research on inputs, pathways and effects of pollutants and on the development of new methods for their treatment, reduction or elimination, as well as the development of clean production processes to this effect. To this end, the Parties shall, in particular, endeavour to:

The following new paragraph is added:

(c) promote access to, and transfer of, environmentally sound technology including clean production technology

L. Article 10

A title is inserted and the text is amended as follows:

Technical assistance

1. The Parties shall, directly or with the assistance of competent regional or other international organisations, bilaterally or multilaterally, cooperate with a view to formulating and, as far as possible, implementing programmes of assistance to developing countries, particularly in the fields of science, education and technology, with a view to preventing, reducing or, as appropriate, phasing out inputs of pollutants from land-based sources and activities and their harmful effects in the marine environment.

2. Technical assistance would include, in particular, the training of scientific and technical personnel, as well as the acquisition, utilisation and production by those countries of appropriate equipment and, as appropriate, clean production technologies, on advantageous terms to be agreed upon among the Parties concerned.

M. Article 11

A title is inserted as follows:

Transboundary pollution

N. Article 12

A title is inserted and the text of paragraph 1 is amended as follows:

Settlement of disputes

1. Taking into account Article 28(1), of the Convention, when land-based pollution originating from the territory of one Party is likely to prejudice directly the interests of one or more of the other Parties, the Parties concerned shall, at the request of one or more of them, undertake to enter into consultation with a view to seeking a satisfactory solution.

O. Article 13

A title is inserted. The texts of paragraph 1, the first sentence of paragraph 2 and sub-paragraph (d) of paragraph 2 are amended as follows:

Reports

1. The Parties shall submit reports every two years, unless decided otherwise by the meeting of the Contracting Parties, to the meetings of the Contracting Parties, through the Organisation, of measures taken, results achieved and, if the case arises, of difficulties encountered in the application of this Protocol. Procedures for the submission of such reports shall be determined at the meetings of the Parties.

2. Such reports shall include, inter alia:

(d) action plans, programmes and measures implemented in accordance with Articles 5, 7 and 15 of this Protocol.

P. Article 14

A title is inserted. The texts of paragraph 1 and of sub-paragraphs (a), (c) and (f), of paragraph 2 are amended as follows:

Meetings

1. Ordinary meetings of the Parties shall take place in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to Article 18 of the Convention. The Parties may also hold extraordinary meetings in accordance with Article 18 of the Convention.

2.

(a) to keep under review the implementation of this Protocol and to consider the efficacy of the action plans, programmes and measures adopted;

(c) to formulate and adopt action plans, programmes and measures in accordance with Articles 5, 7 and 15 of this Protocol;

(f) to consider the reports submitted by the Parties under Article 13 of this Protocol.

Q. Article 15

A title is inserted and the text of paragraph 1 is amended as follows:

Adoption of action plans, programmes and measures

1. The meeting of the Parties shall adopt, by a two-thirds majority, the short-term and medium-