Clear rules on nature and water benefit renewable energy development and biodiversity

Joint civil society position paper on the inclusion of the EU Habitats, Birds and Water Framework Directives in the Energy Community Treaty

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Contents

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Joint civil society position paper on the inclusion of the EU Habitats, Birds and Water Framework Directives in the Energy Community Treaty[1]

Key messages

- The inclusion of the Habitats, Birds and Water Framework Directives in the Energy Community Treaty is now a time-sensitive decision. If not adopted in 2026, the Western Balkans risk locking in renewable energy pathways that are legally uncertain, socially contested, and environmentally damaging.
- Strategic spatial planning, including designation of protected areas, enables accelerated renewable energy deployment. Clear environmental criteria and procedures help to minimize permitting uncertainty, project delays, and costly legal conflicts.
- The European Commission's proposal to include the above Directives in the Treaty is limited, gradual, and builds on existing legal commitments: Contracting Parties have already transposed large parts of this legislation, and equivalent assessment obligations are already binding under the Transport Community Treaty. Integration would also provide crucial support and technical expertise from the Energy Community Secretariat.

[1] See energy-community.org for more details.

1. Introduction

The energy transition is gathering pace in the Energy Community Contracting Parties.[2] In December 2022, the Treaty's Ministerial Council committed to 2030 targets for greenhouse gas reductions, energy efficiency and renewable energy, and solar and wind installation is increasing.

This brings numerous advantages, including cleaner air; avoided fuel costs; participation of households and businesses in generating electricity; and the increased resilience of a decentralised system. In the next few years, it will also help operators avoid paying carbon costs.

At the same time, energy sector decentralisation brings challenges, including balancing rapid deployment of renewable energy with protection of biodiversity and water.

The Western Balkans and the Caucasus are biodiversity hotspots on a global scale, especially in terms of freshwater species. The regions' extensive mountains, river and lake systems, and coastline are home to numerous endangered species and important habitats with a high degree of endemism. Since nature and water support life itself – providing food, drink, clean air, climate regulation, medicines and building materials – safeguarding them is not an optional extra but a basic condition for civilisational stability and for adaptation to an increasingly chaotic climate.

The Habitats, Birds and Water Framework Directives[3] are world-class legislative tools to ensure the resilience of the EU's nature and water resources. Refined over decades, they carefully balance development imperatives with the protection of biodiversity, rivers and groundwater, including by designating the Natura 2000 network of protected sites.

Setting up the Natura 2000 network was traditionally one of the last tasks for countries acceding to the EU, but this has always raised the risk that harm would be done to valuable natural areas before they were legally protected. Setting up the Energy Community Treaty without including the Habitats and Water Framework Directives, and with only Article 4(2) of the Birds Directive, also entailed the risk of energy projects causing unnecessary damage to biodiversity and water. When its sister treaty, the Transport Community Treaty, was designed later, the need for enhanced safeguards was taken into account and parts of the Habitats and Water Framework Directives were included for certain transport projects (see below).

[2] Albania, Bosnia and Herzegovina, Georgia, Kosovo, Moldova, Montenegro, North Macedonia, Serbia, Ukraine.

[3] Council of the European Union, Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, consolidated text, 14 July 2025; European Parliament and the Council of the European Union, Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds, consolidated version, 26 June 2019; European Parliament and the Council of the European Union, Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, consolidated version, 20 November 2014.

Today, the increased decentralisation of our energy system means that protecting ecologically sensitive habitats and species is an even more essential precondition for its development. Protection has to be done much earlier, even for those countries whose EU accession is still some years away. For example, as explained below, designating renewable acceleration areas, as mandated by the 2023 changes to the EU Renewable Energy Directive, requires the avoidance of protected areas and other high biodiversity value sites, which means they have to be defined first.

In late 2025, the European Commission therefore proposed selected parts of the Birds[4] and Habitats Directives,[5] as well as the Water Framework Directive and its daughter directives,[6] for inclusion in the Energy Community Treaty, with a generous five-year transposition deadline.[7]

The proposals do not change the countries' timelines for setting up their Natura 2000 networks, but require procedural measures to be taken to avoid damage to Emerald Network Areas of Special Conservation Interest, Candidate Emerald Network Areas of Special Conservation Interest, Ramsar Sites, nationally protected areas hosting natural habitat types and species listed in Annexes I and II of Directive 92/43/EEC respectively, and nationally protected areas hosting bird species referred to in Article 4(2) of Directive 2009/147/EC and listed in Annex I of that Directive.

This paper aims to explain to decision makers and interested stakeholders in the Energy Community Contracting Parties the role of the EU nature and water legislation in ensuring timely renewable energy development that is likely to be accepted by the public, and to show the co-benefits for both investors and for nature in having clear rules in place.

[4] Article 2, Article 4(2)(already part of the Treaty) and (4), second sentence, Article 5, Article 9 and Annex I of Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds.

[5] Article 1, Article 2, Article 6(2), (3) and (4), Article 12, Article 13, Article 16 and Annexes I, II, and IV of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.

[6] Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy; Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration; Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council; and Commission Directive 2009/90/EC of 31 July 2009 laying down, pursuant to Directive 2000/60/EC of the European Parliament and of the Council, technical specifications for chemical analysis and monitoring of water status.

[7] Parlament Österreich, Vorschlag für einen Beschluss des Rates über den im Namen der Union im Ministerrat der Energiegemeinschaft zu vertretenden Standpunkt in Bezug auf die Änderungen des Vertrags zur Gründung der Energiegemeinschaft zur Aktualisierung und Erweiterung des Anwendungsbereichs des Vertrags entsprechend der Entwicklung des Umweltrechts der Union (38263/EU XXVIII.GP), 13 October 2025.

2. Our economies depend on nature and water

Biodiversity and water resources underpin sectors that are economically important in the Energy Community countries, including water supply, agriculture, tourism, flood management and climate adaptation. Degradation of these resources would impose substantial long-term costs on economies and public budgets, while safeguarding them secures long-term economic resilience: Protecting biodiversity and ecosystems mitigates macro-economic risks and long-term societal costs, while allowing balanced development.

Climate change is also increasing pressure on freshwater resources across the Energy Community region through more frequent droughts, changing precipitation patterns and growing competition among water users. Healthy rivers, lakes, wetlands and groundwater bodies are essential for climate adaptation, water supply, agriculture and economic resilience. Through integrated river basin management, the Water Framework Directive safeguards water quality and availability and strengthens long term water security under accelerating climate stress.

3. Clear nature and water safeguards are a precondition for renewable energy development

3.1. EU safeguards in place before wind and solar acceleration

In the EU, installation of renewable energy capacity has sped up over the last two decades, and in 2025, for the first time wind and solar generated more EU electricity (30%) than fossil fuels (29%).[8]

This development has taken place with strong nature safeguards already in place. These have interlinked spatial, procedural and qualitative dimensions.

The Natura 2000 network protects sites that are particularly sensitive, and where activities with significant impacts on the target habitats, sites and species should generally be avoided. Permitting procedures designed to balance nature protection and development have helped to ensure the quality of this network: Appropriate Assessments[9] for projects, plans or programmes that may have significant impacts on Natura 2000 sites are a key tool for preventing damage to such areas.

Similarly, under the Water Framework Directive, assessments under Article 4(7) are carried out when permitting projects that may prevent the Directive's qualitative objectives being reached. Such projects

[8] Dr Beatrice Petrovich, European Electricity Review 2026, Ember, 22 January 2026.

[9] Under Article 6(3) of the Habitats Directive.

should generally not go ahead, except in cases defined by the Directive. Having such safeguards in place is crucial to ensure balanced development, and is a crucial precondition for newer EU innovations such as renewable acceleration areas, as discussed below.

3.2. Renewable acceleration areas

Since 2022, spurred by Russia's full-scale invasion of Ukraine, and the uneven share of renewable energy between different Member States,[10] the European Union has sought to speed up renewable energy deployment, particularly solar and wind. Among others, it amended the EU Renewable Energy Directive in 2023[11] – a set of changes known as 'RED III', which is currently being transposed in EU countries.

The main innovation introduced by RED III is the spatial planning concept of 'renewable acceleration areas' (RAAs). The idea is that these are areas without significant biodiversity, where the rapid deployment of renewables can take place without causing major environmental harm.[12]

When designating such areas, the authorities must prioritise:[13]

- artificial and built surfaces, such as rooftops and facades of buildings,
- transport infrastructure and its direct surroundings,
- parking areas,
- farms,
- waste sites,
- industrial sites,

[10] For example, while Denmark generated 50% of its electricity from wind in 2025 and Lithuania, Ireland and Sweden all generated at least 30%, several countries including Bulgaria and Slovenia failed to top even 3%. WindEurope, Wind energy in Europe: 2025 Statistics and the outlook for 2026-2030, 26 February 2026.

[11] European Parliament, Council of the European Union, Directive (EU) 2023/2413 of the European Parliament and of the Council of 18 October 2023 amending Directive (EU) 2018/2001, Regulation (EU) 2018/1999 and Directive 98/70/EC as regards the promotion of energy from renewable sources, and repealing Council Directive (EU) 2015/652, Eur-Lex, 31 October 2023.

[12] According to RED III, if such areas have been subject to a strategic environmental assessment (SEA) during their designation, it is often possible to avoid carrying out a full environmental impact assessment (EIA) at the project level for renewable energy projects in these areas. However, considering that SEAs are not well-established in the Energy Community countries; that they are carried out at a different scale with less detail than EIAs; and that the Aarhus Convention requires public participation in environmental decision making at both the plan/programme *and* project level, where those plans, programmes or projects may have significant environmental impacts, we do not recommend this approach for these countries. The EIA Directive is legally binding in the Energy Community Treaty, unlike RED III, for which the Contracting Parties have only been recommended to start preparing the legal and institutional conditions. The EIA Directive's screening criteria therefore remain the definitive reference for deciding on the need for an EIA for renewable energy projects.

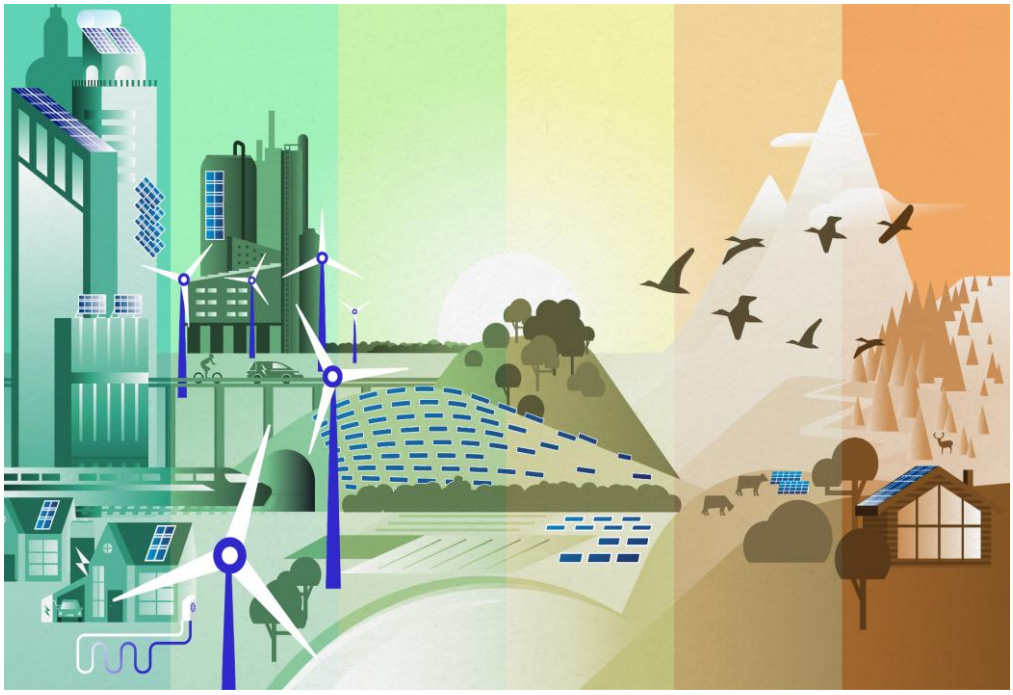
[13] Article 15c. All appropriate and proportionate tools and datasets must be used to identify the areas where renewable energy plants would not have a significant environmental impact, including wildlife sensitivity mapping. Data available for developing the Natura 2000 network must also be used.

- mines,
- artificial inland water bodies, lakes or reservoirs[14] and, where appropriate, urban waste water treatment sites,
- degraded land not usable for agriculture.[15]

RAAs must also exclude certain areas:

- Natura 2000 sites,
- areas designated under national nature protection schemes,
- major bird and marine mammal migratory routes,
- other areas identified on the basis of sensitivity maps and other datasets and tools, except for artificial and built surfaces located in those areas.

Some Western Balkan governments have already expressed interest in developing RAAs, and some brownfield sites can be reasonably assumed to be suitable for this on the basis of existing data. But to designate larger areas where renewables can be safely accelerated, the competent authorities need to know where it is not safe to do so. The clearest way to do this is to have a network of protected areas already in place.



Source: European Environment Bureau, 2022.

[14] Caution must be exercised here as some human-made water bodies have high biodiversity value, for example large fishponds like Saničani near Prijedor in Bosnia and Herzegovina.

[15] Land which is unusable for agriculture but valuable for biodiversity, e.g. scrubland, must not be included.

3.3. Building on the Emerald network and existing protected areas

The Natura 2000 network has not yet been designated in the Western Balkan countries, but planning for this needs to speed up to reduce conflicts between construction and conservation. Although not part of the Commission's proposal regarding the Energy Community Treaty acquis, most of the Western Balkan countries[16] have already committed to set up a network of protected areas (Emerald sites) under the Bern Convention.

Under Article 4 of the Convention, each Contracting Party has an obligation to '*take appropriate and necessary legislative and administrative measures to ensure the conservation of the habitats of the wild flora and fauna species, especially those specified in Appendices I and II, and the conservation of endangered natural habitats'*.

The current status of the Emerald network in the Western Balkans is unsatisfactory, but can serve as a first step to build on. The Western Balkan countries need to legally protect their Emerald sites and propose additional new ones. Their spatial plans must also be updated and ensure that no significantly damaging activities take place inside the sites or with impacts on them.

Although the Emerald network is currently far from sufficient to constitute a network of protected areas equivalent to Natura 2000,[17] by 2030, the countries have agreed to protect 35 percent of the species and habitats covered by the Convention.[18] This is not a distant commitment related to EU accession, but an already overdue one under the Bern Convention. In fact, the Habitats Directive with its Natura 2000 network was developed in order for the European Union to fulfill its commitments as a party to the Bern Convention.

Thus, the Commission's proposal should be seen as complementary to existing commitments. It would allow the countries to gradually build up their networks of protected areas, while improving their procedural safeguards more rapidly based on already proposed candidate Emerald sites, existing protected areas and internationally recognised areas.

[16] Kosovo has not been accepted as a member of the Council of Europe, which set up the Bern Convention.

[17] The Western Balkan countries have currently designated Emerald sites to protect only a small percentage of the species and habitats covered by the Convention – 0.5 per cent in Bosnia and Herzegovina, 9.4 per cent in Serbia, 11.3 per cent in North Macedonia, 11.4 per cent in Montenegro and 19.9 per cent in Albania. Source: Bern Convention, Emerald Network Barometer Table, December 2025 data.

[18] Convention on the Conservation of European Wildlife and Natural Habitats, Standing Committee 44th meeting, List of decisions and adopted texts, 2 to 6 December 2024.

4. Procedural safeguards building on existing Transport Community commitments

Under the Transport Community Treaty, the Western Balkan countries have already committed to apply the EU Habitats and Water Framework Directives when developing transport infrastructure projects.[19]

Annex I.6 of the Treaty obliges them to carry out an appropriate nature conservation assessment equivalent to that provided for in Article 6 of the Habitats Directive, if a project is likely to affect sites of nature conservation importance.

And all transport projects on navigation under the scope of the Treaty are to be developed and implemented in line with Article 4(7) of the Water Framework Directive.

These case-by-case assessments examine whether the achievement of the Directives' objectives would be prevented as a result of the planned activities. If so, an assessment takes place on whether a derogation would be justified under the Directives.

As the countries are already bound to include such provisions in their legislation for certain transport projects, it makes sense to do it for other sectors as well.

5. Clear rules benefit everyone

In addition to the countries' existing commitments and the overall need for natural resilience, improving the legal framework to safeguard nature and water is also crucial for pragmatic reasons.

For investors, it brings clarity and reduces the risks of delays or cancellation at later stages. Without clear rules, project promoters face higher litigation risks, permitting delays, and rising project costs due to uncertainty and public opposition. This is costly for everyone and deters investors. Having clear rules in place in advance makes it easier to avoid such conflicts through smarter siting of energy facilities.

Most Energy Community countries have already encountered public resistance to under-regulated hydropower construction, which has damaged rivers and streams in some of the most precious and pristine areas of the Western Balkans, Dniester River basin, and Georgia. This has included protests and lengthy court battles. These conflicts demonstrate why early spatial planning, meaningful public consultation and strong environmental safeguards are necessary to avoid a similar backlash against wind, solar, and grid infrastructure.

[19] Treaty establishing the Transport Community, 27 October 2017.

Unlike newbuild hydropower – which has limited potential in southeast Europe due to its climate change vulnerability and inherent biodiversity impacts – solar, wind and improved grids are essential for the energy transition. So our societies cannot afford a backlash against their development, as this will jeopardise decarbonisation altogether.

While the EU's energy transition is taking place with the Natura 2000 network and safeguards for water quality already largely in place – albeit needing better implementation and enforcement – the Western Balkan countries are trying to accelerate renewables deployment without such safeguards. Trying to do this without a strong network of protected areas in place raises the risk of environmental conflicts and public outcry. The key lesson from the EU experience is that renewables expansion requires strong environmental safeguards and public participation in order to function.

While setting up their networks of protected areas, the very least the countries can do is to include the Commission's proposal in the Energy Community Treaty, and carry out Appropriate Assessments for plans and projects known to be potentially damaging to areas of high natural value – nominated candidate Emerald sites, Ramsar sites and nationally protected areas. Similarly, they need to apply the Water Framework Directive when planning energy and transport projects that may impact water bodies.

6. The Western Balkan countries have already transposed much of the legislation

Most of the countries have transposed large parts of the EU Habitats, Birds and Water Framework Directives, albeit with some remaining gaps.

Although several countries have the main legal provisions in place, neither Appropriate Assessments under Article 6(3) of the Habitats Directive the nor Article 4(7) assessments under the Water Framework Directive are carried out in practice when permitting projects[20] that may have significant negative impacts on protected areas or prevent the Water Framework Directive's objectives being reached.[21]

In some cases this is due to a lack of implementing legislation or mistransposition, but in others it is because Appropriate Assessments have been solely linked with Natura 2000 in the countries' legislation. Instead, they should be linked with sites which are already legally protected in the countries, or which the countries have already committed to protect. These include nominated candidate Emerald sites, or sites likely to be proposed for the Natura 2000 network in the future, with significant data already collected.

[20] Or plans or programmes in the case of Appropriate Assessments.

[21] In most cases this is due to selective transposition or delayed implementing legislation. For a relatively up-to-date overview of the status in the Western Balkans, see Maja Pravuljac and Małgorzata Smolak, Are Balkan Countries Safeguarding Their Rivers? A Legal Analysis of Environmental Standards in Six Western Balkan countries, ClientEarth, EuroNatur and Riverwatch, June 2024.

The lack of such assessments results in projects being permitted which destroy unique natural heritage, in many cases before it has even been properly researched. These deficiencies and gaps in the legislation increase the number of legal challenges launched during permitting procedures and increase legal uncertainty for investors.

North Macedonia currently has an excellent opportunity to transpose the remainder of the Birds and Habitats Directive as it is currently revising its Law on Nature Protection. For other countries, like Serbia, Montenegro and Bosnia and Herzegovina, the legislative adjustments that would need to be made to introduce Appropriate Assessments and Article 4(7) assessments are also relatively minor and would not constitute a significant burden.

In Albania, despite recommendations and concerns expressed by both civil society and the European Union, the transposition of the Directives into national legislation still falls short of full alignment with the *acquis communautaire*. In particular, regarding the Law on Protected Areas, Albanian institutions and the government have not yet taken the necessary steps to amend the provisions that permit harm to protected areas and their biodiversity.[22]

7. Conclusions and recommendations

Energy investments can have serious impacts on natural habitats, flora and fauna. Although solar and wind have numerous environmental advantages compared to fossil fuels, hydropower and biomass, even these types of installations can cause harm when built in sensitive locations, with strong cumulative impacts due to their decentralised nature. With the increasing decentralisation of the energy sector, it is not viable to try to build first and add environmental safeguards later.

The EU Birds and Habitats Directives help ensure that energy installations are not built at the expense of natural heritage. And the Water Framework Directive is crucial in minimising the impact of energy projects on water quality and aquatic ecosystems.

It is highly welcome that the European Commission has made a proposal to include parts of these Directives in the Energy Community Treaty, albeit with a rather generous transposition deadline that should in reality be speeded up.

The Commission's proposal strikes a compromise between the need to introduce Appropriate Assessments and the fact that it will take some years for most of the countries to set up adequate networks of protected areas.

[22] PPNEA, Biodiversity conservation within the Green Agenda for the Western Balkans Report - Assessing National Policies in Albania, November 2025.

It allows the countries to start where they are right now, protecting areas already known to be of high value while continuing to investigate and add others.

Implementation of these Directives is an essential precondition for the development of decentralised renewable energy in the Energy Community countries. Clear and well-balanced rules benefit everyone, including investors, who need predictability and clarity in order to plan projects that have a high chance of succeeding.

Including the Directives in the Energy Community Treaty will also allow the governments of the Contracting Parties to benefit from the expertise of the Secretariat in transposition and implementation and provide fresh ideas and exchanges of best practice.

Especially considering the long transposition deadline proposed by the Commission, it is essential that no further delays are allowed to occur in this process. The Energy Community Ministerial Council should therefore approve the inclusion of these Directives in December 2026 without further delay.

Signatories

Aarhus center in BiH	Bosnia and Herzegovina	
ACEG Center	Albania	
Active Mobility Albania	Albania	
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Belgrade Open School	Serbia	
CEE Bankwatch Network	Regional	
CELIM Shqiperi	Albania	
Center for Climate Change	North Macedonia	
Center for Ecological Education and Sustainable Developement	Serbia	
Center for Environment	Bosnia and Herzegovina	
Center for environmental research and information Eko-svest Skopje	North Macedonia	

Center of Modern Skills	Serbia	
Climate Action Network Europe	Regional	
Connector	Serbia	
CoPlan, Institute for Habitat Development	Albania	
Critical Education Centre	Serbia	
Cross-border network of CSOs “LOR - UNESCO Site”	Albania & North Macedonia	
Ecological Movement Padina	Serbia	
Ecology and Research Association	Bosnia and Herzegovina	
ECOPANA	Kosovo	
EcoZ	Kosovo	
EDEN center	Albania	
Eko akcija	Bosnia and Herzegovina	

Eko Centar DELFIN	Montenegro	
Eko Element Bugojno	Bosnia and Herzegovina	
Eko Forum Zenica	Bosnia and Herzegovina	
Ekspertet e Rinj Mjedisor - SHERM	Albania	
Energy cooperative Elektropionir	Serbia	
Environment Engineering Group	Serbia	
Environment Improvement Centre	Serbia	
European Environmental Bureau	Europe	
European Policy Centre	Serbia	
Female initiative	Serbia	
Fortress Movement Smederevo	Serbia	
Foundation Atelier for Community Transformation - ACT	Bosnia and Herzegovina	

Green Home	Montenegro	
Group of Rural Activists of Dibra	Albania	
ILIRIA	Albania	
InoYouth	North Macedonia	
Inspira Vivo	Serbia	
Institute for Nature Conservation in Albania	Albania	
Instituti per Ndryshim e Lidership ne Shqiperi	Albania	
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Non Formal Education Network (ANFEN)	Bosnia and Herzegovina	
Novi put	Serbia	
Ornithological Society “Naše ptice”	Bosnia and Herzegovina	
Platform for Social Development and Innovation	Serbia	
Podrinje anti corruption team	Serbia	
Polekol	Serbia	
Protection and Preservation of Natural Environment in Albania (PPNEA)	Albania	
REC - Reconciliation Empowering Communities	Kosovo	
Regional Action Lab (Re-ACT Lab)	Kosovo (Regional)	
Reset Hub	North Macedonia	
RES Foundation	Serbia	

Resource Environmental Center Albania (REC Albania)	Albania	
Resource Environmental Center Bosnia and Herzegovina (REC BiH)	Bosnia and Herzegovina	
Rivers without Boundaries	International	
Rural Coalition	North Macedonia	
SEED	Montenegro	
Shoqata Flag Pine	Albania	
Shoqata “Unë Gruaja”, Pogradec	Albania	
Team 42	Serbia	
Udruga Dinarica Mostar	Bosnia and Herzegovina	
UNECOOP	Serbia	
United Agro-Environmental Association (Agri-En)	Albania	
Vojvodina Environmental Movement	Serbia	

White Heron 1165	Serbia	
WWF Adria	Regional	
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