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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

38th meeting
Strasbourg, 27-30 November 2018

Other complaints

**Alleged negative impacts to Lake Ohrid and
Galichica National Park candidate Emerald
Sites due to infrastructure developments (“the
former Yugoslav Republic of Macedonia”)**

- REPORT BY THE COMPLAINANT -

*Document prepared by
the Environment Citizens Association “Front 21/42”, “the former Yugoslav Republic of Macedonia”*

- September 2018 -



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Skopje, September 5th 2018

To:
Secretariat of the Bern Convention
Democratic Citizenship and Participation Directorate
Council of Europe

Case: 2017/2 Alleged negative impacts to Lake Ohrid and Galichica National Park candidate Emerald Sites due to infrastructure developments (“the former Yugoslav Republic of Macedonia”)

To be distributed to all Bureau members prior to the Bureau meeting 10-11 September 2018

**OUR POSITIONS ON THE MACEDONIA’S PROGRESS TOWARDS THE
IMPLEMENTATION OF THE RECOMMENDATIONS OF THE JOINT WORLD
HERITAGE CENTRE/ICOMOS/IUCN REACTIVE MONITORING MISSION TO THE
WORLD HERITAGE PROPERTY OHRID REGION**

Dear members of the Bureau,

With this letter we would like to raise our concerns regarding the implementation of the Recommendation No. 6 of the Reactive monitoring mission: *“Put in place a moratorium on any coastal and urban transformation within the World Heritage property, at least until all relevant planning documents (Management Plan, OUV-based Urban/Coastal Master Plans etc.) have been prepared and adopted, effective protective juridical regulations have been approved, and effective control mechanisms are established”*. Although this Recommendation was part of the immediate measures (February 1st 2018), Macedonian authorities still haven’t introduced moratorium on the coastal and urban transformations in the Ohrid Region. Also, with this letter we would like to stress that part of the Macedonian authorities are implementing activities that are in contrary to the Mission’s recommendations.

In February 2018, during the 53rd session, Macedonian Government adopted official information that clearly showed plans for continuation of some of the existing projects on the Ohrid Lake as well as for new coastal transformations. Concerned by this action, on April 20th 2018, Front 21/42, together with other environmental NGOs, submitted official request to the Prime Minister, Mr. Zaev, for immediate implementation of Recommendation No. 6. The Prime Minister did not respond to our letter. We only received official letter from the Ministry of Transport and Connections, stating that according to the Law on Construction the Ministry has no competences to introduce moratorium.

In June 2018, at the Italian - Macedonian Business Forum, the Prime Minister, Mr. Zaev, invited the Italian companies to invest in the current project for the Corridor VIII, a project for which the Mission required revision and additional assessments in *Recommendation No. 1, 2 and 3*. Also, couple of days later the Ministry of Transport and Communications published Draft National Transport

Strategy for the period 2018-2030, which also does not reflect the Mission's recommendation for Corridor VIII.

We would like to raise our high concern regarding the on-going activities in the municipalities of Struga and Ohrid - both municipalities continue to allow/implement construction projects, such as transformations on the Struga coast with concrete platforms, continuation with the hotel in Lagadin, etc.

These activities emphasize the urgent need for moratorium on the coastal and urban transformation within the Ohrid Region. The lack of the implementation of this crucial measure can compromise the efforts for implementation of all of the other recommendations. The implementation of this measure is imposed by the national legislation and it does not require any financial and human resources, time, etc. – it only requires a political will.

In our view the main problem for implementation of Recommendation No.6 is the lack of political will among the main decision makers. This was evident from the first session of the oversight hearing regarding the Law on the Ohrid Region in the Macedonian Assembly that took place on May 22nd 2018 where the following relevant institution gave statement: The Minister for Culture, The Minister for Environment, The Minister for Transport and Connections, the Mayor of Municipality of Ohrid, the Mayor of the Municipality of Struga. None of the representatives stated a will or readiness to designating a moratorium. Some of the representatives even openly stated the opposite - the Mayor of the Municipality of Struga openly stated that he will continue with the urban and coastal transformations on the Ohrid Lake.

The lack of political will was also evident after the regional Meeting of the Ministries for Culture of the South East Europe that took place on June 6th in Ohrid. During the meeting the representative of the UNESCO Office noted the urgent need for implementation of the Recommendation No. 6 and warned the Macedonian authorities that the lack of moratorium can compromise the designation of the Albanian part of the UNESCO region. However, there is no official conclusion for immediate implementation of moratorium from the meeting.

Another recent statement from the Municipality of Ohrid also confirms our concerns. Right after we submitted an open letter to the Macedonian Assembly regarding the implementation of the Recommendation No. 6. the spokesman of the Municipality of Ohrid, Mr. Piperkoski, gave public statement that the Municipality of Ohrid will not introduce moratorium.

Having in mind that this case will be subject of discussion on the next meeting (10th -11th September 2018) we encourage the Bureau members to pay special attention to this case. We strongly believe that placing this case on the agenda of the next meeting of the Standing Committee in November 2018 will contribute towards the urgent enforcement of moratorium on coastal and urban transformation within the property.

With respect,

Aleksandra Bujaroska
Executive Director
Front 21/42

- March 2018 -



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Focal Point for the Periodic Reporting in Europe and North America
UNESCO World Heritage Center

Also submitted to:

Mr. Robert Alagjovovski
Minister of Culture

Mr. Sadula Duraku
Minister of Environment and Physical Planning

Ms. Eleonora Petrova-Mitevaska
Chair of the National Commission for UNESCO

Mr. Zoran Pavlov
President of the Commission for Management of the Natural and Cultural Heritage of the Ohrid
Region

Ms. Irena Stefoska
President of the Commission on Culture
Macedonian Assembly

Skopje, February 19th 2018

OUR OVERVIEW AND COMMENTS
ON THE MACEDONIA'S PROGRESS TOWARDS THE IMPLEMENTATION OF THE
RECOMMENDATIONS OF THE JOINT WORLD HERITAGE CENTRE/ICOMOS/IUCN
REACTIVE MONITORING MISSION
TO THE WORLD HERITAGE PROPERTY OHRID REGION

1. GENERAL COMMENTS AND CONCERNS

Our main concern remains to be the fact that the crucial legal instrument and base for all plans and strategies - the Law on Management of the World Natural and Cultural Heritage in Ohrid Region, adopted in 2010, is still just a pile of paper without implementation and enforcement.

The analysis we conducted on this law, in 2017, resulted with identification of the gaps which prevent the full transposition of the UN Convention, as well as the obstacles to the implementation and enforcement of the law.

We communicated these findings with the Mission representatives in April 2017, but also with our authorities (MPs, the National Commission on UNESCO, the Ministry of Culture, Ministry of Environment, Municipality of Ohrid, the Agency for Promotion of Tourism). In September 2017 we

submitted, to the Macedonian Assembly, a Request for a Public Oversight Hearing¹ for the implementation of the “Law on Ohrid Region”. The Assembly Commission on Culture officially acknowledged the receipt of our Request, but to the time of writing this report, a session to discuss and decide on the organization of the oversight hearing hasn’t been scheduled.

Failing to first amend the law and remove the obstacles to its implementation results in incomplete and/or inappropriate crucial documents, including the much needed Management Plan for the property.

Another key factor for the long-term protection of the World Heritage is the Management Commission, for which even the competences are not yet legally defined. However, Macedonian authorities continue with activities related to the commission, while completely ignoring the lack of basic preconditions for its proper functioning.

Another concern we have is related to some unnecessary administrative delays - the Decision to stop the previous illegal change of the Management Plan for the NP Galicica is a great example of this unnecessary administrative delays. There is no legal obstacle for the Board of the NP Galicica to adopt a decision to stop and abandon the process of amending the plan, this is a simple, one meeting of the Board, activity, clearly regulated in the related law. However, our Government decided to: adopt a decision to assign the Ministry of Environment to inform the NP Galicica about the necessity of halting the process of amending the Management Plan.

In December 2017 the Macedonian Government created a working group for preparation of an action plan for the UNESCO recommendations. The Ministry of Culture informed us that this group already drafted the action plan by mid January 2018. The action plan is not publicly disclosed, but having in mind the short period of its preparation, we are worried about the quality of the activities envisioned in this plan. Lack of transparency and public discussion adds to this worry - we sent a request to participate in this group and contribute to the action plan, but the Ministry replied that it consists only of governmental representatives. The positive aspect of this reply is that the authorities confirmed taking into account the civil sector when the discussion on the current law will be on the working group’s agenda.

Another great concern we have is related to the intention of our authorities to revise, instead of abandon, the destructive infrastructure plans for the region. The intention to first revise the projects and then revise the draft Management Plan (which should regulate which projects can and can not be implemented in the property) brings necessary delays and waste of resources, in our view.

Last, but not least, we want to confirm our previous concern about the strategic environmental assessment – this crucial step for proper nature protection, as well as for early and meaningful participation of all related stakeholders, remains to be avoided and/or conducted as a pure legal formality. The approach is reflected in the preparation of the Tourism Strategy and the Management Plan.

Based on these general concerns, these are our thoughts on the possibilities to overcome them:

- I. Organize as soon as possible the public oversight hearing for the Law on Management of the World Natural and Cultural Heritage in Ohrid Region, at the Macedonian Assembly; and create a solid base and framework for all documents and plans which have to be regulated with this law;
- II. Utilize the opportunity for UNESCO funding and submit a project proposal for the preparation of the Management Plan (and SEA);
- III. Halt all plans and projects, including the revision of these plans and projects, until proper legal framework is in place, especially the Management Plan (previously defined in the related law).

¹ An oversight hearing is a legal instrument for the Assembly to formally assess the implementation and enforcement of the laws and other activities of the Government and state bodies. As a result of the hearing a set of conclusions and recommendations are adopted. The relevant Assembly Commission has the authority to organize an oversight hearing and monitor the realization of the adopted conclusions and recommendations.

2. COMMENTS ON THE PROGRESS TOWARDS THE IMPLEMENTATION OF EACH RECOMMENDATION OF THE 2017 JOINT WORLD HERITAGE CENTRE/ICOMOS/IUCN REACTIVE MONITORING MISSION TO THE PROPERTY (POINT 7, DECISION 41 COM 7B.34 BY THE WORLD HERITAGE COMMITTEE)

• **UNESCO Recommendation 1)**

Develop and submit to the World Heritage Centre, for review by the Advisory Bodies, a comprehensive comparative study of alternative routes for the European Corridor VIII railway including those that do not pass in close vicinity of the lakeshore, and in particular avoiding one of the last well-preserved stretches of the lakeshore on the Albanian-Macedonian border (including the option identified and proposed by ICOMOS, based on the mission's visit to the site, and presented in Annex 5, map 6.5.2.5.)

Our comment:

We submitted a request for information regarding this issue. The "Macedonian Railways Infrastructure" official reply was: "The procedure for the current route is finalized. In order to implement UNESCO recommendation for an alternative route, the following is needed:

- *A brand new corridor;*
- *Macedonia and Albania have to sign a new agreement for this new corridor;*
- *After the agreement is signed, a new study, new architectural design and a new conceptual design need to be developed.*

We informed the ministry of Culture for all the above."

In our view, the Macedonian Government didn't do anything towards this recommendation and considering the fact that the development of the current route took 3 years and over 7 million Euros, we don't find it plausible to see a progress towards this recommendation any time soon.

• **UNESCO Recommendation 2)**

With regards to the construction of highway A2:

- a. Ensure that sufficient passages for people and wildlife are provided that should be wide and high enough to enable smooth crossing by their users, and which should include at least one of the pipe culverts every kilometer with a diameter of two meters;
- b. Upgrade the existing road between Struga and the Albanian border, rather than tracing a new highway, in view of the fragility of the environment in that part of the property, and to the closeness of the lake;
- c. In case of new archaeological findings during the construction works, suspend all construction until the necessary research and inventory work has been carried out.

Our comment:

We submitted a request for information regarding this issue. The Public Enterprise for State Roads official reply was that "due to the UNESCO recommendations EBRD redirected the funds they previously allocated to the A2 Highway, to other roads".

We don't consider the EBRD withdrawal of the funds equal to the recommended revision. In order to secure proper implementation of this recommendation we think that the project documentation should be revised and Macedonian Government needs to secure financial resources for this process.

• **UNESCO Recommendation 3)**

Assess the cumulative impacts of the railway and highway A2 on the Outstanding Universal Value (OUV) of the property, and justify the choice of not pairing them, or not changing their alignments in order to bring them closer in the northern part of the property.

Our comment: *To our knowledge, nothing is done in relation to this recommendation.*

- **UNESCO Recommendation 4)**

Permanently abandon plans for the construction of sub-sections (a) and (e) of the A3 road, and suspend the construction of other sub-sections of the A3 road until all appropriate measures are taken to avoid and minimize their potential impacts on the OUV of the property, in line with the specific recommendations made in this report.

Our comment: *The Public Enterprise for State Roads official reply was that “due to the UNESCO recommendations EBRD redirected the funds they previously allocated to the A3 Road, to other roads”.*

We don't consider the EBRD withdrawal of the funds to imply permanent abandonment of the road sections.

The A3 road from Ohrid to St. Naum (as planned with sub-sections a and e) is still envisioned in the draft Amendments of the Management plan of the National Park (NP) Galichica. Since the completion of the NP Galichica Board, on December 12th 2017, there is no legal barrier for the NP Galichica Board to adopt a decision to halt the revision of the Management plan.

The same A3 road from Ohrid to St. Naum (as planned with sub-sections a and e) is also envisioned in a number of official national strategic documents, such as the National Transport Strategy, The National Plan for Investments in Infrastructure, etc.

The solution we see for this issue is: NP Galichica Board adopts a Decision to cancel the amending of the plan and all proposed projects; all relevant national strategic documents are revised and the plans erased in accordance with this recommendation.

- **UNESCO Recommendation 5)**

Permanently abandon plans for the construction of the Galičica ski center project, maintain the current internal national park zoning, and consider developing ecotourism options that would not negatively impact the property.

Our comment:

The Government adopted a decision to assign the Ministry of Environment to inform the NP Galichica about the necessity of halting the process of amending the Management Plan. We see this as unnecessary complication and prolongation of a process which can be finalized with one meeting of the NP Galichica Board, which has all the authority and independence for such decision.

Regarding the second part of the recommendation, development of eco tourism projects instead – to our knowledge, nothing is done in relation to this, up to date.

- **UNESCO Recommendation 6)**

Put in place a moratorium on any coastal and urban transformation within the World Heritage property, at least until all relevant planning documents (Management Plan, OUV-based Urban/Coastal Master Plans etc.) have been prepared and adopted, effective protective juridical regulations have been approved, and effective control mechanisms are established.

Our comment:

To our knowledge, not only there is no moratorium on the coastal and urban transformation, but in October 2017 the Municipality of Ohrid started the process of additional urbanization of the coastal area Gorica2. We were also informed by the local community that the urban transformation continued in Lagadin (situated on the Lake Ohrid coast) - the construction of the illegal hotel was not suspended and even a permit for a new hotel was issued by the Mayor of Ohrid in November 2017.

During our legal analysis of the procedures for the beach concrete platforms in the Lake Ohrid we identified a legal gap in the Law on Construction. The Law on Construction enables the authorities to approve large construction projects within the lake itself as an “urban equipment” (a procedure meant for approval of garbage bins, benches, etc. in urban areas). This procedure excludes any public information and consultation and cannot be challenged in court. We think that the Law on

Construction must be revised in order to reflect this recommendation. This should also be part of the public oversight hearing at the Assembly, within the revision of the obstacles to the implementation of the “Ohrid Law”.

- **UNESCO Recommendation 7)**

Finalize all relevant planning documents (Management Plan, OUV-based Urban/Coastal Master Plans, OUV-based Tourism strategy, including regulations for tourism activities, movable facilities at the beaches and open-air commercial activity) and submit them to the World Heritage Centre for review by the Advisory Bodies; It is strongly recommended that the SEA process be used for amending and strengthening parts of the Management Plan.

Our comment:

All planning documents for the region need to be in compliance with the Management Plan and its quality will greatly define the long-term protection of the site. In our opinion it's not possible to have a good quality Management Plan without up to date inventory of the natural and cultural heritage.

One of the reasons for the absence of this crucial document is the lack of full and complete re-evaluation of the property. The last evaluation of the natural values of Lake Ohrid was done in early 1980s, under completely different legal requirements and probably very different state of the natural values. We think that without re-evaluation, and consequently compilation of the inventory, it's not possible to define proper actions for protection of the property (regulated with the Management Plan). This is, in our view, the only logical sequence of activities that secures proper OUVs based Management Plan.

We also think that only after the preparation of the OUVs Management Plan and proper SEA, an OUV-based Tourism Strategy can be prepared.

Regarding the draft Tourism Strategy for Municipality of Ohrid – despite the legal requirement this document was not available for the public, we gained access to it in September 2017, after we submitted a complaint to the Administrative Commission. The draft Strategy has, in our opinion, many issues: breach of the Law on Environment – no SEA was started with the preparation of the document; wrong Guide was used for its preparation – one for tourism in developing countries, instead of the one for tourism in world heritage sites; there is no mention of the OUVs and even of the entire World Heritage Site; key stakeholders were not part of its preparation, including biodiversity experts; etc. Front 21/42 prepared comments on the draft text and shared them with Swiss Contact – the organization which funded the preparation of the strategy. Our position is that the current Strategy for Tourism Development in Municipality of Ohrid should be abandoned and a new one developed after the adoption of the Management Plan. The current practice is not only resulting with an inappropriate document, but is also a waste of resources – the Strategy will have to be revised as soon as the Management Plan is put in place.

- **UNESCO Recommendation 8)**

Rigorously ensure that cumulative impacts of any infrastructure, urban and/or coastal development projects on the OUV of the property are assessed during the Strategic Environmental Assessment for Ohrid Region Management Plan (2016-2025), and submitted to the World Heritage Centre, for review and comments by the Advisory Bodies before any decisions are made that would be difficult to reverse, in accordance with paragraph 172 of the Operational Guidelines.

Our comment:

The SEA process starts with an adoption of a Decision for and the scope of the SEA, by the Ministry of Culture - until the writing of this report the Ministry of Culture did not adopt a decision for the commencement of the procedure and did not determine the scope of the SEA.

The lack of SEA is also a breach of our national law. At the moment there is an ongoing case in front of the Administrative Court against the Ministry of Culture for this breach, initiated by Front 21/42.

- **UNESCO Recommendation 9)**

In relation to illegal constructions within the property:

- a. undertake a detailed inventory of all existing illegal constructions within the property and carry out relevant Heritage and Environmental Impact Assessments (HIA and EIA) to assess their impacts on the OUV of the property,
- b. remove all illegal constructions within the property and in particular within the Galičica National Park, which, based on the above-mentioned HIAs and EIAs are considered to represent a threat to the property, including its authenticity and conditions of integrity, and
- c. ensure the strict enforcement of existing laws and regulations to prevent any further illegal construction within the property.

Our comment:

To our knowledge, nothing is done in relation to this recommendation. We would like to note that there is no national legislation that regulates the HIA mechanism. In our view, the Law on Culture should be amended in order to include HIA.

- **UNESCO Recommendation 10)**

Undertake a thorough assessment in view of defining and establishing a buffer zone for the property, in order to strengthen its protection, which should ideally include Prespa Lake, as an important part of the connected Ohrid-Prespa ecosystem, as well as the remaining part of Galičica National Park.

Our comment:

To our knowledge, nothing is done in relation to this recommendation. We would like to stress out that the current Law on Management of the World Natural and Cultural Heritage of Ohrid Region lacks provisions for designation and definition of the buffer zone for the property. This is one of the amendments we propose to be discussed at the public oversight hearing, once it takes place.

- **UNESCO Recommendation 11)**

Clarify the decision-making mechanism and tasks and functions of the Commission for Management of the Natural and Cultural Heritage of the Ohrid Region, and establish genuine participative approaches in the management of the property to ensure adequate involvement of local communities and civil society organizations.

Our comment:

A new Commission for Management of the site was created on February 1st 2018, without previous fulfilment of this recommendation: the decision-making mechanism, task and function of the Commission were not clarified. The whole process was not public.

- **UNESCO Recommendation 12)**

Strengthen transboundary cooperation with the State Party of Albania in the protection and conservation of the property, in particular on monitoring the lake's biodiversity and water quality, exchanging relevant scientific data, and establishing common management actions such as jointly agreed fishing quota.

Our comment:

The Ministers of Environment from Macedonia and Albania had a meeting in December 2017, the management of Lake Ohrid was one of the topics.

We would like to stress that the Law on Management of the World Natural and Cultural Heritage of Ohrid Region does not regulate the cross border management. This is one of the amendments we propose to be discussed at the public oversight hearing, once it takes place.

- **UNESCO Recommendation 13)**

Improve the central wastewater treatment system for all settlements in the Lake Ohrid basin, and enable education and training of relevant staff to build their technical capacities.

Our comment:

We don't have sufficient information/knowledge on this issue.

- **UNESCO Recommendation 14)**

Provide to the World Heritage Centre, for review by the Advisory Bodies, detailed information about the chemical composition of wood pylons used for the walking boards in the Bay of Bones Museum, including a national expert opinion about the threat potentially posed by the chemical concentrations used on the pylons to fish spawning in the lake waters below the museum.

Our comment:

We don't have sufficient information/knowledge on this issue.

- **UNESCO Recommendation 15)**

Develop and implement appropriate measures to stabilize the water level of Lake Ohrid, including regular monitoring and control of discharge of lake waters into the Crn Drim river by Macedonian power plants company ELEM, and explore options to re-divert the Sateska river back into the Crn Drim river.

Our comment:

Since September 25th 2017, JS ELEM established regular water level monitoring and public information.

To our knowledge the procedure for Sateska River re-diverting is not initiated. Relevant documents and studies (environmental assessment, remediation plan, etc.) for this procedure are not yet prepared.

- **UNESCO Recommendation 16)**

Close and clean up the Bukovo landfill and all illegal waste dumping sites within the property, and establish a functional communal waste collection system.

Our comment:

A project for a regional landfill, outside the protected area, has been developed with EU funds. The local community, from the area where the new landfill was planned, voted against the project, on a referendum. The previous Mayor of this municipality was also strongly against it.

The project for the new regional landfill does not tackle the close and cleanup of the Bukovo Landfill, nor the illegal waste dumping sites within the property.

- **UNESCO Recommendation 17)**

Take all necessary measures to control invasive species in Lake Ohrid and ensure the regular implementation of a biodiversity monitoring programme, and enforce legal provisions to ensure the protection of endangered and endemic species.

Our comment:

We don't have sufficient information on these issues, but would like to point out the legal steps towards proper biodiversity monitoring programme:

Step 1: Revalorisation of the natural values of Lake Ohrid;

Step 2: Law on reproclamation of the Lake Ohrid as a protected Area, based on the revalorisation;

Step 3: Management Plan for the Lake Ohrid, based on the law on proclamation;

Step 4: Biodiversity Monitoring Programme, based on the Lake Ohrid Management Plan.

- **UNESCO Recommendation 18)**

Reduce motorized traffic in Ohrid old town, with time slots for access and restrictions to parking, referring to examples of good practices from other historic city centers around Europe and globally.

Our comment:

We don't have sufficient information/knowledge.

- **UNESCO Recommendation 19)**

Implement appropriate measures in order to prevent any loss of archaeological remains and deterioration of architectural and urban planning coherence, including by enhancing the surroundings of historical buildings and archaeological sites by landscaping and public space improvement, with observance of authenticity and integrity, avoiding shapes and materials too conspicuous or estranged to the site and local culture and flora (e.g. palm trees), as well as avoiding large size commercial billboards within the property, replacing them with smaller size posters.

Our comment: *We don't have sufficient information/knowledge.*

Front 21/42
Iskra Stojkovska
Executive Director

Additional Note:

The Government Report on the country's progress towards the implementation of the Reactive Monitoring Mission was published on the day of sending this document – comments to the official report are not included here.