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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

37th meeting
Strasbourg, 5-8 December 2017

Other complaints

**Development of a commercial project in Skadar
Lake National Park and candidate Emerald site
(Montenegro)**

- REPORT BY THE GOVERNMENT -

*Document prepared by
The Ministry of Sustainable Development and Tourism, Montenegro*

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- 17 AUGUST 2017 -



MONTENEGRO

MINISTRY OF SUSTAINABLE DEVELOPMENT
AND TOURISM

***DIRECTORATE GENERAL OF DEMOCRACY
BERN CONVENTION***

Ms Iva Obretenova, Secretary of the Bern Convention

Podgorica, August 2nd 2017

Dear Ms Obretenova,

With regard to Your letter dated April 11th 2017 related to the provision of relevant information on the implementation of the project Porto Skadar Lake, the Ministry of Sustainable Development and Tourism hereby informs You of the following:

1) The state of play of the new Spatial Plan of the National Park and how this draft Plan is articulated with the Mihailovći State Location Study.

Following Decision of the Government of Montenegro to draw up a Special Purpose Spatial Plan Skadar Lake, tender for the selection of a legal person in charge of drafting a document was announced and after the completion of the procedure on April 7th 2015, a Contract was signed with the Consortium that started the development of this document. Regarding Spatial Plan and in accordance with the Law on Strategic Environmental Impact Assessment ("OG of the RoM, no. 80/05 and "OG of MNE, no. 73/10, 40/11, 59/11) a Strategic Environmental Assessment is being implemented (SEA). In addition, for the purpose of the Plan, a Study on the Protection of Cultural Heritage was developed, with which all interventions in the area will have to be harmonised.

Special Purpose Spatial Plan for the National Park Skadar Lake is currently being drafted. A concept of spatial organisation of the National Park Skadar Lake was provided through Draft Special Purpose Spatial Plan, for the network of settlements and locations - hence it was proposed that capacities at the location Mihailovici should be reduced. More specifically, during development of Special Purpose Spatial Plan for the National Park Skadar Lake the Drafting Authority (Consortium engaged to develop a Plan), in accordance with the Terms of Reference for the development of the Plan was obliged to integrally examine much wider area than the one encompassed by the State Study of Location Mihailovići (hereinafter: SSL), analyse this location again and define optimal capacities, i.e. future planning treatment of this area.

Considering that in the process of developing Special Purpose Spatial Plan for the National Park Skadar Lake the analysis established that capacities adopted at the level of SSL (654 tourism beds) are large in comparison with total capacities estimated for implementation of the selected sustainable development scenario of the National Park, planner proposed solution for reducing capacities for the location Mihailovići.

Draft Special Purpose Spatial Plan for the National Park Skadar Lake is a result of work of the planning team that conducted comprehensive analyses regarding natural characteristics and created values, along with integral examination of the National Park as a whole. From the very beginning of development of this Plan, participation of the public was provided through founding of the Forum of citizens which had an important role in choosing future scenario regarding development of this area. Special Purpose Spatial Plan for the National Park Skadar Lake was submitted for opinion to competent institutions, which will, each from its standpoint, examine the validity of the complete planned solution for Skadar Lake area as well as for the specific location.

Proposed amendments to the Special Purpose Spatial Plan for the National Park Skadar Lake, in accordance to the Law on Spatial Development and Construction do not apply to holders of valid building permits, which is the case here. However, we would like to point out that SSL „Mihailovići“ which was adopted in accordance with the procedure prescribed by the Law (of which we informed you during 2016) contains a guideline according to which its planning solutions are valid for 3 years from the date of adoption (it was adopted on October 23rd 2014), while investors are obliged to initiate construction within 2 years from the date the building permit was issued (March 27th 2015) or they forfeit the right to construct.

2) The state of development of the commercial project and any mitigation measures planned

Project „Porto Skadar Lake“ has been implemented within the scope of SSL „Mihailovići“ which is comprised within the National Park „Skadar Lake“. The decision on developing the SSL „Mihailovići“, on the basis of Special Purpose Spatial Plan Skadar Lake, was adopted by the Government at the session held on October 4th 2012. The scope of the SSL „Mihailovići“ relates to Zone III-buffer zone of the National Park „Skadar Lake“. All issues of relevance for the preservation of Skadar Lake were elaborated in the **Report on the Strategic Environmental Impact Assessment** (hereinafter: **Report on the SEA**). Furthermore, due to the location specificity during development of the SSL „Mihailovići“, in addition to the **Report on the SEA**, a **Study on Landscape Protection and a Study on the hydrological-hydrogeological characteristics of the terrain of the location** were also drafted. Draft of the SSL „Mihailovići“ and Draft Report on the SEA were sent for opinion to all relevant institutions, and all opinions received have been treated and addressed in accordance with the legal procedure.

The public debate on the Draft of the SSL „Mihailovići“ and Draft Report on the SEA was held in the period from 7th to 22nd February 2014. During the Public debate which took place at the Secretariat for planning and spatial development and environmental protection, or at the Round Table held on 19th February 2014 in the Old Royal Capital of Cetinje, there were no interested parties. Observations were submitted by: Old Royal Capital of Cetinje, as well as interested parties: MJ Property Podgorica and Montenegro Resort Company.

The state authority responsible for implementing the procedure for strategic environmental impact assessment, i.e. the Environmental Protection Agency (hereinafter: EPA), in August 2014, gave its approval to the Report on the SEA.

On October 23rd 2014, the Government passed the Decision on the adoption of SSL „Mihailovići“ (“OG of MNE” no. 49/14). SSL „Mihailovići“ defines guidelines and conditions of nature protection envisaged in order to prevent, reduce or eliminate, to the greatest extent possible, adverse impacts on human health and the environment which could be caused through implementation of this planning document.

Pursuant to the Law on Environmental Impact Assessment (“OG of RoM” no. 80/05, “OG of MNE”, no. 40/10, 73/10, 40/11, 27/13), Montenegro Resort Company submitted to the EPA the Environmental Impact Assessment Study (hereinafter: EIA Study) of the tourist village "Porto Skadar Lake". At the public debate, which was held in November 2014, except for the representatives of Cetinje, investors and drafters of the EIA Study there were no other interested parties.

After all the legally prescribed procedures had been conducted, and on the basis of the opinion of a Multidisciplinary Commission, in January 2015, the EPA gave its approval to the EIA Study

of the tourist village "Porto Skadar Lake". This document, in accordance to the Rulebook of the content of Environmental Impact Assessment Study ("OG of MNE", no. 14/07) defines the conditions and measures to prevent, reduce or eliminate negative environmental impacts, taking into account the sensitivity of the area at three levels: during construction, exploitation or in the case of accidents. These measures for preventing, reducing or eliminating negative impacts during the implementation of the project are specified in the EIA Study through Chapter 7 relying on laws and subsidiary legislation which contain normatives and standards whose application contributes to protection of environment. The EIA Study, through the Environmental Impact Monitoring Programme for the construction of the tourist settlement Porto Skadar Lake emphasises, amongst other things, that Environmental Impact Monitoring Programme established biodiversity monitoring for the purpose of, as stated in the Study, preservation and functioning of the most significant/ valuable locations within the project area. Furthermore, the EIA Study for the construction of the tourist settlement Porto Skadar Lake stresses, amongst other things, that Environmental Impact Monitoring Programme defined obligations that if during the execution of preparatory work a habitat or a species is found from the Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, Protections Study must be developed and protection zones must be defined, which could, possibly, lead to changes in the project.

Regarding the status of development of the commercial project and planned mitigation measures, the investor of the project, Montenegro Resort Company, began with preparatory works (cleaning of terrain) in the beginning of December 2016, in accordance with the building permit issued on March 27th 2015 by the Ministry of Sustainable Development and Tourism. Administration for Inspection Affairs – Ecological Inspection has conducted inspection control on these works and reached a decision on November 15th 2016 which ordered the investor to implement measures relating to implementation or conducting research for the "Study on baseline condition of biodiversity", which needs to be finalised by the end of preparatory works, as specified by the EIA Study.

Acting upon the decision of the Ecological Inspection, the investor Montenegro Resort Company initiated development of "Study on baseline condition of biodiversity", which was created by the expert team of the University of Montenegro (Faculty of Science and Mathematics, Department of Biology) headed by prof. dr. Vladimir Pesic. Other members include: dr. Miloje Sundic, prof. dr. Danka Petrovic, prof. dr. Drago Maric and Ondrej Vizi. "Study on baseline condition of biodiversity" was completed and submitted to the Administration for Inspection Affairs on May 24th 2017. The Study will serve as a base for further monitoring of biodiversity during performance of works in this area.

Additionally, acting upon decision of the Ecological Inspection, the investor executed measurement of air quality emissions ("zero state") through an authorised laboratory (The Centre for Ecotoxicological Research) at this location. Furthermore, Montenegro Resort Company developed a Waste Management Plan which received approval from the Nature and Environment Protection Agency on March 30th 2017.

The investor, Montenegro Resort Company, addressed the Ministry of Sustainable Development and Tourism on February 14th 2017 with a request for obtaining a building permit for a construction of access road which was forwarded by the Ministry to the Old Royal Capital Cetinje, since this matter is in the jurisdiction of the local self-government, according to the Law.

In any case, competent inspections, particularly Ecological Inspection, shall further monitor activities on construction of this complex, in accordance with its powers.

3) The results of the on-going scientific research and investigations aimed at reconsidering the candidate Emerald sites boundaries in the country, including the Skadar Lake site

The Project "Establishing Emerald network in Montenegro" has been implemented in two stages, carried out in 2006 and 2007 and it was completed in 2008 when 32 areas have been agreed on, identified mainly on the basis of available literature information. For that reason precisely, the Ministry of Sustainable Development and Tourism formed an Emerald Working Team which prepared the Action Plan for further revalidation and review of these sites.

As you have been already informed, as of April 2016 project "Establishing NATURA 2000 Network in Montenegro" funded from IPA funds has begun. This project will provide detailed information on selected locations, including precise delineation of boundaries, based on research of species and mapping of habitats on the field. An intensive mapping of selected locations is underway, and a project that has engaged a large number of international and domestic experts is taking place with satisfactory dynamics. As this project covers only a part of the land territory of Montenegro, the Ministry of Sustainable Development and Tourism will, through the IPA instrument, initiate similar projects in order to map the entire territory of Montenegro.

Thanks to the all above started and planned project activities, based on the internationally accepted methodology and expert support, Montenegro will in the following period have precise and clear data on the sites that possess the biological and remaining characteristics that make them candidates for protected areas in accordance with the national Legislation and confirmed international agreements, including data on the borders of these areas, and we will inform you about that in a timely manner.

4) Your authorities opinion on the feasibility of organising a fact finding mission to the area in 2017, in cooperation with other international organisations and Conventions

The Ministry of Sustainable Development and Tourism is open for dialogue both with the Secretariat of the Bern Convention and the secretariats of other conventions in the field of nature conservation, with a view of promoting and preserving natural resources of Montenegro.

Montenegro is fully devoted to the environmental protection, as well as to improvement of protected natural resources system, and compliance and consistent application of all international standards in this field. As a country in the EU accession process, the largest part of the EU legislation in the field of nature protection has already been transposed into our national legislation. Hence, we believe that visit of the experts of the Council of Europe as well as other international organisations and conventions would be of great use in terms of providing guidelines and recommendations which would assist in implementation of policies and measures for preservation of the protected area, National Park Lake Skadar. In the end, open dialogue and cooperation with all relevant representatives of international organisations and conventions are necessary since Montenegro builds its future on the principles of sustainable development along with promotion of responsible attitude towards environment.

Finally, we would like to emphasise that the Ministry of Sustainable Development and Tourism is at your disposal for any additional information and explanations, both with regard to the development of the Special Purpose Spatial Plan for Lake Skadar National Park and further developments concerning the project Porto Skadar Lake, as well as for any other questions that may be of interest to the Secretariat. We take this opportunity to inform you that the EIA Study will be sent in due time, upon its translation which is ongoing. Also, we will continue to conduct this process, and indeed everything in its jurisdiction, openly and transparently. This means that we will timely inform domestic public and international partners on all important aspects related to this matter.

Sincerely yours,

MINISTER
Pavle Radulović

SECRETARY OF STATE
Saša Radulović

DIRECTOR GENERAL
Ivana Vojinović

- 6 MARCH 2017 -



MONTENEGRO

MINISTRY OF SUSTAINABLE DEVELOPMENT
AND TOURISM

Podgorica 6 March 2017

***For Mr Rudolf Abraham – Lake Skadar and Porto Lake Skadar
development queries***

1) How do you feel such a development will have a positive effect on the environment and exceptional biodiversity of the chosen site (preserving which must surely be a priority for the Ministry), on Lake Skadar National Park in general (RAMSAR Site, KBA, proposed for UNESCO Biosphere status), and on sustainable tourism in the area?

- The implementation of the “Porto Skadar Lake“ project is planned within the 3rd zone of National Park „Skadar Lake” in which according to the Law on Nature Protection, sustainable activities are allowed. The tourist complex area of 11.85 ha will be formed on the principle of Eco Lodge (eco-village) and is planned at the location of Biški rep in the western part of the State Study for Mihailovići (hereinafter: SSL) which is planning document based on which this project has been developed.

Considering that Skadar Lake has also been a Ramsar site since 1995, ever since the beginning of development of the SSL there has been a sensitive treatment of this important freshwater wetland habitat. All issues of relevance for the preservation of Skadar Lake as a potential Natura 2000 habitat, in the context of adapting the construction of structures in the Ramsar area, were elaborated in both the **Report on the Strategic Environmental Impact Assessment (SEA Report)** and the **Environmental Impact Assessment Study (EIA Study) of the tourist village "Porto Skadar Lake"** on which competent authority- **Environmental Protection Agency** gave its approval. Laws regulating SEA and EIA procedures are 100% aligned with the EU Acquis.

Both documents **SEA Report and EIA Study** predict close monitoring from the very beginning of the project to the end of realization, allowing the competent institutions to react immediately if any violation or threat to protected species would be made. One of the quotes from the SEA Report is the following: *„Bearing in mind the sensitivity of the area, located in the northwestern part of Skadar Lake and is an important habitat for many plant and animal species, in order to minimize the possible impact of implementation of the planning document, the Agency requires the realization of it in accordance with environmental protection measures prescribed in SEA Report. Also, during the construction and use of planned projects it is necessary to implement a monitoring program of implementation of the plan on the environment and human health, in order to identify unforeseen adverse impacts in the early stages and to timely define appropriate measures to reduce or eliminate them. “.*

EIA Study which is more detailed document **defines the conditions and measures to prevent, reduce or eliminate negative environmental impacts, taking into account the sensitivity of the area.** For example, one of the quotes from the Study is the following: *“If during excavation works for roads and objects on the location developer encounters any paleontological, mineral or similar findings, that represent geoheritage, he is obliged to stop the works and notify authorities, so they can*

gather findings and do the necessary research and other actions if needed.” EIA Study recommended that the so called “Zero State Study of Biodiversity” has to be partially implemented during the execution of the preparatory works.

In order to **preserve exceptional biodiversity** which is of outmost importance for this Ministry and to minimize potential negative impact on environment, as well as due to the location specificity, during development of the SSL „Mihailovići“, in addition to the SEA Report and EIA Study, a **Study on Landscape Protection and a Study on the hydrological-hydrogeological characteristics of the terrain of the location were also drafted.**

On top of above mentioned and in order to be timely informed whether during preparatory works at the location Biški rep measures from the EIA Report are fully implemented, in January 2017 Ministry asked Inspection Administration-Department of Environment to send information related to the monitoring of biodiversity. In reply which was submitted by the Inspection Administration Ministry was informed that in mid-December 2016. Ecological Inspectorate ordered the investor to carry out research in order to determine the “*zero state of biodiversity*”. For that purpose investor engaged a professional team from the Faculty of Sciences (University of Montenegro) that concluded that field investigations will be carried out during April 2017, in order to cover spring aspect that is the most important for assessing the zero state. It is expected that the Report with the assessment of biodiversity at the site Biški rep will be prepared and submitted in May 2017.

Finally, analysis of the consulting company which drafted planning document concluded that this project is economically viable and will give additional positive impact to the tourism valorization, with full implementation of environmental protection measures, and will create additional room for increasing revenues of the NP Skadar Lake, municipality and the state.

2) How do you respond to the criticism that the group preparing the Strategic Environmental Impact Assessment did not actually include a biologist? Was this shortfall compensated for by consulting experts in biodiversity from the Natural History Museum, etc? My understanding is that the details of the Assessment were severely flawed – for example, one of the species included is the Egyptian Vulture (not present at Lake Skadar for many years), while another, the Eurasian Otter (categorised as Near Threatened on the IUCN Red List), is not mentioned?

- Development of EIA in Montenegro is regulated by the Law on Environmental Impact Assessment. Pursuant to the article 19 of this Law the EIA can be prepared by a legal person or entrepreneur, if they are registered in the appropriate manner for performing activities of planning, engineering and developing studies and analyzes. Legal person or entrepreneur has to establish a Multidisciplinary Team for the preparation of the EIA Report, which is composed of persons qualified to analyze the impact of the project on some important segments of the environment, and every individual participant must satisfy the scientific position, that is proved by submitting proper evidence with a Study. *The company "Eco Aqua Consulting" Podgorica had formed a Multidisciplinary Team in which Team leader is a graduate Construction Engineer with a MSc in ecology and environmental protection.*

Multidisciplinary Committee of the Environmental Protection Agency (3 members of the Committee being biologists gave its consent on EIA Report) reviewed the EIA Report and noted that it had been made in accordance with the applicable legislation and standards for the construction of this type of structures and that the Report identified relevant measures for prevention, reduction and elimination of potential adverse effects on the environment. In the course of development of the EIA Report and the SEA Study, a number of relevant documents were used, including those related to scientific and research work of renowned experts and the documents which have been the result of research projects on natural values of the Lake Skadar area.

Finally, Species Neophron percnopterus (Egyptian vulture) is not mentioned in the EIA Report, and the species of Lutra lutra (Eurasian otter) is mentioned in Section Study referring to the description of the mammals on page 80, as a protected species on national level.

Also, we want to point out that the National Park "Skadar Lake" is managed by Public Enterprise of National Parks of Montenegro-PENP who has employees in the field of biodiversity, including ornithologists and mammologist. During the entire process of drafting planning document and relevant Studies, PENP was closely kept informed.

3) Could you comment on why, or in what way, you feel it is more positive to start a new construction project like this in Zone III of the national park, rather than giving priority to/encouraging projects in an area of existing development outside the national park itself, for example Rijeka Crnojevića?

- These two areas are not competing when it comes to the realization of the development project. The primary goal of competent institutions is to have fulfilled all the legally prescribed procedures in each and every planning document and/or projects intended to be developed in Montenegro no matter if they are planned in protected areas or elsewhere.

4) The Ministry has stated that the Public Consultation for the Draft State Location Study and the Draft Report on the Environmental Impact Assessment were held 7–22 February 2014, and that there were ‘no interested parties’ in attendance. Can you confirm in what manner the public, including potentially interested parties, were made aware of the Public Consultation in advance?

- The process of the Public hearings is regulated by the Regulation on the procedure and manner of conducting public hearings ("Official Gazette of Montenegro", No. 12/12). The Regulation defines in which manner and how the public will be notified. According to article 11 public hearings began with publishing a public invitation for participation in the debate on the Ministry's website, e-government portal and in one printed media that is published in Montenegro and covers population potentially affected by the project. All information can be found on the links below: <http://www.euprava.me/> and <http://www.mrt.gov.me/ministarstvo>.

The public debate on the Draft of the SSL „Mihailović“ and Draft SEA Report was held in the period from 7 to 22 February 2014. During the Public debate which took place at the Secretariat for planning and spatial development and environmental protection, or at the Round Table held on 19th February 2014 in the Old Royal Capital of Cetinje, there were no interested parties. Observations were submitted by: Old Royal Capital of Cetinje, as well as interested parties: MJ Property Podgorica and Montenegro Resort Company.

At the public debate for EIA Study of the tourist village "Porto Skadar Lake" which was held in November 2014, except for the representatives of Cetinje, investors and drafters of the EIA Study there were no other interested parties.

5) How do you respond to the criticism that there is a significant conflict of interest in the proposed development? More specifically, is it true that the company working on the Special Spatial Plan (RZUP) is owned by the Prime Minister's brother? Also could you comment on the credibility of the investor in terms of their environmental record/credentials, in light of some of their claims which have been shown to be false (eg UN Green Globe certification).

- In this proposed development there is no single element of potential conflict. Consortia which was in a legal way selected (fully in accordance to the Law on Public Procurement) to draft Special Purpose Spatial Plan is CAU/RZUP/MonteCep.

Ministry is competent to implement Law on Spatial Planning and Construction which defines clear procedures and documentation based on which a building permit has to be issued. Credibility of investors is not relevant in the process of issuing a building permit for the construction on the own land. Namely, the credibility of investors, as well as the existence of adequate evidence on possession of financial means may be relevant in a project of joint venture or privatization process, but certainly

not for a building permit for the planned construction on own land. Protection here is provided by the time limit of an issued building permit set by the Law.

6) To access the moorings/marinas (some to be newly built, others a redevelopment of existing facilities I believe?), is it true that the plan would be to dig a channel through the lakebed?

- Plan did not allow digging of any tunnel through the lakebed. SSL even obliged investor to provide separate EIA during design process of the mooring area.

7) Could you please confirm the date on which the building permit was issued? I believe the Ministry has stated this was 6 June 2015, but I have information from another source saying the date was 27 March 2015?

- Building permit was issued on **27 March 2015**. Ministry has never stated that Building permit was issued on **6 June 2015**.

8) Finally, could you comment on the response from RAMSAR, the offices of the Bern Convention, leading wildlife and conservation organisations such as Euronatur etc, expressing deep concern over the project, and how you are taking these into consideration?

- The Ministry received and replied to two inquiries from leading conservation and wildlife organizations. We received a letter from Bern Convention Directorate on 18 August 2016 to which we replied by explaining all the steps in a procedure that led to obtaining a permit. The Ministry of Sustainable Development and Tourism **replied to a letter received by the Secretariat of the Convention on Wetlands - Ramsar Convention, on 5th July 2016** in relation to the issue of the ecological character of Ramsar area of Skadar Lake in the context of the project "Porto Skadar Lake".

Ministry of Sustainable Development and Tourism