

Strasbourg, 17 August 2017
[files01e_2017.docx]

T-PVS/Files (2017) 1

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

37th meeting
Strasbourg, 5-8 December 2017

Other complaints

**Presumed negative impact of hydro-power plant
development on the Vjosa river
(Albania)**

- REPORT BY THE GOVERNMENT -

*Document prepared by
Ministry of the Environment, Albania*

REPLY TO THE COMPLAINT NO. 2016/05: PRESUMED NEGATIVE IMPACT OF HYDRO-POWER PLANT DEVELOPMENT ON THE VJOSA RIVER IN ALBANIA

- 17 AUGUST 2017 -

In response to your letter of 11 April 2017 (Ref. DG-II, IO/vdc), please find below the information concerning the issues mentioned by the Secretariat.

There is a important development since our last communication regarding the case: On the 2nd May 2017 the Administrative Court in Tirana decided to rule against the construction of HPP Pocem. This means that the construction phase cannot start until final ruling by the Administrative Court of Appeal, which is ongoing.

The Ministry of Industry and Energy has taken the case into the Administrative Court of Appeal.

The argument used by the Administrative Court was that Public hearing and Consultation was not properly conducted by the developer (like evidence of presence sheets with signatures of participants and related photos).

Below please find the information required:

- 1) The current and future protection status of the area concerned, taking into account its possible qualification for an Emerald/Natura 2000 site

The area in which the HPP Pocem is planned to be built as also stated in our previous communication does not have any protection status. Regarding possible qualifications for an Emerald and/or Natura 2000 site with the data and information available there is no evidence that the area fulfills the criteria for potential designation. From the studies so far it is mainly landscape value that is underlined and described.

- 2) The foreseen impact of the project on the Bern Convention species and habitats and how these could be mitigated

The foreseen impact on Bern Convention species and habitats as described in the EIA study for Pocem HPP consist on the temporary noise and land use change during the construction phase and the impact of the damn during the operational phase of the hydro power plant.

These impacts are planned to be mitigated by implementation of certain measures as follows:

- Provision of by-passes for wild fauna passing in order to avoid habitat fragmentation;
- Placement of mesh nets with sizes that allow for the fish and eel movement across the damn;
- Placement of fish friendly turbines;
- Reforestation of the area where the construction will take place;
- Control of sediments arising from the construction phase;

- 3) The allegations by the complaint that the 140 pages presented as an SEA cannot be considered as such

With regard to the allegations on SEA the document has been assessed and evaluated by the experts of the National Environment Agency that deals with the environment permitting process. In this context and in line with the requirements of the national legal framework technical directorates, namely the forestry directorate and the Regional Environmental Agency of Fier district, under which the HPP Pocem project lies, has been giving their opinion.

Furthermore the dedicated EIA study on HPP Pocem only has been prepared by an independent certified company - GR Albania (the EIA study was attached in our first communication in Albanian language for your reference and information).

- 4) Any other useful information that could clarify how the cumulative impact of all hydro power projects in Albania has been assessed

As mentioned in our first communication there is a decision taken in 2014 to allow for the construction of only 8 HPP from 25 that was the hydropower capacity of Vjosa river as assessed by a World bank funded feasibility study.

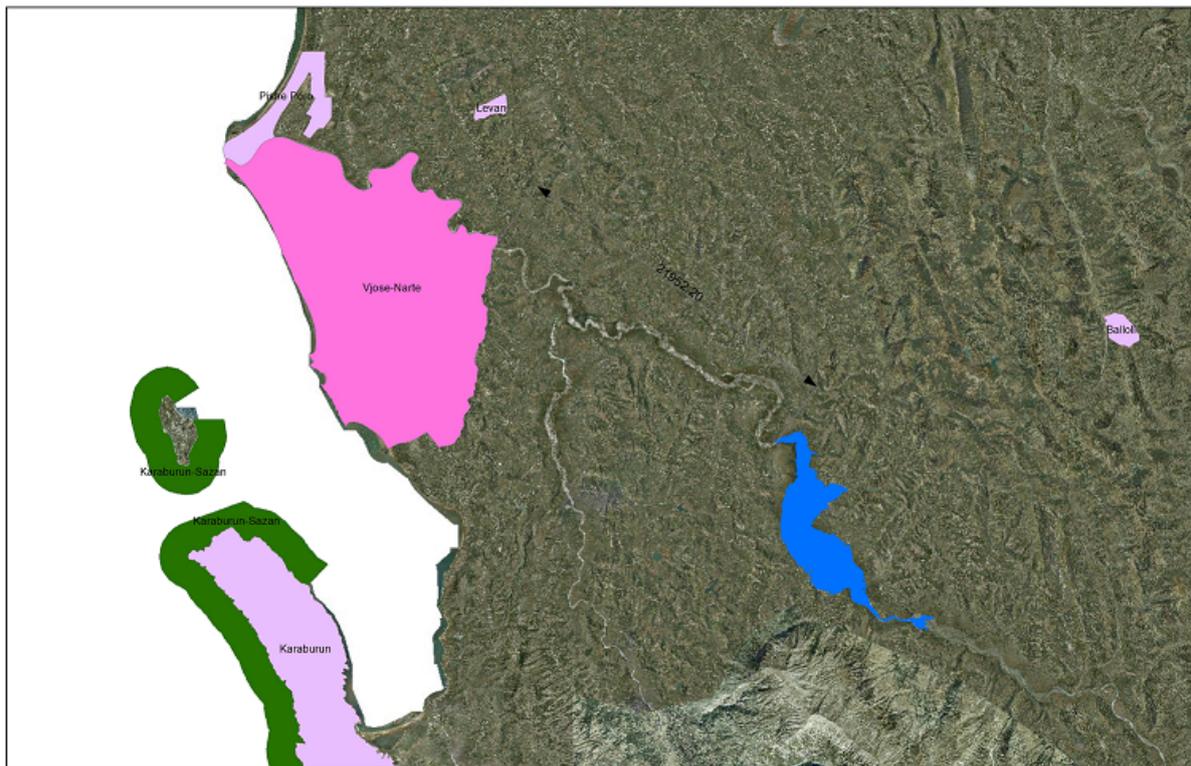
However so far only Kalivaci HPP is constructed and Pocem which is still under court procedures – thus there is no construction work yet. For the rest there are no procedures started and there is no intention to open the call for the expression of interest.

Last but not least please find attached a map indicating the distance of HPP Pocem from the nearest boundary of the Protected landscape Vjose - Narte that according to calculation is nearly 22 km away.

I hope this information helps to clarify the issues you raise in your letter.

In summary the process of HPP Pocem construction has been suspended waiting for the final decision of the Administrative Court of Appeal.

I will let you know once this decision has been taken. Meanwhile the State Inspectorate of Environment and Forests and the Regional Environment Agency of Fier are strictly monitoring the enforcement of the Administrative Court Decision.



Pocem map on the distance from PL Vjose-Narte

REPLY TO THE COMPLAINT NO. 2016/05: PRESUMED NEGATIVE IMPACT OF HYDRO-POWER PLANT DEVELOPMENT ON THE VJOSA RIVER IN ALBANIA

- 17 JANUARY 2017 -

Pursuant to your letter of 12 September 2016, regarding the complaint by the NGO Centre for protection of Natural Ecosystems (ECO Albania) concerning the development of the HPP in Vjosa river, particularly Poçem project, please find below a detailed information for this issue:

1. The state of approval and time frame for the development of Poçem HPP project

Albanian government commissioned in 2009 a study, carried out by French studio "Sogreah", which analyzes the possible schemes of exploitation of hydro potential of the river Vjosa, with the funding from World Bank.

The study of 140 pages the studio "Soegrah", entitled "Consultants' services for assessment of Power Generation Potential of Selected Albanian rivers". The study analyzes the possible schemes of exploitation of hydro potential of the river Vjosa, which the Albanian government as a reference envisages the construction of 25 hydropower plants on the Vjosa River. According to this study the potential of Vjosa basin is 25 potential HPP, which were identified. Among potential HPPs designed in Vjosë largest being that of Kaludhit, Dragoti Kalivac, Pocemi and Karbonarit.

In 2014 the Government of Albania decided to go with the plan for 8 HPP to be constructed.

The part below Kalivaç will be used in accordance with the government's objectives to increase electricity production and reduce the need to import it from abroad. This development will be compatible with all legal provisions and in harmony with the environment. Case referred to the media for Poçem HEC has no connection with the main course as it is positioned above Kalivac below this zone.

The installed capacity proposed by Sogreah to Vjosa river is 458 MW and energy production is projected to 1810 GWh, including Kalivaci. These figures are similar to the current studies that look a production capacity of 498 MW in Vjosë.

Pursuant to that study the **Government had taken a decision on July 29, 2015** to accept an unsolicited concession for the company Çinar-San Hafriyat Nakliyat Insaat Turizm Sanayi Ve Ticaret Limited Şirketi by bonus points awarded her 8 % tender due to take place now. This DCM was published in the **Official Gazette no. 145, of 10th August 2015, page 10807**.

Pursuant to that the invitation for the expression of interest was published on the website of the Public Procurement Agency (www.app.gov.al) on **February 2nd 2016**, by which the Ministry of Energy announced the opening of the international tender for the concession of construction and management of HPP Poçem, announcing that interested parties have until 17 March 2016 to submit their bids. According to the announcement of the PPA, hydropower Poçem quota will be maximum 70 meters above sea level.

The Ministry of Energy and Economy published on the May 9th, 2016 its decision to grant the concession for the construction of the HPP Poçem to the Turkish Joint Venture "Çinar-San-Hafriyat Nakliyat Insaat Turizm San" and "Ayen Enerji Anonim Sirketi". According to this announcement the construction phase will last 36 months after the acquisition of the construction permit.

The concession contract was negotiated in the following period, and it was finally signed in **November 2016**, by the Ministry of Energy and Economy on behalf of the Albanian Government the Turkish Joint Venture "Çinar-San-Hafriyat Nakliyat Insaat Turizm San" and "Ayen Enerji Anonim Sirketi" for a 35 year period.

From the latest information from the field, construction work has not started yet.

2. Whether an Environmental Impact Assessment (EIA) is foreseen for the Poçem HPP project and its current state of implementation

Based on the requirements of the national legal framework on EIA, namely the Law “On environmental impact assessment”, no. 10440, dated 7.7.2011 and the Decision of the Council of Ministers’ no.13, dated 4.1.2013 “On the approval of rules, responsibilities and deadlines for the development of the procedure on the environmental impact assessment” the developer “Çinar-San Tiran Branch” has started the procedure for the development of the project “Construction of HPP Poçem” in early 2015.

In accordance with the provisions of the Annex 1, point 15 of the Law “On the Environment Impact Assessment” this activity requires a detailed extensive EIA study.

The EIA study was prepared and completed in January 2015, by the licensed company GR Albania.

In 18 February 2015, a public consultation was scheduled and published at the web page of the NEA as per the link <http://www.akm.gov.al/publiku.html> at the web page of the National Environment Agency. The public consultation has taken place on the 08 March 2015 in Fieri district, under the jurisdiction of which the Poçem village, Kute commune is placed.

After public consultation the EIA sector of NEA has continued the procedures as required by the by-law by starting the analysis of the EIA study. Technical Directorate of Forestry as well as the Regional Directorate of Environment of Fier district has been consulting the EIA study and have given their approval in principle, accordingly. The Forestry Directorate has stated that according to the coordinated of the project it does not fall within the territory of any protected area in the country.

The next step is the discussion of the case and related documentation at the Commission of EIA at the National Environment Agency, at its 17 meeting of 2015, which was held on the 22.4.2015.

NEA EIA Commission advised the Minister of the Environment to approve the Environmental Declaration for HPP Poçem construction, which was issued on the 22.4.2015, no. 663 Protocol (Decision 17, identification no. 192). A copy of the environment declaration is attached for transparency purposes.

NEA has published the decision of the of EIA Commission no. 17, of 22.4.2015, which approves the Environmental Declaration to the developer CINAR SAN Tiran branch for the HPP Poçem (no.14 on the table), which can be found at the following link: <http://www.akm.gov.al/assets/vendimet-e-komisionit-te-shqyrtimit-te-aplikimeve-per-vleresimin-e-ndikimit-ne-mjedisi-17-date--22.04.2015.pdf>

This decision is also published at the monthly bulletin of the Ministry of the Environment: http://www.mjedisi.gov.al/files/userfiles/Buletini_Mujor/Maj_2015.pdf

The Environment Declaration contains a number of conditions to be respected during the construction phase of the HPP, a number of which is related to biodiversity and nature protection, such as measure to protect the ecosystem by planting new trees in the course of the water flow in parallel with the construction of the HPP, zero cutting of existing trees in the HPP area, to protected the water bodies by contributing to the protection of the aquatic ecosystem.

The developer has the obligation to report every 6 months the environmental parameters to the NEA.

If the activity does not begin within a two year period the Environment Declaration is not valid.

3. Whether this eventual EIA includes a biodiversity study

The EIA study includes a biodiversity study in Chapter VI, in pages 45-51 of the study of 69 pages. **The report states that the area planned for the development of HPP Poçem does not fall within the boundaries of any protected area of Albania.**

Further the EIA study describes the biodiversity of the area and in the wider context of Vjosa river basin. Important habitats and species are identified in the report. Landscape protection and tourism development consideration are given se well.

4. The state of development of all other HPP projects foreseen on the Vjosa river system

So far from the information from MEI there is only Kalivaçi HPP constructed.

5. Any other information you could consider relevant to the measures undertaken to implement Recommendation No. 157 (2011), with regards to ‘Protected landscape of the wetland complex Vjose-Narte’ candidate Emerald site.

Regarding the allegation that the construction of the HPP Poçem will greatly impact the candidate Emerald site Vjosa - Narte, please note that the distance of the nearest point to the HPP development area is nearly 10 km away (please refer to the map no. 6). Thus its impact is very small and with the implementation of mitigation measures given in the Environment Declaration, the effect becomes even smaller.

As for the impact of all planned HPPs along Vjosa cascade to the candidate Emerald site Vjose - Narte in the future, it can be said that as seen from the map no. 6 with the red dots that belong to potential planned HPPs, there is quite a distance from the border of the candidate Emerald site **to the nearest planned HPP**, because as explained above actually there is only Kalivaç HPP constructed and Poçem HPP in the process to be constructed as well.

Also the candidate Emerald site is selected for its values as a coastal wetland important for migratory birds and a designated IBA for Albania, and in the same time as an existing Protected Landscape since 2004.

Of course the construction of 8 planned HPPs as decided in 2014, will have an impact on the water flow regime of the river, which is foreseen to be minimized by the implementation of mitigation measures as stipulated in the environmental declaration of the HPP Poçem actually.

The Protected Landscape Vjose - Narte has a management plan approved in 2005 and that has been implemented with the support of a GEF - UNDP project, implemented in the area in the period 2005-2010. After that with the establishment of the National Agency of Protected Areas in 2015 there is a dedicated Regional Agency of Protected Area (RAPA) which is dealing with the day to day management of the area. Since then the integrated management of the area has been greatly improved and the process of revision of management plan is planned for this year.

At the other hand the list of species and habitats as well as the extended report refers to the Vjosa valley as the whole. In this regard the protection of endangered species, listed in the Red Book of Albanias’ flora and fauna, initially elaborated and approved in 2008, and revised and updated in December 2013, is done through the implementation of protection measures on single species and habitats action plans. The enforcement of the national legal framework which places severe restrictions on the exploitations of protected species and habitats and other complement measures such as the hunting ban in the Republic of Albania, in place since march 2014 to June 2021 and the 10 year ban on the use of forest resources for commercial purposes since June 2016, will contribute to the achievement of the favourable status of species and habitats.