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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE  
AND NATURAL HABITATS

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**Standing Committee**

44<sup>th</sup> meeting  
Strasbourg, 2-6 December 2024

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**Bureau of the Standing Committee**

10-12 September 2024  
Strasbourg

**New complaint: 2023/1**

**Alleged habitat destruction due to the construction of the Skavica  
Hydropower Plant on the Drin River (Albania)**

**- GOVERNMENT REPORT -**

*Document prepared by  
Ministry of Tourism and Environment of Albania*

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**REPUBLIC OF ALBANIA**  
**MINISTRY OF TOURISM AND ENVIRONMENT**

**Date 31.07.2024**

Subject: Complaint No. 2023/1: New Complaint: Albania: Alleged habitat destruction due to the construction of the Skavica Hydropower Plant (Skavica HPP) on the Drin River

Object: Urgent intervention is needed on newly approved Law No. 21/2024 “On some additions and changes to Law No. 81/2017 For Protected Areas”, by the Albanian Government.

With reference to the [decision of the Bureau meeting](#) held on 18-19 March 2024 on the abovementioned complaints, the Government of Albania reports as following:

***Skavica HPP project on the Drin river***

The Law No 38/2021 of 23.03.2021 “On determination of the special procedure for the negotiation and execution of the contract with the company “Bechtel International, Inc”, for the design and construction of the Skavica Hydropower Plant” was adopted. The contract with Bechtel is divided into two phases.

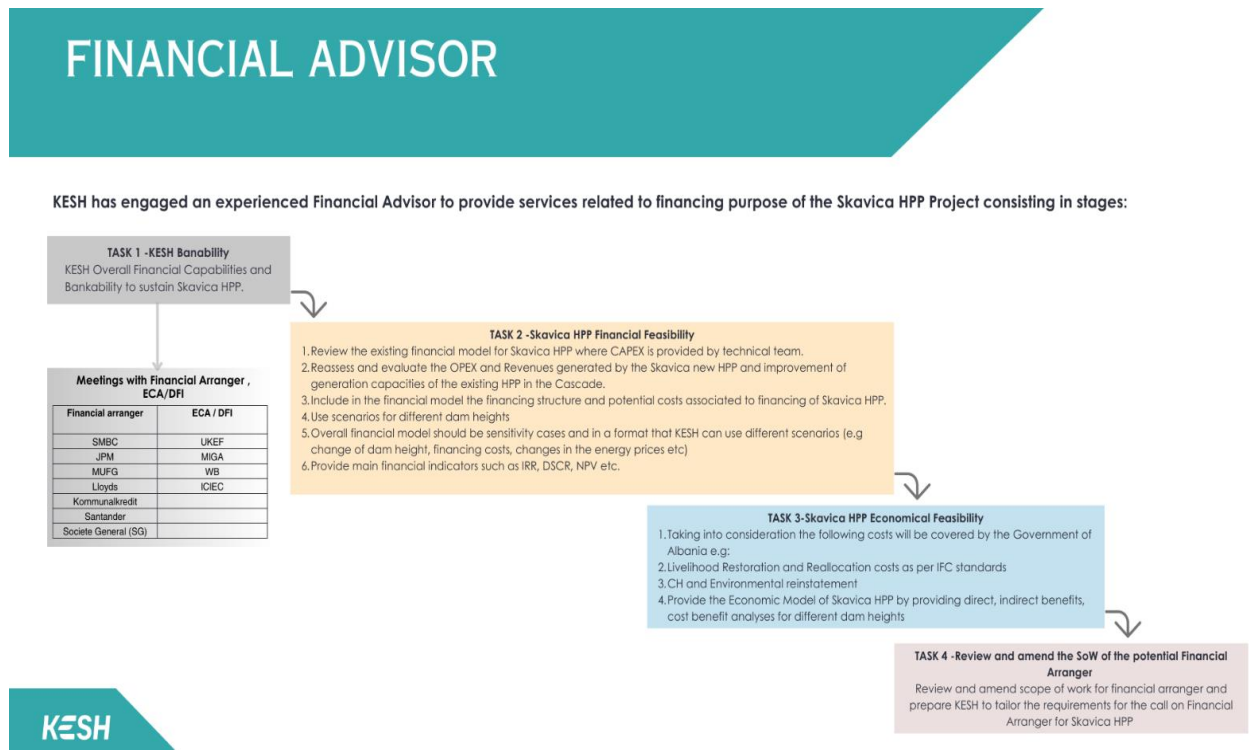
The first phase contract, endorsed by the Decision of Council of Ministers No 485 of 30.07.2021 “For the approval of the first phase contract "Technical services contract - Skavica Hydro Energy Project" between KESH sha and BECHTEL limited”, includes preliminary activities, which will enable BECHTEL to submit a proposal to the Contracting Authority for the contract of the second phase. As well as it will help the Contracting Authority and the Council of Ministers of Albania to provide the financial support for the project.

The technical components of the first phase of the project such as topography, hydrology, geology, and geotechnical studies have been completed. As part of this phase, the Environmental Impact Assessment (EIA) is also being undertaken by Golder, a well-known and experienced international firm supported by local consultancies. Studies have already been carried out on the existing environmental conditions for the summer, autumn, winter, and spring periods.

The draft Environmental Interaction Report was drawn up in the fourth quarter of 2022 and was published on the official website of KESH S.A at the beginning of February 2023. This report was forwarded to both the Ministry of Tourism and Environment and the National Environment Agency as an integral component of the application process for the formulation of the Environmental and Social Impact Report (EIA) in accordance with the legal provisions.

KESH has engaged a financial adviser, Ernst and Young (ILF and other consultants) to assess the feasibility of the project. The consultants will prepare a report for each task and the overall report is expected to be received within this year.

The main tasks of the constants are detailed below:



Once the report is issued, KESH will send the technical, environmental and financial report to MIE as part of phase one of the project. The special law envisions the approval by DCM of phase one (technical, financial, and environmental).

To achieve an advanced level of compliance with the EIA Directive 2011/92/EU and SEA Directives - 2001/42/EC and our national law framework, the Minister of MoTE has issued 2 Orders, respectively:

1. Order No 12 of 12.01.2013 “For the technical evaluation of EIA”;
2. Order No 93 of 26.03.2021 “For the approval of the regulation that is implemented by the sectors of the Ministry for the review of the SEA until the minister's opinion and statement are issued”.

The Minister of Tourism and Environment has also issued Guidance No 6 of 22.12.2016 “For the approval of the national methodology for SEA”. Meanwhile a Decision of the Council of Ministers No 912 of 11.11.2015 has approved the National Methodology of EIA. Among others it is in the above-mentioned documents that MoTE and its agencies base the activity regarding the quality check for EIA and SEA to guaranty that environment assessments are carried out in compliance with the Directives and national legislation in place.

According to the Decision of Council of Ministers No 686 of 29.07.2015 "On the approval of the rules, responsibilities and deadlines for the environmental impact assessment procedure (EIA) and the procedure for transferring the environmental statement decision", as lately amended by Decision of Council of Ministers No 828 of 28.12.2023 it is the MoTE, NEA, Local Authorities, other Ministries, public institutions in relation to the proposed project and the public itself that are involved and engaged in reviewing the information provided by the developer through the environmental assessment.

According to the provisions in the above-mentioned Decision of Council of Ministers and also in those of DCM No 247 of 30.04.2015 “For the determination of rules, requirements and procedures for public information and involvement in environmental decision-making”, as amended lately with DCM No 268 of 27.04.2023 it is well stated that it is NEA the competent authority to assure that the public is informed, consulted and practically involved in the decision-making through the specific procedures that the developer has to fulfill during the full process.

Whatsoever to increase the quality of the environmental assessments it is foreseen in the Law No 10440 of 07.07.2011 “On Environmental Impact Assessment” the approval of the DCM on the rules, procedures and criteria for the equipment with the expert's certificate for environmental impact assessment, environmental expertise, which is still to be drafted.

HPP monitoring will be included in the National Environmental Monitoring Program for 2025 which will be approved in September 2024 in the Ministry of Tourism and Environment and then will proposal for such monitoring will be considered by the submission of third parties.

According to national legislation on EIA and SEA, the cumulative effects as a concept and also as indicators and criteria to be assessed during the EIA and SEA process is well stated as follows:

## **EIA**

DCM no.686 of 29.7.2015 "On the approval of the rules, responsibilities and deadlines for the environmental impact assessment procedure (EIA) and the procedure for transferring the environmental statement decision", as amended.

*Appendix I* "Helping criteria for decision making during the preliminary procedure of EIA"

1. Project characteristics:
  - 1.2. cumulative effects with other projects;

*Appendix II* "Ranking structure and information contained in the in-depth report of EIA" of DCM no.686 of 29.7.2015 "On the approval of the rules, responsibilities and deadlines for the environmental impact assessment procedure (EIA) and the procedure for transferring the environmental statement decision", as amended.

5.1. Negative impacts on the environment:

- Negative impacts on the physical characteristics of the project area;
- Negative impacts on habitats and biodiversity of the project area;
- Environmental discharges and waste production;
- Additional (cumulative) negative impacts on the quality of the environment in the project area and natural resources, such as minerals, forests, water resources;

## **SEA**

Definitions as stated in the Law no. 91/2013 "On Strategic Environmental Assessment":

- Article 4, point gj): *Significant negative environmental effect of the plan or program* refers to any harmful and irreversible effect on the environment, including biodiversity, soil, climate, air, water, landscape or other environmental components, as well as the interaction between these factors and their consequences (cumulative impacts), including human health.
- Article 10, point 3: The preliminary report of the SEA deals with the following issues:
  - e) possible interactions with the environment of the proposed plan or program, including in particular problems related to areas of special environmental importance, such as protected areas;
  - ë) possible negative environmental effects including impacts on biodiversity, human health, land, water, air, climatic factors, cultural and archaeological heritage, the landscape or the interaction between these factors.

At this reporting moment there is no information on initiated or planned SEAs that would assess the cumulative effects of HPPs at a river sub-basin or basin level. Regarding the Skavica project, which is subject of the EIA procedure, MoTE among others has and will request again when the EIA procedure resumes that in the in-depth EIA report, a special chapter must be dedicated to the cumulative impact that will describe initiatives, conditions and circumstances that may have synergistic effects with this project.

**Object: Urgent intervention is needed on newly approved Law No. 21/2024 “On some additions and changes to Law No. 81/2017 For Protected Areas”, by the Albanian Government.**

**The amendments to Law No 81/2017 “On Protected Areas”**

The amendments to Law No 81/2017 “On Protected Areas” have been carefully designed to align with EU acquis requirements, ensuring sustainability and enhancing the implementation of conservation efforts. These changes are part of a broader strategy to balance environmental protection with the socio-economic development needs of Albania. Regarding the received complaints please find below the explanations for amendments occurred.

The inclusion of the National Territory Council (NTC), chaired by the Prime Minister, ensures that decisions regarding protected areas receive the highest level of governmental oversight. This centralized authority allows for a more coordinated and strategic approach to national development while maintaining environmental standards.

Any proposed development within protected areas must comply with rigorous Environmental Impact Assessments (EIAs) and meet stringent criteria that align with EU environmental standards. This process ensures that any development is sustainable and does not compromise biodiversity or ecological integrity.

The NTC’s role is to balance conservation efforts with necessary infrastructure development, ensuring that any economic growth is achieved without sacrificing environmental values. This approach supports Albania’s sustainable development goals and long-term ecological health.

The adjustments to subzones and buffer zones were made following extensive scientific studies and environmental assessments. These modifications aim to optimize conservation strategies and address contemporary needs, without compromising the overall protection of these areas.

The amendments allow for sustainable use and development within protected areas, ensuring that economic activities are compatible with conservation goals. This adaptive approach ensures that protected areas continue to thrive while supporting local communities.

The government has committed to continuous monitoring of the impact of these amendments. This adaptive management approach allows for adjustments to be made as needed, ensuring that conservation objectives are met and that protected areas remain resilient against ecological threats.

The amendments to the law have been crafted to align with EU directives on nature and biodiversity. This includes adherence to the Habitats Directive, the Birds Directive, and the Water Framework Directive, ensuring that Albania’s legal framework meets or exceeds EU environmental standards.

The adoption of these amendments represents a proactive step in strengthening Albania's legal framework for environmental protection. This move enhances the country's ability to safeguard its natural heritage while fostering sustainable development.

The government is committed to completing the legal framework with necessary bylaws derived from the law's implementation. This ensures a comprehensive and cohesive approach to conservation and sustainable use of protected areas.

In this way, the amendments to the law seek to integrate sustainable development principles into national policies, aligning with the EU acquis requirements related to nature and biodiversity. The goal is to achieve a harmonious balance between conservation efforts and necessary infrastructural development to support Albania's socio-economic growth.

The concerns regarding the potential dilution of protection status for certain categories of protected areas are understandable. However, it is important to note that the amendments were made with a focus on optimizing the management and conservation strategies for these areas. The intention is not to diminish their protection but to adapt the legal framework to contemporary conservation needs and realities.

For National Monuments (Category III – IUCN) and Protected Landscapes (Category V – IUCN), the adjustments to subzones and buffer zones were made following detailed scientific and environmental studies. These studies assessed the ecological, social, and economic factors to ensure that the new boundaries and regulations still offer robust protection while allowing for sustainable use and development where appropriate.

The amendments emphasize the necessity for all developments within these areas to comply with strict environmental regulations and guidelines. This includes mandatory environmental impact assessments (EIAs), public consultations, and adherence to international conservation standards. These measures ensure that any development is carefully monitored and controlled to prevent ecological degradation.

Moreover, the government is committed to ongoing monitoring and evaluation of the impact of these amendments. If necessary, further adjustments will be made to enhance the protection and management of Albania's biodiversity and natural heritage. This adaptive management approach ensures that the conservation objectives are met while also accommodating sustainable development needs.



**REPUBLIC Of Albania**  
**MINISTRY OF TOURISM AND ENVIRONMENT**

No. \_\_\_\_\_ Prot.

Tirana, on January 31, 2024

*Subject: Complaint No. 2023/1: New Complaint: Albania: Alleged habitat destruction due to the construction of the Skavica Hydropower Plant (Skavica HPP) on the Drin River*

Dear Mr. Poutiers,

In response to the compliant “Alleged habitat destruction due to the construction of the Skavica Hydropower Plant (Skavica HPP) on the Drin River the following information provides in chronological manner the process in relation to the above captured subject:

1. The applicant 'Albanian Power Corporation' sh.a, according to Law No. 12/2015 'On some amendments to Law No. 10440, dated 07.07.2011, 'On Environmental Impact Assessment' and DCM No. 714, dated 06.11.2019, on some amendments and additions to DCM 686, dated 29.07.2015, 'On the approval of rules, responsibilities, and deadlines for the development of the procedure for the transfer of the Decision and Environmental Declaration,' as amended, has applied through the e-Albania system with application number AN180120230008, dated 18/01/2023, regarding the notification procedure of the extended EIA for the 'Skavica Hydropower Plant' project, located in the Kukës region.

Following this application, the National Environmental Agency (NEA) has issued its response letter to the subject (with number 205/1 protocol, dated 16.01.2023), in which it is indicated that the application (in accordance with Law on EIA that cites that dams and other installations designed to impede the outflow of water or to permanently store water, when a new or additional volume of water impeded or stored is over 10 million m<sup>3</sup>), is categorized and falls under Annex I, point 15.

**At the time of submission of request for the conduction of Public Hearings, the National Environmental Agency (NEA) will adhere to all legal procedures of the aforementioned DCM, with regard to the implementation of:**

- **The Decision of the Council of Ministers 247/2014 'On determining the rules, requirements, and procedures for informing and involving the public in environmental decision-making,'**
- **The Decision of the Council of Ministers No. 268, dated 27.4.2023, 'On some additions and changes to Decision No. 247, dated 30.4.2014, of the Council of Ministers, 'On determining the rules, requirements, and procedures for informing and involving the public in environmental decision-making.'**

Through a letter dated 23.02.2023, the National Environmental Agency (NEA) has requested completion of documentation with the following information/documentation:

- information on copies of permits, authorizations, and licenses held by the developer for the proposed project, in accordance with the provisions made in the current legislation, as well as the competent institutions for permitting/authorizing/licensing the project, in implementation



- of DCM 686/2015, as amended, Chapter II. Development of the Extended EIA Procedure, Point 1/k);"
- clarification of the appropriate alternative according to the opinion of the National Agency of Territorial Planning where: It is found that the footprint marked with a red line (option 1B) of the 'Skavica' Hydropower Plant intersects with the natural monument 'Karsti i Arnit,' declared by DCM No. 187, dated 25.03.2021, 'On some changes and additions,' and DCM No. 303, dated 10.05.2019, 'On the approval of the revised updated list of Albanian natural monuments.' Additionally, this part (option 1B) is located in the protected area 'Munellë,' declared by DCM No. 60, dated 26.01.2022, 'On the declaration of Natural Ecosystems as Managed Natural Reserves/Nature Park (Category IV), as well as Approval of the Change of Status and Existing Surface Areas of Protected Environmental Zones,' in the central subzone (ZQ) and in the subzone of traditional and sustainable use (ZPT/Q). The other proposal, the footprint marked with a yellow line (option 2), is not within the territory of protected areas."

According to Law No. 81/2017 'On protected areas,' Article 17, Points 2 and 3 it is stated that; In a 'Natural Monument,' the protection level applied is the same with the one applied to 'Nature Strict Reserve', defining that those areas are protected and managed to preserve the specific natural, cultural, historical, and archaeological characteristics and phenomena for which it has been declared a monument. Natural monuments are surrounded by a buffer zone with a width of up to 200 meters from the perimeter of the monument.

Also in the Article 19, Point 1, of the law on protected areas, it is quoted that: 'Managed Natural Reserves or Nature Parks' are declared territories that represent areas with active human interventions for the management of species and habitats, while ensuring the preservation of habitats and meeting the specific requirements of species of regional and local importance, as well as areas that are used for research, educational, and cultural purposes.

According to DCM No. 60, Annex No. 22, it is stated that In the Central Subzone, marked on the map as ZQ, includes the main forest habitats and shrubs and is designated as an area with high and rare values for natural heritage and biodiversity, applying the highest level of protection to ensure an undisturbed territory. Scientific research and the development of free ecotourism activities in nature are allowed in this subzone."

"The subzone of traditional and sustainable use (ZPT/Q) encompasses forest lands, agricultural areas, and pastures, as well as water territories where traditional activities such as forest health improvement, agricultural activities, grazing, collection and cultivation of medicinal and aromatic plants are allowed, with their balanced use. Construction and economic activities causing alteration to the natural state of the ecosystem are not permitted. In the subzone of traditional use and sustainable development, the second level of protection is applied, ensuring a territory with low impact and control of economic, social, agribusiness, recreational, sports, and ecotourism activities. Infrastructure construction follows the approved urban and tourist development plans by the National Territorial Council, which do not jeopardize the ecological integrity of the natural ecosystem and respect the functions of the protected area, ecological values, and those of the natural and cultural landscape." According to the above-mentioned legal acts, the first option (option 1B) is not approved. The project can proceed within the footprint of the second option (option 2), marked on the map with a yellow line, where the territory of protected areas is not affected. (**Map attached**)

From the documents, the response letter from the applicant towards the National Environmental Agency dated 23.02.2023 is missing, and that was the reason that **"In the letter dated 30.03.2023, the National Environmental Agency, again requested the completion of documentation as pointed out in the letter that was sent earlier on 23.02.2023.**

*"The applicant, in response to the letter dated 30.03.2023, explained that only after the approval of the first phase, the second phase of the Skavica Hydropower Plant development project can be proceeded further. This phase can be negotiated and finalized according to the provisions of Law No. 38/2021, dated*

23.3.2021, *"On determining the special procedure for negotiating and executing the contract with Bechtel International Inc., for the design and construction of the Skavica Hydropower Plant."*

According to the letter from the National Environmental Agency dated 05.06.2023, regarding the request for completion of documentation and clarification, it is requested for the optimal option of the scenario with accurate technical data for the construction of the Skavica Hydropower Plant, to be presented with a map and coordinates. Additionally, the contract between 'Albanian Power Corporation' sha and Bechtel Limited - Branch in Albania, **was not been signed and didn't contain a date.**"

"Through the letter with protocol number 2892, dated 14.06.2023, for the completion of documentation requested by the National Environmental Agency in the letter referring to point 8, the subject has presented and explained both requested points and has attached a copy of the signed contract."

NEA, in commission 75 on the date 07.07.2023, once again requests the completion of documentation as in the letter issued on 05.06.2023.

Conclusively, the subject has not completed the necessary documentation within the 15-day deadline, resulting in an automatic rejection of the application by the system. **For this reason, the subject needs to restart the procedures from the beginning.**"

**With regard to procedures for public hearings, applicant,** through consultants, is analyzing the proposed alternatives to choose the best option that meets the technical, financial, environmental, and socio-economic criteria for the construction of the Skavica Hydropower Plant.

With the selection of the optimal scenario, in continuation of communications with the National Environmental Agency as well as in compliance with legal requirements, KESH will restart the procedures for the Comprehensive Environmental and Social Impact Assessment with NEA, according to Law No. 12/2015 "On some changes to Law No. 10440, dated 07.07.2011, "On Environmental Impact Assessment" and DCM No. 714, dated 06.11.2019, on some changes and additions to DCM No. 686, dated 29.07.2015, "On the approval of rules, responsibilities, and deadlines for the development of the procedure for the transfer of the Decision and Environmental Declaration."

We inform you that the Environmental and Social Impact Assessment (ESIA) for the Skavica HPP is being conducted in accordance with the International Finance Corporation (IFC) Performance Standards and other World Bank Group guidelines, Equator Principles, etc. Throughout the process of drafting the Comprehensive Environmental and Social Impact Assessment (ESIA) with the most feasible alternative, a series of activities are planned with the objective of involving interested parties or the wider public. These activities are expected to be carried out in the first six months of 2024.

**Currently, the Albanian Power Corporation (KESH) has not submitted a new request to NEA for the conduction of public hearings.**

With the resumption of procedures, upon the submission of the new request by KESH (applicant), NEA will follow all legal procedures as outlined in the following DCMs:

- DCM No. 247/2014 "On determining the rules, requirements, and procedures for informing and involving the public in environmental decision-making,
- DCM No. 268, dated 27.4.2023, "On some additions and changes to Decision No. 247, dated 30.4.2014, of the Council of Ministers, 'On determining the rules, requirements, and procedures for informing and involving the public in environmental decision-making.'"

Conclusion:

- There are no construction activities happening with regard to HEC Skavica,

- There is no new application presented to NEA by the applicant;
- The evaluation done by the Constitutional Court:

The Constitutional Court, convened on 30.01.2024, after taking into consideration the request and pretensions as submitted by the claimants, as well as the objections of the interested entities, evaluated that: The court has jurisdiction to examine the compatibility with the Constitution, of the law no. 38/2021, and has no jurisdiction toward the decision no. 485, dated 30.07.2021 of the Council of Ministers, as this decision does not constitute an act of a normative character.

Bearing in mind that the law regulates the Skavica project, in two phases, and the second phase starts only if the first stage is finalized, the Court assessed that the petitioners are only legitimized for the claim of encroachment of the right of information on environmental issues.

Regarding the above, the Court assessed that, since the law is still in the first phase of its implementation, the pretended encroachment by the petitioners before the adoption of the law can still be repaired by taking concrete steps for inclusion of the public to information and decision-making.

The final decision by the Constitutional Court will be announced within the legal deadlines as set in the law no. 8577, date 10.02.2000 "On the organization and functioning of the Constitutional Court of the Republic of Albania", amended and from the Regulation on Judicial Procedures of the Constitutional Court.

- **For all the points mentioned above we request a) not to take into consideration the new complainant; b) or to open the file, as** the second phase starts only if the first stage is finalized. Government of Albania remains open and committed to fulfil and respond to the requirements or the information that will be addressed by the Bern Convention.

