Strasbourg, 9th August 2024 **T-PVS/Files(2024)14**

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

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Standing Committee

44th meeting
Strasbourg, 2-6 December 2024

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Bureau of the Standing Committee

10-12 September 2024
Strasbourg

Open File: 2016/5

Presumed negative impact of developments on the Vjosa river including hydro-power plant development and Vlora International Airport (Albania)

- REPORT BY THE COMPLAINANT -

Document prepared by EcoAlbania

- July -



Update Report

Complaint No. 2016/5: Presumed negative impact ofhydro-power plant development on the Vjosa river (Albania)

By Olsi Nika
EcoAlbania
July 2024

With the contribution of PPNEA as regards the Vlora Airport Case

ABBREVIATIONS

AEWA	African-Eurasian Waterbird Agreement
AOS	Albanian Ornithological Society
CMS	Convention of Migratory Species
COP	Conference of Parties
CSOs	Civil Society Organizations
DCM	Decision of the Council of Ministers
ECSOs	Environmental Civil Society Organizations
EPAN	Environmental Protected Areas Network
GOs	Governmental Organizations
IUCN	International Union for Conservation of Nature
MoTE	Ministry of Tourism and Environment
NGOs	Non-Governmental Organizations
OSA	On-the-spot Appraisal
PPNEA	Protection and Preservation of Natural Environment in Albania
SCM	Steering Committee Meeting
ToR	Terms of Reference
VIA	Vlora International Airport

1. BACKGROUND

The complaint on Presumed negative impact of hydro-power plant development on the Vjosa river (Albania) has been submitted by EcoAlbania in 2016. The case has been opened with the Decision of the Bern Convention 37th Standing Committee Meeting. The Decision no. 202 of the Convention has defined the case as open and has requested Albanian authorities to address the concerns raised by the complainant.

These concerns have been continuously updated through reports and presentations during previous Standing Committee Meetings of the Convention. The current major concerns are the on-going construction of the Vlora International Airport in the delta of the Vjosa River, the effective management of the Vjosa Wild River National Park as well as recently started construction works related to water abstraction and HPPs in Shushica River, located within the boundaries of the Vjosa Wild River National Park proclaimed in 2023.

The airport is being constructed within the boundaries of the Candidate Emerald site "Wetland complex Vjosa river delta – Narta Lagoon". In the following chapters, this Update Report will bring in the summary of the latest developments in the Vjosa river valley as regards to the Vlora International Airport, the National Park declaration process and the current threats that the Park is facing.

Shushica is one of the major tributaries of the lower part of the Vjosa, and included in the Vjosa Wild River National Park. Currently, it is at significant risk by a water abstraction project just at its spring. The project that is based on largely poor EIA and social assessments, is foreseen to transfer the water from Shushica river towards the coastal neighboring municipality of Himara to improve its drinkable water supply system. Due to its severe negative environmental and social consequences, the project has been strongly opposed by the local community of Shushica valley, NGOs and academia because it compromises the river's national park status.

2. VLORA INTERNATIONAL AIRPORT IN THE PROTECTED AREA

As regards this issue, last year (2023), the Convention has adopted the Recommendation 219 (2023), highlighting the "Suspension the construction of Vlora International Airport until a new and sufficient Environmental Impact Assessment (EIA) procedure will be conducted as well as a Proper/Appropriate Assessment.

After the adoption of the Recommendation[1] no. 219/2023, it appears that the construction of the Vlora International Airport within the protected area of Vjosa-Narta (now called Narta Pishe-Poro) is ongoing and the companies are working in full rhythm. Besides habitat destruction, the disturbance continues non-stop on daily

[1] https://rm.coe.int/2023-rec-219e-vlora-airport/1680ac7963

basis through high-machinery vehicles, causing various forms of noise pollution, light pollution, etc. Furthermore, the construction work continued very close to the local salina, even during avifauna breeding seasons.

2.1 Recommendation No. 219 (2023)

The Albanian Government has not implied with the 1st Recommendation of the Bern Convention to: Suspend the construction of Vlora International Airport until a new and sufficient Environmental Impact Assessment (EIA) procedure is conducted, as well as a Proper/Appropriate Assessment. Thus, violating the international agreement and the constitution of the country, as the international agreement prevails over the national domestic law.



Figure 1: *Airport construction site on November 2023 © Arsen Roshi*

New tenders are open to construct the supporting infrastructure, based on the first Environmental Impact Assessment (EIA) which was assessed to be insufficient. These new tenders indicate there is further intervention foreseen and that no framework is in place to commit to the recommendation and conduct a sufficient Environmental Impact Assessment (EIA), or a Proper/Appropriate Assessment. New tenders are about the “Construction of a new energy substation Akerni 110/35/20 kV and the development of 35 kV Akerni-Vlora Airport powerline” and the water supply system for Vlora Airport.

It is evident that no asphalt is paved yet on the runway of the airport. The total surface around the runway is being leveled with gravel, which will lead to a complete loss of vegetation leading to a significant degradation of the ecosystem.



Figure 2: Airport construction site on April 2024 © Arsen Roshi

In the past months, the Vlora International Airport consortium, consisting of Mabetex Group and 2A Group, has been undergoing the procedures to receive the loan as a financial support from National Commercial Bank (BKT).

Regarding the monitoring programs, mentioned also in the Government Report, PPNEA sent a request for information on November 2023 and did not receive any material or reply. The same request was repeated on 8th of July 2024 toward the Ministry of Tourism and Environment, National Agency for Environment and National Agency of Protected Areas and materials were received only for the noise and air pollution from the National Agency for Environment.

Concerning the evidence from long-term comprehensive data and the Wildlife Monitoring Programme, we have not received any invitation from the authorities and no reports were sent from NAPA after our request for information on the periodic monitoring.

Based on the analyzed data from Breeding Birds Inventory 2023, serious negative changes in the population of breeding land birds have occurred. Compared with the year 2020, the population of Calandra Lark (*Melanocorypha calandra*) has drastically decreased by nearly 70%. The surveyed area is one of the rare sites in Albania where this species is breeding. Moreover, a decrease in the population is noticed for all the passerine land birds breeding in the surveyed area. This is certainly related, if not entirely, to a large extent to the diminished breeding habitat due to the construction of the airport and the disturbance that is caused by the construction works and machinery. (Topi et al. 2023, unpublished data)

From the monitoring work conducted this year by NGO experts, nests of stone curlew, spotted cuckoo, etc. were identified inside the construction site, nevertheless, it was observed that the construction work has been ongoing in violation of the Environmental Declaration.



Figure 3: *Magpie nest on the fence of the airport. Removed before the end of the breeding season. © Zydion Vorpsi/PPNEA*

All the information was gathered outside the construction site, meanwhile, experts did not access the fence surrounding the site. Experts were not allowed to get inside the construction site neither during the International Waterfowl Count. A permission to conduct the counting there was requested but not granted by the National Agency of Protected Areas, Ministry of Energy and Infrastructure, and Mabetex Group. The counting did not take place in the foreseen points for the second consecutive year.

Moreover, the data from GPS-tagged Dalmatian pelican (Pelecanus crispus) has shown that the pelican travels from Divjaka-Karavasta National Park to Narta lagoon flying over the footprint of the construction site. Similar events have been observed during the Migration Counts in 2023 and 2024 with different raptor and seagull species. This information contradicts the EIA report about the migration path of birds and emphasizes the need for a new environmental assessment.

The next points in Recommendation No. 219 (2023) are supplementary and a continuation of the 1st Recommendation of the Standing Committee, therefore they are not implemented.



Figure 4: Spotted cuckoo (Clamator glandarius) juvenile, probably hatched in a magpie nest inside the airport construction site, positioned in the eastern part of the runway. © Zydion Vorpsi/PPNEA



Figure 5: Dalmatian pelican flight path reaching from Karavasta lagoon to Narta salina. © Zydion Vorpsi/PPNEA



Figure 6: *Deposit of inert materials outside of the fence of airport construction site © Zydion Vorpsi/PPNEA*



Figure 7: *Deposit of truck tires outside the construction site © Zydion Vorpsi/PPNEA*



Figure 8: Machinery for the production of concrete or asphalt, newly established outside the fence of the construction site 25.07.2024 © Zydion Vorpsi/PPNEA

2.2 "On some additions and changes to law no. 81/2017 'On Protected Areas."

On November 2023, 12 Members of the Parliament from the Socialist Party submitted in the Albanian Parliament amendments to the law On Protected Areas. Although opposed by the NGOs in the country, these amendments were voted early in 2024. Although the Albanian Government stated in the public domain that the new law on Protected Areas is in line with the EU Nature Directives, we challenge this statement as the changes allow the construction of so called 5 Star Tourism projects, also within all protected areas. The decision whether a urbanization or infrastructure project qualifies as 5 Star project is with the National Territory Council (NTC). This law grants the National Territory Council (NTC) - chaired by the Prime Minister – the authority to over-rule the protection regime within protected areas and allow the development of major infrastructure projects, such as the construction of luxury resorts within these biodiversity hotspots. The law dilutes the protection status of the protected areas and makes them all vulnerable to potential urbanization projects. In addition, for some categories, such as National Monuments (Category III – IUCN) and Protected Landscapes (Category V - IUCN) the subzones and buffer zones were removed at all as provisions, allowing all kind of developments to be implemented within their borders, be those intensively economic, urban or even industrial ones. These amendments pave the way to violate nature protection in all Protected Areas of Albania.

Furthermore, the new law neglects the necessity of EIAs for 5 Star projects within protected areas and reduces the level of public participation within permission procedures for such projects within protected areas.

2.3 New decision for the proclamation of Protected Landscapes

Referring to the public consultation website, the Albanian authorities have published on this page Decisions of the Council of Ministers for the proclamation of the Protected Landscapes, including Pishe-Poro Narte and two other coastal wetlands such as Rrushkull Protected Landscape and Bisht-Kamez Protected Landscape. The publication was made on the 21st of June and was closed on the 19th of July, without any public or direct notification during this timeframe to invite NGOs and general public to comment. No public hearing has taken place for these new decisions until now, as it waits to enter into force.

As described in the accompanying justification, although on 26th of October 2022 there was a Decision of Ministers that changed the boundaries of Vjosa-Narta Protected Landscape, the aim of this new decision is to align the formal-technical elements of the existing DCM with the changes on the law for protected areas "On some additions and changes to law no. 81/2017 'On Protected Areas."

In the new law, formal-technical elements of the proclaimed protected areas are: the name of PA, managing institution, zonation and subzones, and the typology of allowed and not allowed activities. All this is to be decided by the Ministers.

As the Protected Landscapes do not have anymore a zonation based on the last amendments to the Protected Areas law, the allowed activities are the ones that need special attention.

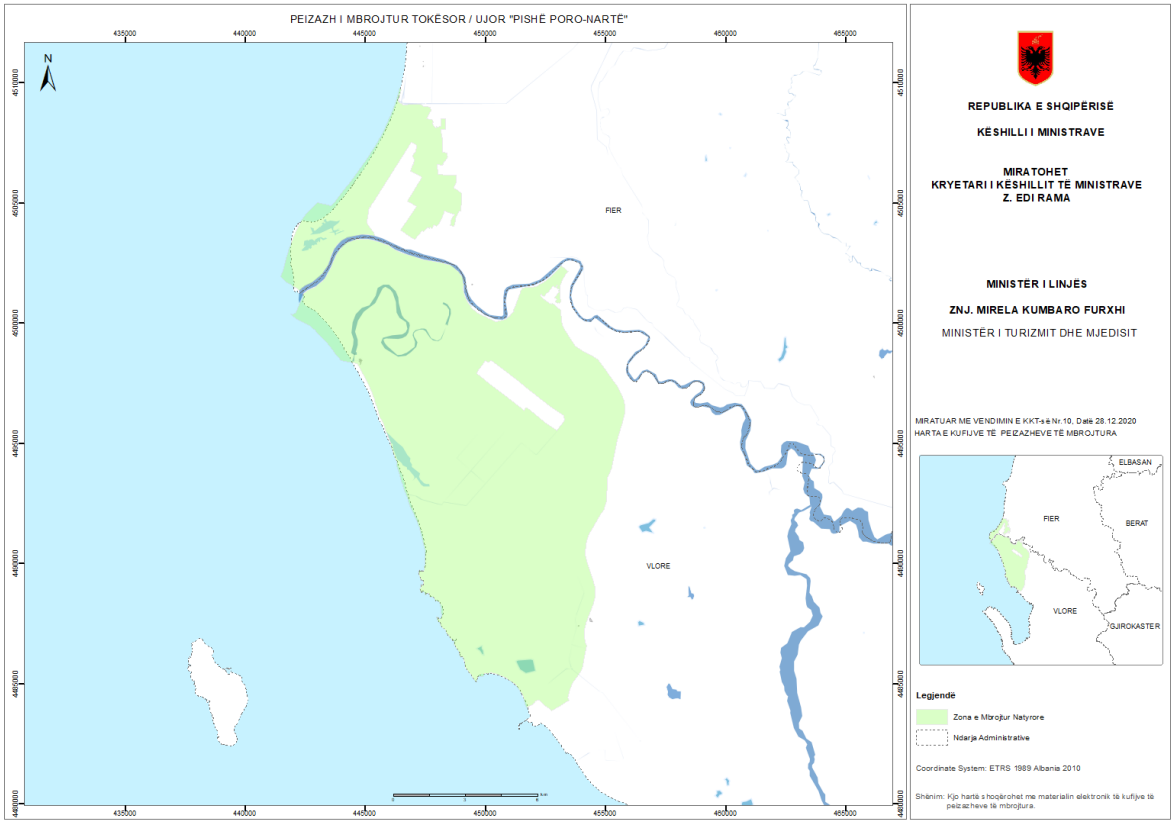


Figure 9: *Pishe Poro-Narte Protected Landscape map based on the new proposed DCM © MoTE*

The list of allowed activities include:

dh) activities developed in agritourism accommodation structures and any other supporting activity/infrastructure-

ë) Renewable energy installation- This paves the way for industrial parks to be built inside the Delta of Vjosa, next to the Narta lagoon. By adding this change in the allowed activities, the breeding sites and the landscape risks to be transformed by solar power plants and eolik parks. Also, hydropower plants and incinerators can be installed thereafter.

h) establishment of fish farms, after having been provided with the necessary permits- The establishment of aquaculture inside the protected area, depending also on its size, can cause significant damage to the local biodiversity.

ll) activities such as construction, sewage treatment in farms, construction of floating canals, highways, urban areas, as well as activities similar to these, in cases where the subject is provided with a permit by the National Council of the Territory. – As the tendency is to invite as many investors and transform the area with the construction of the airport, there is a high risk that all these activities will take place in the near future. The construction of urban areas, followed by other activities go in line with the interest shown by Affinity Partners to build 10,000 rooms inside the Pishe-Poro-Narte Protected Landscape, including residential villas and apartments.

m) military activities, which can be exercised after written approval/ equipment with environmental permit- In the law for the Environmental Impact Assessment, projects designed for the national defense are excluded from this procedure and this decision can be taken between the Ministry of Defense and the respective ministry responsible for the environment. In such cases, the opinion of the general public and NGOs is not taken into consideration and are not invited in the decision-making, therefore the decision depends only on the high officials.

Considering that the government is disregarding the continuous calls from the Bern Convention Standing Committee and other European authorities, by not suspending the construction work for Vlora International Airport, the additional activities allowed by the new Decision of the Council of Ministers are expected to be implemented soon. Such transformation of the Vjosa's Delta is not in line with IUCN criteria for the protected areas and the EU Directives on Nature Protection. This high-scale intervention risk affects the wildlife populations irreversibly to a scale that the area can completely lose its natural integrity.

The judicial debate on the DCM of 26.10.2022 required a considerable time to start. During the first hearings of the debate the authorities admitted that the changes of the boundaries of the protected areas were executed to align with the National Transport Strategy and ensure the possibility for Vlora International Airport to be built in the area. The new DCM repeals the DCM of 26.10.2022 on which the debate is taking place on the court.

The foreseen potential interventions, described also in the new DCM as allowed activities, will lead the way to many more complaints addressed to the Bern Convention Secretariat.

2.4 Vjosa River Delta on the spotlight of Research

The Delta of the Vjosa River is an important nature conservation site not only for the Vjosa ecosystem but on the entire Mediterranean basin. Its preserved state can still sustain a large biodiversity and this is the reason why it is part of the Albanian EPAN and it does have several international recognitions.



Figure 10: *The Pristine Vjosa River Delta, a sampling site of the Vjosa Science Week April 2024 © Anika Konsek / EuroNatur*

Lately the delta area has attracted more the interest of the researchers from Albania and from international research community. Recent study on the state of the Mediterranean river deltas confirms that the Vjosa River Delta is amongst the very few natural and most preserved deltas in the whole Mediterranean Basin [2]. Furthermore, between April 24th to April 29th, 2024 a wide and diverse group of 60+ researchers have been assessing the Vjosa River Delta area as regards the water quality, biodiversity and ecological functionality of the ecosystem. During this Science Week[3] experts have sampled on the river, isolated river branches, lagoon, salina and the seaside. The preliminary results[4] also confirms that the Delta of the Vjosa River is of significant scientific importance. In this respect the Delta as an integral part of the Vjosa River ecosystem represents the most biodiverse part of it. Therefore, the decision to include the delta into the Vjosa Wild River National Park should be considered seriously from the Albanian Government especially in the light of the recent threats of urbanization of the area.

[2] Fluvius_MedDeltas_15022024_final.pdf (balkanrivers.net)

[3] Vjosa Science Week 2023: Assessing the delta of the Vjosa wild river national park - Eco Albania

[4] DELTA VJOSË - Fakulteti i Shkencave të Natyrës (fshn.edu.al)



Figure 11: *Prof. Sjamir Beqiraj sampling for macroinvertebrates at Narta Lagoon, April 2024 © Dalip Guri / EcoAlbania*

2.5 Potential new projects on site

After the amendments of the law on protected areas, new projects were published in media and confirmed publicly from the authorities. One of these projects is planned from Affinity Partners and aims to develop Sazan island and Zvernec peninsula which is located in the southern part of Vjosa Narta Protected Area, surrounding the Zvernec Pine Forest, Sand Dunes and Limpuo wetland which are listed as “Nature Monuments”. As described in several articles and confirmed by the investor, the initial plan is to build 10,000 rooms in the coastal part of the Protected Landscape. This will irreversibly affect the landscape and will remove important habitats such as the sand dunes and pine forest, affecting negatively a large number of wildlife species, including the loggerhead turtle (Caretta caretta) that is using the coastline to nest and to rest. Such intervention is now allowed due to the changes of the law on protected areas, in difference with the provisions of the former law no. 81/2017. This investment will require supporting infrastructure, including energy and water supply, connection roads, and lighting. The authorities have declared publicly their support of this project.



Figure 12: Zvernec peninsula, how it is now, and how it is expected to be developed by Affinity Partners © Affinity Partners

Conclusion:

Considering that Narta Lagoon and the surrounding ecosystem represent one of the largest and most important wetland ecosystems of Albania and the Mediterranean. Besides being part of the Albanian's Protected Area Network, Vjosë-Nartë is part of almost all international ecological networks that a natural site in Albania could be a part of. This wetland is recognized as an 'Important Bird Area' (IBA) with ID site "AL005". Furthermore, this area is recognized as 'Key Biodiversity Area' (KBA), known as (Vjosë-Pishë Poro-Laguna e Nartës) with ID site ALB24. Vjosë-Nartë meets all the criteria to be classified as a 'Wetland of International Importance' under the Ramsar Convention, which Albania has ratified. Finally, it is officially nominated by the Albanian government as a candidate site for the Emerald Network under the Bern Convention, with ID site AL0000008 and area 19.412,00 hectares.

Recalling that the Vjosa-Narta Protected Area has been officially nominated in 2005 as a candidate Emerald Network site under the Bern Convention, with ID site

AL0000008 and area 19.412,00 hectares, in accordance with national legislation, and as such, it is subject to Recommendation No. 157 (2011, revised in 2019) on the status of candidate Emerald sites and guidelines on the criteria for their nomination, requiring national authorities to “take the necessary protection and conservation measures in order to maintain the ecological characteristics of the candidate Emerald sites” until their full inclusion in the Emerald Network;

Recalling the Recommendation No. 219 (2023) of the Standing Committee, adopted on 5th September 2023, on the possible impacts of infrastructure and urbanization developments particularly Vlora International Airport, on the Vjosa-Narta Protected Area (Albania)

Bern Convention should address the non-implementation of Recommendation No. 219 (2023), and urge the Albanian authorities to withdraw the New Decision of the Council of Ministers as well as the law no 21/2024 "On some additions and changes to law no. 81/2017 'On Protected Areas", to ensure the integrity of Candidate Emerald Network in Albania.

LITIGATION PROCESSESS ON VLORA INTERNATIONAL AIRPORT

Following the previous update report, as regards the opposition of the construction of the Vlora International Airport in the Protected Area, there are three judicial proceedings ongoing. Below, these processes are presented briefly.

Case File No. 1

Case has been filed in the Administrative Court of Appeal against DCM no. 694, dated 26.10.2022 for changing the area and status of Vjose-Narte Protected Area (Protected Landscape, IUCN Category V). This decision is closely related to the development of the Vlora international airport project, as based on it the space where the airport is planned to be built has been removed from the status of the protected area. It is precisely this decision that gives the green light to the development of the project. The DCM no. 694/2022 was published in the Official Gazette on 04.11.2022. However, even this decision failed to fulfill the legal requirements and for this reason a lawsuit was filed in the Appeal Administrative Court on 19.12.2022. After it was considered by the Court, the request-lawsuit was accepted for review and the plaintiffs, who are two NGOs operating in the field of environment in Albania, AOS and PPNEA, were legitimized. Meanwhile, the defendant is the National Council of the Territory and the Council of Ministers.

The process is currently still in the preparatory phase of gathering evidence with experts appointed by the Court to bring the arguments that will facilitate the judgment on the claims of the parties. The first court hearing session has taken place on 28.02.2024, at 09:30, where the courts has decided to approve the legal standing to the plaintiffs. This mean that the court procedure has started. The second hearing has taken place on June 6th, 2024 where the parties have presented the evidence and requests before the court. The third hearing has taken place on July 18th, where the

court has approved the independent experts to prepare the reports. While the experts will start the court debate on the next hearing that is scheduled to take place on September 24th, 2024. The updated information will be made available in the next update report.

Case File No. 2

The case was submitted to the Administrative Court of First Instance in Tirana, with the lawsuit object on cancellation of the administrative acts that enable the construction of the Vlora International Airport project in the Vjose-Narta Protected Area. A series of administrative acts have been opposed in this Court by the two plaintiff organizations AOS and PPNEA, which include the Concession Contract, the Environmental Permit, the Development Permit, etc. The defendants in this case are Ministry of Tourism and Environment, National Environment Agency, Ministry of Infrastructure and Energy, National Council of Territory, Union of Economic Operators (BOE): Mabco Constructions SA of Matebex Group, YDA Insaat Sanayi Ve Ticaret Anonim Sirketi and 2A Group sh.p.k., and the third party is Vlora International Airport sh.p.k. After considering the case, in a single quick and without the presence of any party, the judicial body composed of only one member decided not give to the plaintiffs the legal standing. The decision for non-legitimization was taken by the Administrative Court of First Instance of Tirana on 02.12.2022.

After communicating the clarified decision of the court, the plaintiffs addressed the case to the Administrative Court of Appeal to oppose the decision of the Administrative Court of first instance on 19.12.2022. After considering the request, on 22.06.2023, the Appeal Administrative Court, noting a procedural violation, decided to return the case for trial to the Administrative Court of the first instance, emphasizing the fact that the trial must be done by a panel of three judges and the process must be developed in the presence of the parties. Against this decision of the Administrative Court of Appeal, the State Attorney has filed an appeal to the Supreme Court, where it requested the annulment of the decision to return the case to be tried before the Administrative Court of First Instance. The Supreme Court has considered the case by scheduling a session in the counseling room on January 8th, 2024, at 12:15, and has finally decided to transfer the case to a public court session on 11.03.2024, sent to Appeal Court to decide on the recourse presented by the State Attorney.

The final decision of the Supreme Court is not yet officially published so the hearing at the Appeal Administrative Court has not yet started. The update on the case will be provided in the next update report

Case File No. 3

While the legal case against the construction project of the Vlora international airport has been filed in the Administrative Court of Appeal, the plaintiffs have requested the injunction relief with the aim to stop the further development of the project.

On 22.06.2023, the Administrative Court of Appeal has decided to transfer the examination of the insurance of the claim for competence to the Administrative Court of First Instance, since on the same day it decided to send the case of the foundation for retrial to that court.

At the request of the Court of First Instance, the case was brought up for discussion in the High Court to resolve the conflict of competences. The Supreme Court, on 31.07.2023, decided that the competent court to examine the request for securing the lawsuit would be the Administrative Court of Appeal. The latter, for several months, could not examine the request because the file was physically located in the Supreme Court due to the recourse made by the State Attorney for the case of the foundation.

After taking measures to make a full copy of the file and make it officially available to the Administrative Court of Appeal, on 15.01.2024, it reviewed the request and decided to reject the suspension measure for the injunction relief of the lawsuit. The decision of 15.01.2024 was published, giving as such to the parties the right to submit a special appeal to the Supreme Court.

The decision of the Administrative Court of Appeal, dated 15.01.2024, practically allows the continuation of the works on the ground of the international airport of Vlora, which have started since November 28th, 2021. The plaintiffs have prepared and submitted the complaint to follow the case of the injunction relief in the Supreme Court but up to now there is no decision by this court on the case. Thus, the updated information will be made available in the next update report.

Conclusion:

In this respect it would be important that the Bern Convention repeats the request to the Albanian Government to follow the Recommendation No. 219 (2023) of the Standing Committee, adopted on 5th September 2023 and revised on 1st December 2023.

THE VJOSA WILD RIVER NATIONAL PARK AND BIOSPHERE RESERVE

Following the last Update Report of October 2023 and the presentation on the Convention 43rd Steering Committee Meeting in December 2023, as regards the Vjosa Wild River National Park, no significant developments have occurred. The process of preparation of the Management Plan for the National Park has been concluded in mid-December 2023 with the finalization of the first draft. The draft has been sent to the MoTE for comments and revision.

In mid-January 2024 the MoTE have prepared and sent the comments on the Management Plan draft and the team of experts are working on improving the plan. The next steps would be the final consultation round of the final draft of the Management Plan with the interested stakeholders. This include both governmental and non-governmental stakeholders.

The second consultation round has expected to take place in February, while the process for adoption of the Management Plan by the Order of the Minister for Tourism and Environment that initially was planned to take place in March 2024 is postponed to autumn 2024 for no specific reason.

In addition to the National Park, the MoTE has started in early 2024 another process that aims the recognition of the Vjosa valley as UNESCO Biosphere Reserve. The Process is still at the premature phase and it consists on the definition of the preliminary boundaries that include the area around the National Park from the Albanian-Greek Borders to the Delta on the Adriatic Sea. Up to now there have been organized by the NAPA several meetings with local stakeholders as regarding the consultation process.

DIVERSION PROJECT OF SHUSHICA RIVER

The project of the Himara Municipality water supply has continued the construction in the area outside of the National Park boundaries despite the strong opposition of the local community and Civil Society in Albania and abroad.

The main financier of this project KfW has officially requested from the developer the Albanian Development Fund (ADF) to put on hold the construction in the section that is located within the Vjosa National Park on November 17th, 2023. After this request the ADF has started a second evaluation of the environmental impacts of the project by hiring a team of experts that have been in the area in March 2024. ADF has not shared the outcomes of this process yet.



Figure 13: Picture from the protest action "Shushica Day" at the iconic Brataj bridge on the Shushica River, July 2024 © (Rejnis Plaku / EcoAlbania)

In parallel the IUCN has raised their concerns on the project that potentially would affect the Vjosa National Park Green List status. In this respect they have requested from MoTE to allow the conduction of the independent evaluation process on Environmental Impacts of the process and defining a hierarchy of mitigation actions. The process was supposed to finish before the August 2024 but due to complexity it is postponed for September 2024.

Beside the Mitigation Hierarchy, the IUCN has initiated an evaluation of the potential alternative sources for the Himara Water Supply. A team of 3 Albanian experts has been set up in June 2024 and they have checked the other potential alternative sources in the area. The preliminary results show that there are realistic options to avoid the diversion of the Lepusha spring and harming the Vjosa National Park. However, the final outcomes of this assessment will also be available in September and thus will be included in the upcoming update Report. However, it is important to be emphasized that none of the initiatives have been consulted with the local community so far.



Figure 14: Picture form the local protest at the construction site Lasko Bridge on Shushica river February 2024 © Kristi Bashmili

The reaction of the local community of the 30 villages along the Shushica River has been escalating since February 2024. They have organized several protests along the Shushica river where they have asked the Albanian Government to cancel the project and to find alternative water source to supply the Himara municipality which is rapidly growing in demand due to fast massive truism development.

The locals have also met the president of the Republic on Albania in April 2024 where they have raised their concerns on the project and on the potential escalation of the protests. The President committed to address the case to the relevant Ministries. During May 2024 the locals have organized a tour of meetings and petition signing for 3 weeks in all villages of Shushica.



Figure 15: Local community form Shushcia valley meet the President of the Republic April 2024 © Albanian Presidency

More 3.000 signatures of the locals have been put in a symbolic pipe-petition that was brought to the capital on May 25th, 2024, where the local community protested in front of the Prime minister office. Despite all this the construction has kept going on in the side of Himara municipality and close to the Shushica river which remains a big concern for the Vjosa Wild River National Park.



Figure 16: Woman from local community in Kotë signing the pipe-petition to oppose the diversion project May 2024 © Geri Bleta / EcoAlbania

Over the last 5 months, the Shushica case has gained a lot of media attention in Albania and internationally as where serval reports have been published to update on the current situation and to address the concerns of local community and civil society.

Please check the media coverage list[5]



Figure 17: *Protest action to hand over the pipe petition to Albanian Prime Minister, May 2024 © Arta Rama*

The operation phase is expected to have a significant and irreversible impact on the Shushica waterflow and its sediment regime that may impact the ecological integrity of the entire Vjosa Wild River National Park. The diversion of 104 l/s, where the annual average waterflow is estimated to be 139 l/s, is expected to leave riverbed dry during the summer period. Given the fact that Shushica river is flowing mostly on karstic geological formation, where typically the water would sink underground, any diversion of water will have a significant impact on the longitudinal connectivity of the riverine ecosystem. In this regard the diversion in the frame of the water supply system of Himara Municipality is expected to have a sever negative impact in the first 10-12 km of the river from the intake and downstream as well as in the last 10 km of the Shushica flow close to the confluence with Vjosa, from Peshkepia bridge further downstream.

Thus, the diversion project is likely to impact the functionality of the river and will show its negative impact for the aquatic and riparian flora and fauna of the river. This will also severely impact the integrity of the Vjosa National Park as with the abstraction of a large amount of water from Shushica River as tributary to Vjosa, less water will reach the main river.

In this respect EcoAlbania and representatives of the local community that would be affected by the water abstraction project have filed in December 2023 a lawsuit in the Administrative Court in Tirana, claiming the cancellation of the administrative acts linked with the project, such as the development permit, water use permit and environmental permit. The process has started in April 2024 but the Administrative Court in Tirana has declared the incompetence and has sent the case-file to the Lushnja Administrative Court with the argumentation that 2 out of 3 administrative

[5] List of media coverage on the Shushica case.

acts that the plaintiff challenge belong to the local decision-making authorities and as such the local Administrative Court should be responsible to judge. Up to now there is no hearing date set by the still at the Lushnja Administrative Court for the case.

Finally, this Project is undermining the Vjosa Wild River National Park as a vision but also as regards the expected irreversible negative impact on its nature conservation values. Thus, the water supply system of Himara Municipality must find alternative water sources that does not implicate the natural integrity of the Europe's first Wild River National Park.

Conclusion:

In this respect it would be important that the Bern Convention should consider conducting an on-the-spot appraisal for this project in order to have more clarity on the dimensions of concerns and irreversible expected negative impact that this project may have in the entire Vjosa River System.

OUTLOOK

EcoAlbania and its partners will continue to follow and contribute to the process for the adoption of the Management Plan for the Vjosa Wild River National Park. In this regard, EcoAlbania will follow closely the final round of consultation process and the implementation of the Management Plan. In addition, EcoAlbania acknowledges the process for the recognition of the Vjosa valley as UNESCO Biosphere Reserve and will follow closely this process with the aim to give its contribution with knowledge and stakeholder engagement.

In addition to this, EcoAlbania and its partners are closely following the process of the Vjosa River Basin Management Plan and is considering supporting this process for a better-informed decision-making process integrating science and local societies. The process has started in December 2023 with the kick-off of the EU4Water programme led by the National Agency for Water Recourses Management. This programme will have in focus also the development of the Vjosa Integrated River Basin Management Plan.

In relation to the Vlora Airport project, EcoAlbania will keep the constant communication with its partner organization, AOS and PPNEA that are fully committed to follow closely the development of the Vlora International Airport. The same NGOs will monitor the construction on the ground with the aim to gather information and produce monitoring reports on the and assessments on the expected negative impacts from the construction of the Vlora International Airport.

As regards to the litigation processes, EcoAlbania will closely follow the continuation of the processes that it is directly involved in such as the ones that oppose the construction of small HPPs in Shushica or the diversion of the river due to the construction of the water supply system of Himara Municipality. EcoAlbania will further support other judicial process that have been initiated by the other ECSOs, including the Vlora International Airport lawsuit case. EcoAlbania is grateful for the On-the-spot Appraisal conducted by the Bern Convention in the Vjosa-Narta Protected Area in late August, early September 2022 and appreciates the report compiled by the independent expert. Having said so, EcoAlbania highlights the need for **keeping the file open and following up the decision taken by the Convention under Recommendation no 2019/2023** which is based on the adoption of the OSA Report by the Bureau.

Finally, as regards the Shushica case, EcoAlbania will follow up on raising awareness on the issue, support the local communities, bringing addition knowledge on the nature conservation values of the Shushica river as integral part of the Vjosa. In this respect, **EcoAlbania stresses the importance for an on-the-spot-appraisal from the Convention to inspect and closely monitor the development at the Shushica River valley.**

The follow up of the lawsuits in the court will also be EcoAlbania’s top priority as regards the water abstraction and hydropower projects along the Shushica.

- February 2024 -



Update Report

Complaint no Complaint No. 2016/5: Presumed negative impact of developments on the Vjosa river including hydro-power plant development and Vlora International Airport (Albania)

By Olsi Nika
EcoAlbania
February 2024

ABBREVIATIONS

AEWA African-Eurasian Waterbird Agreement
AOS Albanian Ornithological Society
CMS Convention of Migratory Species
COP Conference of Parties
CSOs Civil Society Organizations
DCM Decision of the Council of Ministers
ECSOs Environmental Civil Society Organizations
EPAN Environmental Protected Areas Network
GOs Governmental Organizations
IUCN International Union for Conservation of Nature
MoTE Ministry of Tourism and Environment
NGOs Non-Governmental Organizations
OSA On-the-spot Appraisal
PPNEA Protection and Preservation of Natural Environment in Albania
SCM Steering Committee Meeting
ToR Terms of Reference
VIA Vlora International Airport

BACKGROUND

The complaint on Presumed negative impact of hydro-power plant development on the Vjosa river (Albania) has been submitted by EcoAlbania in 2016. The case has been opened with the Decision of the Bern Convention 37th Standing Committee Meeting. The Decision no. 202 of the Convention has defined the case as open and has requested Albanian authorities to address the concerns raised by the complainant.

These concerns have been continuously updated through reports and presentations during previous Standing Committee Meetings of the Convention. The current major concerns are the on-going construction of the Vlora International Airport in the delta of the Vjosa River, the effective management of the Vjosa Wild River National Park as well as recently started construction works related towater abstraction and HPPs in Shushica River, located within the boundaries of the Vjosa Wild River National Park proclaimed in 2023.

The airport is being constructed within the boundaries of the Candidate Emerald site "Wetland complex Vjosa river delta – Narta Lagoon". In the following chapters, this Update Report will bring in the summary of the latest developments in the Vjosa river valley as regards to the Vlora International Airport, the National Park declaration process and the current threats that the Park is facing.

Shushica is one of the major tributary of the lower part of the Vjosa, and included in the Vjosa Wild River National Park. Currently, it is at significant risk by a water abstraction project just at its spring. The project that is based on largely poor EIA and social assessments, is foreseen to transfer the water from Shushica river towards the coastal neighboring municipality of Himara to improve its drinkable water supply system. Due to its severe negative environmental and social consequences, the project has been strongly opposed by the local community of Shushica valley, NGOs and academia because it compromises the river's national park status.

VLORA INTERNATIONAL AIRPORT IN THE PROTECTED AREA

As regards this issue, last year (2023), the Convention has adopted the Recommendation 219 (2023), highlighting the "Suspension the construction of Vlora International Airport until a new and sufficient Environmental Impact Assessment (EIA) procedure will be conducted as well as a Proper/Appropriate Assessment.

After the adoption of the Recommendation[6] no. 219/2023, it appears that the construction of the Vlora International Airport within the protected area of Vjosa-Narta (now called Narta Pishe-Poro) is ongoing and the companies are working in full rhythm. Besides habitat destruction, the disturbance continues non-stop on daily basis through high-machinery vehicles, causing various forms of noise pollution, light pollution, etc. Furthermore, the construction work continued very close to the local salina, even during avifauna breeding seasons.

[6] https://rm.coe.int/2023-rec-219e-vlora-airport/1680ac7963

Thus, the Albanian Government has not undertaken any measures to fulfil the recommendation but in contrary it has announced that the airport will be fully operational[7] at the beginning of 2025. Based on the observation on the ground the construction works are now concentrated at the terminal part and drainage system, while the construction of the runaway has not yet finished although it is in an advanced phase.

LITIGATION PROCESSESS ON VLORA INTERNATIONAL AIRPORT

Following the previous update report, as regards the opposition of the construction of the Vlora International Airport in the Protected Area, there are three judicial proceedings ongoing. Below, these processes are presented briefly.

Case File No. 1

Case has been filed in the Administrative Court of Appeal against DCM no. 694, dated 26.10.2022 for changing the area and status of Vjose-Narte Protected Area (Protected Landscape, IUCN Category V). This decision is closely related to the development of the Vlora international airport project, as based on it the space where the airport is planned to be built has been removed from the status of the protected area. It is precisely this decision that gives the green light to the development of the project. The DCM no. 694/2022 was published in the Official Gazette on 04.11.2022. However, even this decision failed to fulfill the legal requirements and for this reason a lawsuit was filed in the Appeal Administrative Court on 19.12.2022. After it was considered by the Court, the request-lawsuit was accepted for review and the plaintiffs, who are two NGOs operating in the field of environment in Albania, AOS and PPNEA, were legitimized. Meanwhile, the defendant is the National Council of the Territory and the Council of Ministers.

The process is currently still in the preparatory phase of gathering evidence with experts appointed by the Court to bring the arguments that will facilitate the judgment on the claims of the parties. The next court hearing session is scheduled for 28.02.2024, at 09:30 and the updated information will be made available in the next update report.

Case File No. 2

The case was submitted to the Administrative Court of First Instance in Tirana, with the lawsuit object on cancellation of the administrative acts that enable the construction of the Vlora International Airport project in the Vjose-Narta Protected Area. A series of administrative acts have been opposed in this Court by the two plaintiff organizations AOS and PPNEA, which include the Concession Contract, the Environmental Permit, the Development Permit, etc. The defendants in this case are Ministry of Tourism and Environment, National Environment Agency, Ministry of Infrastructure and Energy, National Council of Territory, Union of Economic Operators (BOE): Mabco Constructions SA of Matebex Group, YDA Insaat Sanayi Ve Ticaret Anonim Sirketi and 2A Group sh.p.k., and the third party is Vlora International Airport sh.p.k. After considering the case, in a single quick and without the presence of any party, the judicial body composed of only one member decided not give to the plaintiffs the legal standing. The decision for non-legitimization was taken by the Administrative Court of First Instance of Tirana on 02.12.2022.

After communicating the clarified decision of the court, the plaintiffs addressed the case to the Administrative Court of Appeal to oppose the decision of the Administrative Court of first instance on 19.12.2022. After considering the request, on 22.06.2023, the Appeal Administrative Court, noting a procedural violation, decided to return the case for trial to the Administrative Court of the first instance, emphasizing the fact that the trial must be done by a panel of three judges and the process must be developed in the presence of the parties. Against this decision of the Administrative Court of Appeal, the State Attorney has filed an appeal to the Supreme Court, where it requested the annulment of the decision to return the case to be tried before the Administrative Court of First Instance. The Supreme Court has considered the case by scheduling a session in the counseling room on January 8, 2024, at 12:15, and has finally decided to to transfer the case to a public court session on 11.03.2024, to decide on the recourse presented by the State Attorney.

Case File No. 3

While the legal case against the construction project of the Vlora international airport has been filed in the

[7] https://www.youtube.com/watch?v=LtwmGrBdUhQ

Administrative Court of Appeal, the plaintiffs have requested the injunction relief with the aim to stop the further development of the project.

On 22.06.2023, the Administrative Court of Appeal has decided to transfer the examination of the insurance of the claim for competence to the Administrative Court of First Instance, since on the same day it decided to send the case of the foundation for retrial to that court.

At the request of the Court of First Instance, the case was brought up for discussion in the High Court to resolve the conflict of competences. The Supreme Court, on 31.07.2023, decided that the competent court to examine the request for securing the lawsuit would be the Administrative Court of Appeal. The latter, for several months, could not examine the request because the file was physically located in the Supreme Court due to the recourse made by the State Attorney for the case of the foundation.

After taking measures to make a full copy of the file and make it officially available to the Administrative Court of Appeal, on 15.01.2024, it reviewed the request and decided to reject the suspension measure for the injunction relief of the lawsuit. The decision of 15.01.2024 has not yet been clarified and the parties have the right to submit a special appeal to the Supreme Court.

The decision of the Administrative Court of Appeal, dated 15.01.2024, practically allows the continuation of the works on the ground of the international airport of Vlora, which have started since November 28th, 2021. The plaintiffs are preparing to follow the case of the injunction relief in the Supreme Court and the updated information will be made available in the next update report.

Conclusion:

In this respect it would be important that the Bern Convention repeats the request to the Albanian Government to follow the Recommendation No. 219 (2023) of the Standing Committee, adopted on 5th September 2023 and revised on 1st December 2023.

THE VJOSA WILD RIVER NATIONAL PARK

Following the last Update Report of October 2023 and the presentation on the Convention 43rd Steering Committee Meeting in December 2023, as regards the Vjosa Wild River National Park, no significant developments have occurred. The process of preparation of the Management Plan for the National Park has been concluded in mid-December 2023 with the finalization of the first draft. The draft has been sent to the MoTE for comments and revision.

In mid-January 2024 the MoTE have prepared and sent the comments on the Management Plan draft and the team of experts are working on improving the plan. The next steps would be the final consultation round of the final draft of the Management Plan with the interested stakeholders. This include both governmental and non-governmental stakeholders.

The consultation round is expected to take place in the second half of February, while the process is due to get finalized in early March 2024 with the adoption of the Management Plan by the Order of the Minister for Tourism and Environment.

DIVERSION PROJECT OF SHUSHICA RIVER

Another important topic that may compromise the Vjosa National Park and its integrity is a project for the construction of the Himara Municipality water supply system. The project has started its planning phase in 2021, received permissions in mid-2022 (prior to the proclamation of the Vjosa National Park in March 2023), and started construction in 2023. This project consists of full diversion of water from the Shushica river main spring towards the Himara municipality, located along the Ionian coast.

The project is expected to provide water to Himara municipality but also along the pipeline two small Hydropower projects are foreseen to be constructed.

This project has immediately created a massive reaction of local communities which live beside the Shushica river. They have organized protests, petitions and even blocked the construction site as well as the main national road because they have never been asked or consulted about the project. However, the 9.5 million Euros project that is co-financed by WIFB and KfW is ongoing despite the strong opposition of the 30 villages along the Shushica.

The construction phase and the operation are expected to have a sever negative impact on the areas landscape, which is also part of the Protected Areas Network, namely the "Zereci Oak Forest" Nature Monument, Category III.

The operation phase is expected to have a significant and irreversible impact on the Shushica waterflow and its sediment regime that may impact the ecological integrity of the entire Vjosa Wild River National Park. The diversion of 104 l/s, where the annual average waterflow is estimated to be 139 l/s, is expected to leave riverbed dry during the summer period. Given the fact that Shushica river is flowing mostly on karstic geological formation, where typically the water would sink underground, any diversion of water will have a significant impact on the longitudinal connectivity of the riverine ecosystem. In this regard the diversion in the frame of the water supply system of Himara Municipality is expected to have a sever negative impact in the first 10-12 km of the river from the intake and downstream as well as in the last 10 km of the Shushica flow close to the confluence with Vjosa, from Peshkepia bridge further downstream.

Thus, the diversion project is likely to impact the functionality of the river and will show its negative impact for the aquatic and riparian flora and fauna of the river. This will also severely impact the integrity of the Vjosa National Park as with the abstraction of a large amount of water from Shushica River as tribuatory to Vjosa, less water will reach the main river.

Another important point to emphasize is the lack of the public consultation during the planning phase of the project. In this respect no public consultation has taken part in the affected area with any of the communities that live along the Shushica river valley (in total 30 villages). This has caused an immediate reaction of the local people in the villages from Kuç (far upstream) to Armen (downstream part of Shushica). In this context the project is being largely contested and opposed by initiating an open conflict between 2 different water users.

In continuation of the updates made in the previous update report in this regard, several steps have been taken.

At first the opposition of the project from the local community of the Shushica valley has grown as petitions, letters of concerns and protests have been organized on site. In addition, EcoAlbania and its international partner organizations EuroNatur and Riverwatch have also raised the concerns as regards the projects towards its financiers the KfW and WIBF as well as towards the developer who is the Albanian Development Fund.

Due to the fact that the project has failed to meet the legal requirement as regards environmental and social concerns, NGOs have requested to the developer and to the financier of the project to stop the construction work until relevant and appropriate assessments may bring in more clarity on the expected impacts. Although that financiers have asked the ADF to halt the construction and to conduct an update on the ESIA, currently the construction works are ongoing and concentrated mainly at the setting up the pipeline.

In this respect EcoAlbania and representatives of the local community that would be affected by the water abstraction project have filed in December 2023 a lawsuit in the Administrative Court in Tirana, claiming the cancellation of the administrative acts linked with the project, such as the development permit, water use permit and environmental permit. The process is still at the preparatory phase and is expected to start in February-March 2024.

Finally, this Project is undermining the Vjosa Wild River National Park as a vision but also as regards the expected irreversible negative impact on its nature conservation values. Thus, the water supply system of Himara Municipality must find alternative water sources that does not implicate the natural integrity of the Europe's first Wild River National Park.

In this respect it would be important that the Bern Convention may consider conducting an on-the-spot appraisal for this project in order to have more clarity on the dimensions of concerns and irreversible expected negative impact that this project may have in the entire Vjosa River System.

OUTLOOK

EcoAlbania and its partners will continue to follow and contribute to the process for the adoption of the Management Plan for the Vjosa Wild River National Park. In this regard, EcoAlbania will follow closely the final round of consultation which is expected to take place in mid-February 2024.

In addition to this, EcoAlbania and its partners are closely following the process of the Vjosa River Basin Management Plan and is considering supporting this process for a better-informed decision-making process integrating science and local societies. The process has started in December 2023 with the kick-off of the EU4Water programme led by the National Agency for Water Recourses Management. This programme will

have in focus also the development of the Vjosa Integrated River Basin Management Plan.

In addition, EcoAlbania will keep the constant communication with its partner organization, AOS and PPNEA that are fully committed to follow closely the development of the Vlora International Airport. The same NGOs will monitor the construction on the ground with the aim to gather information and produce monitoring reports on the and assessments on the expected negative impacts from the construction of the Vlora International Airport.

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Finally, as regards the Shushica case, EcoAlbania will follow up on raising awareness on the issue, support the local communities, bringing addition knowledge on the nature conservation values of the Shushica river as integral part of the Vjosa.

The follow up of the lawsuits in the court will also be EcoAlbania’s top priority as regards the water abstraction and hydropower projects along the Shushica.