



Strasbourg, 9th February 2024

T-PVS/Files(2024)20

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Bureau of the Standing Committee

18-19 March 2024
Strasbourg

Open case-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 -



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)

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

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](#)² 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 runway has not yet finished although it is in an advanced phase.

LITIGATION PROCESSES 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

² <https://www.youtube.com/watch?v=LtwmGrBdUhQ>

the counseling room on January 8, 2024, at 12:15, and has finally decided 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 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 severe negative impact on the area's 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 the 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 severe 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.

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 WIFB 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 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.

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.

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.