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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

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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 hydro-power plant development on the Vjosa river (Albania)

By Olsi Nika EcoAlbania
October 2023

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 revision of the network of the Protected Areas in Albania, a process that has negatively affected the integrity of the Vjosa river delta. This process is interlinked with the development of the Vlora International Airport.

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.

VLORA INTERNATIONAL AIRPORT IN THE PROTECTED AREA

As regards this issue the Convention has initiated the second On-the-spot Appraisal, in the frame of the case (29th August - 2nd September 2022). Precisely, this was a joint field-mission of Bern Convention, CMS and AEWA.

The report of the mission was prepared by the appointed independent expert and presented during the 42nd Standing Committee Meeting. However due to short-noticed finalization of the report, the Albanian authorities asked the Convention for additional time to conclude the endorsement of the report. Following the written procedures, the Bureau made Recommendation No. 219/2023 to the Albanian Government, which states to “Suspend 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 no. 219/2023, it appears that the construction of the Vlora International Airport within the protected area of Vjosa-Narta (now called Narta Pische-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.

After collecting evidence and information about violations, the environmental groups (PPNEA and AOS with the support of EuroNatur) sued the Albanian authorities on 23rd November 2022, for the illegal construction of the Vlora Airport. The plaintiffs presented facts and findings on the violation of several laws like the Protected Areas Law, the Environmental Impact Assessment Law, the Strategic Assessment Law, the Spatial Planning Law, the pre-contractual concession procedures as well as various implementing regulations of such laws. Furthermore, the construction of this object has been carried out in an unprecedented and irregular manner, marked by a lack of transparency, limited involvement of relevant stakeholders, and the circumvention of essential procedures. The actual construction permits for the Airport were issued on 07.02.2023, this means that for more than a year the companies have been working illegally, without any construction permit.

Furthermore, it has been a year since the lawsuit was submitted, and it is noteworthy that, to date, there has been minimal progress or significant action taken by the Albanian court system. The Administrative courts are passing the cases back and forth which also affects the decision related to the injunction relief request, which was submitted to the respective Court on 19th June 2023. We are aware that this issue is a "hot potato", but these hinderances have huge consequences on the natural ecosystem of the delta.

In this case, the Albanian authorities are violating not only national laws but they are violating and disrespecting international conventions and ratified treaties. To our knowledge, there isn't any response or there haven't been any measures taken after the Bern Convention's recommendation No. 219/2023 adopted on September 5th, 2023.

On 19th December 2022 Albanian Environmental Groups submitted another lawsuit challenging the decision of the Albanian Government for changing the boundaries of the Protected Landscape Vjosa-Narta. The decision to change these boundaries were made public on 4th November 2022 in the Official Gazette, although ministers mentioned in the public and in parliament that the actual decision has been taken already in February 2022.

Following the concerns raised by the European Commission through the Albania Progress Report 2022 on the Airport case, from July 2023, the EU Parliament adopted the resolution and article 84 , requesting the Albanian authorities to halt the construction of the Vlora International Airport. The main argument pointed out that such projects risk violating national and international biodiversity protection norms. Even individual Members of the European Parliament have raised this topic to the Albanian authorities and other institutions. To our knowledge, there wasn't any response or measures taken to address this issue.

The environmental NGOs are working on data collection in the area but on the construction site, they are prohibited from entering and monitoring bird species during their routine monitoring, such as the International Bird Census. The environmental NGOs have sent various letters and organized several protests to address the problems, but we have no reactions from institutions on this.

In October 2023, a massive fire erupted on the Pisha-Poro site, located near the Vjosa delta within the protected area along the coast. The fire raged for over a week, burning more than 700 hectares of land. Such fires occurring within protected areas, likely not occurring by chance, serve as indicators of increased exploitation of the region. The developments in and around the delta, particularly concerning plans for urbanization, have elicited a robust and widespread response from the scientific community both within Albania and on an international scale.

To this regard a Scientific Symposium on the delta of Vjosa river has taken place in 27th -28th of October 2023 where the scientists have emphasized the importance and value of the Vjosa river delta. More than 50 scientists gathered for this symposium, concluding with an open letter that will be addressed to the Albanian Government, the Prime Minister and the MoTE with a call to maintain the delta at its natural state and to explore the opportunity to include it in the already established Vjosa Wild River National Park.

DECLARING THE VJOSA WILD RIVER NATIONAL PARK

Following the last Update Report of February 2023, a big step has been taken by the Albanian Government towards the preservation of the Vjosa river. The process for the proclamation of the Vjosa river and its free-flowing tributaries as a National Park (IUCN Category II) has been finalized with the adoption of the Decision no. 155/2023 on March 14th, 2023, where Vjosa river and its 3 main free-flowing tributaries have been declared as National Park. The National Park comprises about 400 km of free-flowing river stretches in an area of 12.000 hectares. This represents a new model for nature preservation. Here, the base is defined by the natural

integrity and the continuity of ecological processes. With this approach, the Vjosa represents Europe's first Wild River National Park.

Since May 2023, the MoTE is fully engaged to prepare the Management Plan for this National Park, where a large team of experts was set up, working on the delivery of a draft document within 2023. The Management Plan would be an integrated one that in addition to the nature conservation aspects will also cover planning documents on Tourism, Agriculture, and Sustainable use natural resources in the National Park area and the surroundings.

During the Management Plan preparation process several consultation meetings have taken place in June and September 2023. The consultation meetings between the team of experts, the MoTE and key targeted stakeholders in the valley have taken place in 4 main towns along the Vjosa valley.

In addition to these meetings, a round of stakeholder engagement with targeted stakeholders and local communities has also been conducted by a consultant company commissioned by MoTE as part of the process.

Currently, the process for drafting the Management Plan is at its advanced phase where the first draft is already prepared and will be delivered to MoTE for final revision before its adoption that is expected to happen in late 2023 or early 2024.

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 permission in 2022 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 "Zerci 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 be diverted from the riverbed dry during the summer. 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.

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.

The EIA Report appears to justify at all means the construction of the diversion scheme. The Report presents a list of the arguments given within the report are supporting the construction of the water Supply System of Himara by using the Shushica headwater as the main source. However, the EIA is not referring at all the fact that this river could be potentially part of the Vjosa Wild River National Park, a debate that has started already in 2019, where the Albanian Government made its first public announcement towards the establishment of the Vjosa National Park. Further, the information given in the EIA Report is too general and it does not describe at all any potential threat or impact on aquatic life. The mitigation measures plan that is an integral part of the EIA Report is also extremely poor. Almost no measure have been foreseen towards the mitigation of the negative impact on biodiversity, especially on the aquatic and riparian one.

Moreover, in the feasibility study as well as in the public announcement of the project, it is mentioned that an integral part of the project is the construction of 2 small HPPs close to Himara. However very limited information is provided in the EIA Report on these projects. It is unclear who will run this HPPs and what their installed capacity would be.

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.

LITIGATION PROCESSES

In parallel to the process of the declaration of the Vjosa as National Park the Civil Society Organizations, including EcoAlbania have initiated new litigation processes and followed the already started ones.

In addition to the already initiated 3 lawsuits to oppose the Government's Decision for the revision of the PAs, specifically for the Shushica case EcoAlbania is preparing another one that will aim to oppose the construction of the diversion project.

All 3 lawsuits are ongoing in the Appeal Administrative Court and no final decision is made by the time of the preparation of this report.

OUTLOOK

EcoAlbania and its partners will continue to follow and contribute to the process for the proclamation of the Vjosa river and its tributaries as a National Park. In this regard, the next meeting organized by the MoTE will aim to conclude the current phase of the preparation of the Management Plan for the National Park and to open another phase of the vision which is related to set up the effective management concept and the evaluation of the enlargement of the National Park. The meeting is foreseen to take place in the last week of January 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 is foreseen to start in Autumn 2023, and it will be led by the National Agency for Water Recourses Management.

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.



Update Report

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

By Olsi Nika
EcoAlbania
February 2023

ABBREVIATIONS

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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 imitated by EcoAlbania in 2016. The case has been opened with the Decision of the Bern Convention 37 Standing Committee Meeting. The Decision no. 202 of the Convention has defined the case as open and has requested to Albanian authorities to address the concerns raised by the complainant.

The concerns have been raised by the complainant on the previous update reports and they have been presented during the previous Standing Committee Meetings of the Convention. The current major concerns are the revision of the network of the Protected Areas in Albania, process that has negatively affected the integrity of the Vjosa River delta. This process is interlinked with the development of the Vlora International Airport, which is being constructed within the boundaries of the Candidate Emerald site “Wetland complex Vjosa river delta – Narta Lagoon”.

To this end, the Convention has initiated the second On-the-spot Appraisal, in the frame of the case, in September 2022. Precisely this was a joint field-mission¹ of Bern Convention, CMS and AEWA.

The report² of the mission was prepared by the appointed independent expert and was presented during the 42nd Standing Committee Meeting. However due to short- noticed finalization of the report, the Albanian Authorities asked the Convention for additional time to conclude the endorsement of the report.

In the following chapters this Update Report will bring in the summary of the latest developments in the Vjosa River valley as regards the National Park declaration process as well as the Litigation action

undertaken by the CSOs to oppose the construction of the Vlora International Airport inside the Protected Area.

DECLARING THE VJOSA WILD RIVER NATIONAL PARK

The process for the proclamation of the Vjosa river and its free-flowing tributaries as a National Park (IUCN Category II) has started with the agreement³ signed in June 2022, between the Ministry for Tourism and Environment of Albania and the Patagonia company. Both parties committed to work together on the preparatory phase for the proclamation of the Vjosa Wild River National Park. This goal goes in line with the Recommendation⁴ no 202/2018 as well as with the repeated recommendation of the European Commission's Country Report⁵ for Albania, where it was asked the Albanian Government to assess the option of proclaiming the Vjosa as National Park.

In this regard the MoTE has established⁶ in early September a wide team of national and international experts to work on the preparatory phase of the declaration of the Vjosa Wild River National Park. The objective has been to prepare a comprehensive feasibility study on the nature conservation, socio-economic, management and other key topics related to the National Park.

The team has worked together to achieve the objective under the coordination of the MoTE of Albania. The work has been a combination of desk research and study visit⁷ on the spot. In late November the team has conducted an early-stage consultation⁸ with the relevant stakeholders in the valley related to the outcomes of the process.

The preparation phase has been concluded by the preparation of the feasibility study and the maps, which has been delivered to the MoTE in late December 2022. The preparatory phase as well as the feasibility study was presented by MoTE in the COP 15⁹ of the United Nations Convention on Biological Diversity. The IUCN has certified the process as it has met the standards. At this stage the Vjosa National Park includes a total of 12.000 hectares of free-flowing river stretches out of which about 11.000 hectares are under the core zone. The National Park includes the Vjosa River and its major free-flowing tributaries: Drino, Bënça and Shushica. At a later stage the MoTE has committed to enlarge the Park by including other secondary tributaries that maintain the natural features of a free-flowing river.

In January 2023 the MoTE has called a first presentation meeting¹⁰ with the relevant stakeholders at its premises in Tirana where it has decelerated officially open the public consultation process as regards the proclamation of the Vjosa and its free-flowing tributaries (Bënça, Drino and Shushica) as a National Park. The main document that has been opened for the consultation has been the feasibility study¹¹ and the mapping¹² of the Vjosa National Park that has been made available to the public at the MoTE official website.

The Consultation process has been carried out under the coordination of NAPA where have been organized 3 consultation meetings with the relevant GOs and NGOs stakeholders in Vlora, Tepelena and Gjirokastra. The meetings have taken place respectively on January 25th, 27th and 30th 2023.

Currently the process stands at the drafting of the Decision of the Council of Ministers that is expected to be adopted in late February or early March, to conclude the first phase of the process that will declare the Vjosa as the National Park. The process is also expected to have a second phase that will aim to set up the management structure of the new National Park as well as to assess the possibility of enlargement of the park with other free-flowing tributaries. In the later stage the vision is to have the river protected under the IUCN Category II on both sides Albania and

Greece. In this regard there are already official talks¹³ between the countries to commonly achieve this goal.

LITIGATION PROCESSES

In parallel with the process of the declaration of the Vjosa as National Park the Civil Society Organizations, including EcoAlbania have initiated new litigation processes and followed the already started ones. In this context during the period December 2022 – February 2023 there have been numerous developments in this regard.

One of the litigation processes that has been followed has been the opposition of the construction of the Vlora International Airport inside the boundaries of the existing Protected Landscape “Delta of Vjosa River – Narta Lagoon”. This concern has been raised by EcoAlbania also in the previous update reports. The latest development under this case is the initiation of the judicial process to oppose this project. The lawsuit is opposing the DCM no. 694, dated 26.10.2022. The decision foresees the merging of the two Protected Areas: The Pishë-Poro Nature Managed Reserve (IUCN Category IV) and the “Wetland Complex Vjosa River Delta – Narta Lagoon”, Protected Landscape (IUCN Category V). The new Protected area is now a Protected Landscape (IUCN Category V) but excludes as an “*ex clave*” the area of the Vlora International Airport. The decision has been contested publicly by the CSOs and Academia and thus, two Environmental Organizations, namely Protection and Preservation of Natural Environment in Albania (PPNEA) and Albanian Ornithological Society (AOS), have filed the lawsuit¹⁴ on December 19th, 2022, in the Administrative Court of Tirana against the Council of Ministers and Ministry of Tourism and Environment of Albania.

The court has ruled against the plaintiffs at the first instance by not accepting the legal standing and the case has been sent to the Appeal Administrative Court for the final decision to be made.

Another topic that has been addressed via litigation is the revision of the Protected areas in Albania. The detailed information on the process and its deficiencies and legal infringement have been included in the previous update reports sent by EcoAlbania.

In this regard the ECSOs in Albania have filed 2 other lawsuits against the Council of Ministers to oppose¹⁵ the DCM no. 59, dated on January 26th, 2022, for National Parks and the DCM no. 60, dated on January 26th, 2022, for Natural Managed Reserves (Nature Parks) in Albania.

The first lawsuit has been filed on January 31st, 2023, while the second one has been filed on February 7th, 2023. In both cases the plaintiffs are the 11 ECSOs in Albania and for none of each the Court has not yet made any decision. Furthermore, both lawsuits also challenge the Decision no 10, dated on December 28th, 2021, of the National Council of the Territory which has approved the new map of the EPAN in Albania.

Another judicial process that is being followed is the lawsuit against the construction of the cascade of small hydropower plants in Shushica river. The case has been filed since 2022 by EcoAlbania and 28 people from the local community. After the preparatory hearings the on February 13th, 2023, the Court held the first hearing, which has been postponed to March 13th, 2023, due to not meeting the quorum of the judicial team. The new DCM that is expected to get adopted for the proclamation of the Vjosa National Park foresees the entire Shushica River as

part of the National Park and thus according to the Law no. 81/2017 “on Protected Areas”, no hydropower is allowed to be built.

In addition to the litigation process the ECSOs have also increased the public voice on several occasions as regards the decision-making processes on Protected Areas. They have organized a Forum on Protected Areas in January 2023 in which they have made their public position by a joint statement¹⁶. As regards specifically the issue of the construction of VIA the NGOs have organized several public forums¹⁷ as well as protest actions¹⁸ where they have publicly presented the scientific and legal arguments why this project is harmful and is being constructed in an unlawful way.

OUTLOOK

EcoAlbania and its partners will continue to follow and contribute to the process for the proclamation of the Vjosa river and its tributaries as a National Park. In this regard, the next meeting organized by the MoTE will aim to conclude the first phase and to open the second phase of the vision which is related to set up the effective management concept and the evaluation of the enlargement of the National Park. The meeting is foreseen to take place in the last week of February 2023.

In addition to this, EcoAlbania and its partners are closely following the process of the Vjosa River Basin Management Plan process and is considering possible interference on appropriate proposals. The process is foreseen to start in Autumn 2023, and it will be led by the National Agency for Water Recourses Management.

As regards the litigation processes, EcoAlbania will follow closely the continuation of the processes that it is directly involved and will support also the other judicial process that have been initiated by the other ECSOs, including the VIA 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 2022 and appreciates the report compiled by the independent expert. Having said so, EcoAlbania highlights the need for the adoption of the OSA Report by the Bureau and asks the Convention for a rapid decision as regards the Vjosa River Delta.

¹ ToR for the joint On-the-spot Appraisal

² Draft-Report of the On-the-spot Appraisal

³ MoU between MoTE and Patagonia on proclamation of the Vjosa National Park

⁴ Recommendation no. 202/2018 of the SCM of the Bern Convention (pg. 33-35)

⁵ Albania Report 2022.pdf (europa.eu) (pg. 111)

⁶ Kick-Off meeting of the team of experts for Vjosa National Park

⁷ Study visits of the team of experts

⁸ Early-stage consultation meeting in Vlora

⁹ Vjosa Wild River National Park in COP 15, Montreal

¹⁰ Presentation of the outcomes for the preparatory process of Vjosa National Park

¹¹ Feasibility Study on Vjosa National Park

¹² Mapping of the Vjosa National Park

¹³ Official meeting in Athens between the Ministers of Albania and Greece

¹⁴ The lawsuit against the DCM no. 694/2022

¹⁵ The lawsuit against the DCM no. 59/2022

¹⁶ Joint statement of ECSOs on Protected Areas.

¹⁷ Forum on opposing the construction of Narta Airport

¹⁸ Protest action on the construction site of the VIA