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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

42nd meeting

Strasbourg, 28 November – 2 December 2022

Open case-file: 2013/01

**Hydro power development within the territory of
Mavrovo National Park
(North Macedonia)**

- REPORT BY THE COMPLAINANT -

*Document prepared by
Eko-Svest*

- November 2022 -

To the Bern Convention Secretariat

Skopje, 18.11.2022

Case file: 2013/1 - North Macedonia: Hydro power development within the territory of the Mavrovo National Park

Report #3 from the Complainant on the implementation of the Recommendation No. 211 (2021) of the Standing Committee, adopted on 3rd December 2021, on conservation measures within national parks in North Macedonia, including in relation to Mavrovo National Park and Lake Ohrid and Galichica National Park.

Dear Ms. Sticker,

Thank you for the opportunity to contribute with our report on the status of the implementation of Recommendation 211.

In the text below we will address separate sections of the recommendation to elaborate on the status of implementation for each.

- 1. Suspend and cancel approved concessions and those planned for construction and implement a ban on hydropower plants (large, medium and small) both a) in national parks, protected areas, World Heritage Sites and other candidate Emerald sites (potential future Natura 2000 sites) as their implementation will cause problems with compliance with the Bern Convention and b) that will impact on these locations if constructed outside their boundaries.**

Progress of implementation: In progress. The Government of North Macedonia recently revoked 7 concessions for small hydropower plants in the newly proclaimed Shar Mountain National Park.

No new concessions have been issued. No ban on new projects has been adopted.

Comment to the Government's report from 10th of August 2022:

The report states that *“For all infrastructure projects in protected areas, Emerald and outside them [...] a procedure for a Strategic Environmental Assessment as well as an Environmental Impact Assessment is conducted...”*.

Please note that small hydropower plants have received water permits and concessions for construction based only on a so called Environmental study, a short document outlining the project impacts and mitigation measures. These Environmental studies are not subject to public hearing or to any public consultations, in contrast to the provisions of the Aarhus Convention. They are “desktop documents”, often with low quality, not based on biomonitoring or field research and are not subject to scrutiny.

Moreover, one third of all issued concessions for small hydro power plants are in protected areas such as national parks or Emerald sites. There has not been an Environmental Impact Assessment carried out for any of the issued concessions for small hydro power plants.

- 2. Implement the new international standards on the prohibition of hydropower plants in World Heritage Sites (beech forests in Mavrovo National Park are part of serial Beech Forests World Heritage property) and ensure due diligence for protected areas, candidate protected areas and corridors between protected areas which require the implementation of high standards of performance and transparency.**

Progress of implementation: No progress.

Comment to the Government's report:

The new draft version of the Law on nature has been prepared since 2018. If the Law prescribes the ban of hydropower plants in protected areas and implementation of new international standards for their prohibition including the due diligence for protected area, the draft articles should be shared with the Complainant and the Bern Convention Standing Committee.

- 3. Ensure proper implementation of the EU Water Framework Directive National Law regarding environmental flow of streams and prevent excessive withdrawal of water in streams within or impacting upon Mavrovo National Park, other protected areas, World Heritage Sites and Emerald candidate areas.**

Progress with implementation: In progress. The Ministry of environment organized a public hearing for the draft Law on Waters. The draft Law published has not yet been adopted.

The draft version of the Law includes a definition of the ecological flow. No bylaws have been prepared to define the methodology for determining the ecological flow.

- 4. Ensure that core funding for the operation and management of national parks in North Macedonia comes from the state budget and not from the excessive harvesting of natural resources and other unsustainable sources of funding (complying with IUCN cat. II protected area standards).**

Progress with implementation: With the exception of the newly proclaimed national park Shar Mountain, none of the other protected areas receive budget funding. Moreover, some protected area managers who apply to receive budget funding from the Ministry of environment's investment programme are refused funding.

- 5. Strengthen the process for all forms of impact assessments in national legislation to ensure they meet EU standards for robust quantification of potential impacts, including (but not limited to) revision of the process for conducting, reviewing and auditing Strategic Environmental Assessments, Environmental Impact Assessments and Environmental Elaborates as well as implementing and monitoring the recommendations of these documents; this should be achieved at a minimum via a) heightened licencing standards and responsibility mechanisms for assessment proponents; and b) improvements to the relevant laws and regulations.**

Progress with implementation: No particular progress visible.

- 6. Accelerate the process of preparation of the valorisation study for Mavrovo National Park, taking into account all international and national standards for nature conservation and protected areas, including IUCN protected area and World Heritage Sites standards. Increase efforts to complete the process of re-proclamation and adoption of a new law for Mavrovo National Park and prepare an effective and comprehensive management plan for the park.**

Progress with implementation: In early phase of implementation. Eko-svest organized a coordination meeting for the Ministry of environment and the NP Mavrovo authority to discuss the details on the new/updated valorization study (July 2022).

At the time of the preparation of the previous report we were informed that funding had been secured. However, the information that we have at the moment is that the funding is not yet secured. The amount estimated for this activity is EUR 200 000.

- 7. Ensure that there are no further extensions for applications for legalisation of objects that were built without permission in Mavrovo National Park, other protected areas and World Heritage Sites.**

Progress with implementation: During the coordination between institutions on the process of reclamation of Mavrovo, the option for a temporary moratorium of new construction activities was discussed. However, the Ministry will need to prepare a legal provision or a mechanism for this to be effective. The draft Law on regulating the status of illegal objects has not been adopted yet, Parliament has announced that a supervisory hearing will be organized to address the gaps in data and to help them in finalizing the Law.

A change in the construction law was recently adopted with a shortened procedure, enabling non-polluting industry to receive construction permits (or legalization of objects) if they invest in renewable energy projects (solar rooftops). It is unclear if this provision is also valid for protected areas and if so if there are any additional provisions taking into consideration the Bern Convention recommendation.

- 8. Improve and maintain the capacity of protected area management and monitoring structures in accordance with international methodologies and IUCN standards, including the principles of implementing the primary management objective for the protected area over at least 75% of its territory. Ensure that expert staff are deployed in all management unit positions to enforce legislation, carry out proper wildlife and habitat management, and carry out inspections and monitoring.**

Progress with implementation: In some protected areas there has been a visible progress with staffing, in others there has been no particular progress. Shar Mountain NP recently employed expert staff (forest engineers). In most protected areas (except national parks) there are no certified rangers in place. Protected area managers (municipalities) have limited funding and no permission for new employments or creation of new departments responsible for nature protection and monitoring.

- 9. Harmonise spatial and sectoral plans, especially on tourism and urban settlements in order to prevent further urbanisation and degradation inside national parks and protected areas. Encourage sustainable, environmentally friendly forms of tourism, which are based on the IUCN standards for tourism in protected areas.**

Progress with implementation: The preparation of the spatial plan is ongoing, however no public information is available on the process to date.

- 10. Facilitate an independent review of the entire legislation framework related to spatial and urban planning, construction, environment and nature protection in order to eliminate any weaknesses for protected area and UNESCO World Heritage objectives, conducted by a team of specialised experts.**

Progress with implementation: No progress to our knowledge.

- 11. Review, endorse and re-implement the *Conservation Action Plan for Balkan Lynx in National Park Mavrovo* developed in cooperation with the Balkan Lynx Recovery Programme in 2013 and ensure funding for the implementation of the plan.**

Progress with implementation: The Balkan Lynx Conservation Action plan has not been updated and adopted. No state funding is available.

- 12. Improve the cooperation between Mavrovo National Park, neighbouring national parks in North Macedonia, the adjacent communities and extant or potential lynx areas in neighbouring countries with regard to wildlife and habitat conservation and management to ensure the connectivity of these sites and the expansion of the lynx population. In this respect, consider the development and implementation of a National Lynx Action Plan.**

Progress with implementation: Several ongoing CSO led projects to facilitate cross border cooperation between North Macedonia, Albania and Kosovo are contributing to the improved cooperation among protected areas.

- 13. Improve collaboration among government agencies, complainants, NGOs, scientists, and stakeholder groups to expedite the process of effective protection and management of Mavrovo National Park, Ohrid Lake, and Galichica National Park. This collaboration has improved greatly in recent years, but more efforts are needed to achieve protection and development goals. There is also an urgent need to involve Albanian decision makers and other relevant stakeholders and to promote transboundary cooperation between the two countries.**

Progress with implementation: There was a meeting between the State authorities (Working group for the Bern Convention) and Complainant CSOs held on 7.11.2022 regarding both open case files for North Macedonia. However, at the meeting the progress for each of the recommendations was not discussed, nor further information was shared about the status by the State authorities.

Eko-svest proposed that regular meetings (at least once a quarter) are held to update both parties on the progress and status for each point of the recommendations.

Recommendations to the Standing Committee

Based on the progress achieved and the status of implementation of each recommendation points, we propose to the Standing Committee to adopt the following decisions:

1. Cancel the remaining three concessions in Mavrovo NP (Zhirovnica 5 and 6 and Ribnicka sHPP).
2. Accelerate the adoption of the new Law on nature which will:
 - a. include the ban on new hydropower projects in protected areas,
 - b. incorporate new international standards on the prohibition of hydropower plants in World Heritage Sites (beech forests in Mavrovo National Park are part of serial Beech Forests World Heritage property) and ensure due diligence for protected areas
 - c. ensure the employment of professional staff in protected areas at all levels and structures.
 - d. guarantees state funding for protected areas and prescribes the mechanisms for funding.
3. Immediately start the process of reproclamation of Mavrovo NP by initiating public consultations and desktop analysis of existing documentation.
4. Start the process of update of the Balkan Lynx Conservation Action Plan.
5. Start the process of preparation of the methodology for determination of ecological flow in cooperation with civil society organisations.
6. Establish regular coordination and consultation between State authorities and CSO Complainant.

Please do not hesitate to contact us should you have any questions or comments,

Sincerely,

Ana Colovic Lesoska

On behalf of the Complainant Eko-svest

- August 2022 -

Skopje, 05.08.2022

Case file: 2013/1 - North Macedonia: Hydro power development within the territory of the Mavrovo National Park

Report from the Complainant on the implementation of the Recommendation No. 211 (2021) of the Standing Committee, adopted on 3rd December 2021, on conservation measures within national parks in North Macedonia, including in relation to Mavrovo National Park and Lake Ohrid and Galichica National Park.

Dear Ms. Sticker,

Thank you for the opportunity to contribute with our report on the status of the implementation of Recommendation 211. In the text below we will address separate sections of the recommendation to elaborate on the status of implementation for each.

- 2. Suspend and cancel approved concessions and those planned for construction and implement a ban on hydropower plants (large, medium and small) both a) in national parks, protected areas, World Heritage Sites and other candidate Emerald sites (potential future Natura 2000 sites) as their implementation will cause problems with compliance with the Bern Convention and b) that will impact on these locations if constructed outside their boundaries.**

Progress of implementation: In progress. Negotiations with investors are still ongoing with some potential positive outlook for cancellation of contracts for several small hydro power projects in Mavrovo National park and Shar Mountain National Park.

No new concessions have been issued.

- 2. Implement the new international standards on the prohibition of hydropower plants in World Heritage Sites (beech forests in Mavrovo National Park are part of serial Beech Forests World Heritage property) and ensure due diligence for protected areas, candidate protected areas and corridors between protected areas which require the implementation of high standards of performance and transparency.**

Progress of implementation: No progress.

- 14. Ensure proper implementation of the EU Water Framework Directive National Law regarding environmental flow of streams and prevent excessive withdrawal of water in streams within or impacting upon Mavrovo National Park, other protected areas, World Heritage Sites and Emerald candidate areas.**

Progress with implementation: In progress. The Ministry of environment organized a public hearing for the draft Law on Waters. The draft Law published has not yet been adopted.

- 15. Ensure that core funding for the operation and management of national parks in North Macedonia comes from the state budget and not from the excessive harvesting of natural resources and other unsustainable sources of funding (complying with IUCN cat. II protected area standards).**

Progress with implementation: No new progress.

- 16. Strengthen the process for all forms of impact assessments in national legislation to ensure they meet EU standards for robust quantification of potential impacts, including (but not limited to) revision of the process for conducting, reviewing and auditing Strategic Environmental Assessments, Environmental Impact Assessments and Environmental Elaborates as well as implementing and monitoring the recommendations of these documents; this should be achieved at a minimum via a) heightened licencing standards and responsibility mechanisms for assessment proponents; and b) improvements to the relevant laws and regulations.**

Progress with implementation: No particular progress.

- 17. Accelerate the process of preparation of the valorisation study for Mavrovo National Park, taking into account all international and national standards for nature conservation and protected areas, including IUCN protected area and World Heritage Sites standards. Increase efforts to complete the process of re-proclamation and adoption of a new law for Mavrovo National Park and prepare an effective and comprehensive management plan for the park.**

Progress with implementation: In early phase of implementation. Eko-svest organized a coordination meeting for the Ministry of environment and the NP Mavrovo authority to discuss the details on the new/updated valorization study. The Ministry has informed that they have secured funding to support the process for the preparation of the new study and the new Management plan. However, no action has started yet. There seems to be clarity on the process ahead from both sides. The funding comes from the Government of Italy, but a contract has not been signed yet.

- 18. Ensure that there are no further extensions for applications for legalisation of objects that were built without permission in Mavrovo National Park, other protected areas and World Heritage Sites.**

Progress with implementation: During the coordination between institutions on the process of reproclamation of Mavrovo, the option for a temporary moratorium of new construction activities was discussed. However, the Ministry will need to prepare a legal provision or a mechanism for this to be effective. The draft Law on regulating the status of illegal objects has not been adopted yet, Parliament has announced that a supervisory hearing will be organized to address the gaps in data and to help them in finalizing the Law.

- 19. Improve and maintain the capacity of protected area management and monitoring structures in accordance with international methodologies and IUCN standards, including the principles of implementing the primary management objective for the protected area over at least 75% of its territory. Ensure that expert staff are deployed in all management unit positions to enforce legislation, carry out proper wildlife and habitat management, and carry out inspections and monitoring.**

Progress with implementation: No particular progress to our knowledge.

- 20. Harmonise spatial and sectoral plans, especially on tourism and urban settlements in order to prevent further urbanisation and degradation inside national parks and protected areas. Encourage sustainable, environmentally friendly forms of tourism, which are based on the IUCN standards for tourism in protected areas.**

Progress with implementation: No progress to our knowledge.

- 21. Facilitate an independent review of the entire legislation framework related to spatial and urban planning, construction, environment and nature protection in order to eliminate any weaknesses for protected area and UNESCO World Heritage objectives, conducted by a team of specialised experts.**

Progress with implementation: No progress to our knowledge.

- 22. Review, endorse and re-implement the *Conservation Action Plan for Balkan Lynx in National Park Mavrovo* developed in cooperation with the Balkan Lynx Recovery Programme in 2013 and ensure funding for the implementation of the plan.**

Progress with implementation: No progress to our knowledge.

- 23. Improve the cooperation between Mavrovo National Park, neighbouring national parks in North Macedonia, the adjacent communities and extant or potential lynx areas in neighbouring countries with regard to wildlife and habitat conservation and management to ensure the connectivity of these sites and the expansion of the lynx population. In this respect, consider the development and implementation of a National Lynx Action Plan.**

Progress with implementation: No progress to our knowledge.

- 24. Improve collaboration among government agencies, complainants, NGOs, scientists, and stakeholder groups to expedite the process of effective protection and management of Mavrovo National Park, Ohrid Lake, and Galichica National Park. This collaboration has improved greatly in recent years, but more efforts are needed to achieve protection and development goals. There is also an urgent need to involve Albanian decision makers and other relevant stakeholders and to promote transboundary cooperation between the two countries.**

Progress with implementation: No progress to our knowledge.

Please do not hesitate to contact us should you have any questions or comments,

Sincerely,

Ana Colovic Lesoska

On behalf of the Complainant Eko-svest

To the Bern Convention Secretariat

Skopje, 18.02.2022

Case file: 2013/1 - North Macedonia: Hydro power development within the territory of the Mavrovo National Park

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- 3. Suspend and cancel approved concessions and those planned for construction and implement a ban on hydropower plants (large, medium and small) both a) in national parks, protected areas, World Heritage Sites and other candidate Emerald sites (potential future Natura 2000 sites) as their implementation will cause problems with compliance with the Bern Convention and b) that will impact on these locations if constructed outside their boundaries.**

Progress of implementation: Even though no new concessions have been issued in the past period, no political ban is placed for the development of hydropower as specified in the recommendation. In specific protected areas, such as newly established Shar Mountain NP, negotiations with existing concessioners have taken place (even before the recommendation was adopted) but no new information has reached the public in this respect. The Government announced that they expect cancellation of some of the projects in Shar Mountain NP.

- 2. Implement the new international standards on the prohibition of hydropower plants in World Heritage Sites (beech forests in Mavrovo National Park are part of serial Beech Forests World Heritage property) and ensure due diligence for protected areas, candidate protected areas and corridors between protected areas which require the implementation of high standards of performance and transparency.**

Progress of implementation: No particular progress.

- 25. Ensure proper implementation of the EU Water Framework Directive National Law regarding environmental flow of streams and prevent excessive withdrawal of water in streams within or impacting upon Mavrovo National Park, other protected areas, World Heritage Sites and Emerald candidate areas.**

Progress with implementation: During the second half of 2021 the Ministry of Environment was proactively engaging with CSOs who prepared a set of comments and recommendations for amendments of the Water Law. These comments were in general taken on board by the Ministry when preparing the new version of the Water Law, which was recently [published](#) for public consultation. The newly proposed law introduces the definition of environmental flow and addresses other important issues around the use of water sources for electricity production.

- 26. Ensure that core funding for the operation and management of national parks in North Macedonia comes from the state budget and not from the excessive harvesting of natural resources and other unsustainable sources of funding (complying with IUCN ctg. II protected area standards).**

Progress with implementation: With the new establishment of the Public Entity National Park Shar Mountain, the Government has ensured budget funding for this protected area. However, to our knowledge, no budgetary support has been enabled for other protected areas. The Nature protection programme for 2022 has not been published yet.

- 27. Strengthen the process for all forms of impact assessments in national legislation to ensure they meet EU standards for robust quantification of potential impacts, including (but not limited to) revision of the process for conducting, reviewing and auditing Strategic Environmental Assessments, Environmental Impact Assessments and Environmental Elaborates as well as implementing and monitoring the recommendations of these documents; this should be achieved at a minimum via a) heightened licencing standards and responsibility mechanisms for assessment proponents; and b) improvements to the relevant laws and regulations.**

Progress with implementation: No particular progress.

- 28. Accelerate the process of preparation of the valorisation study for Mavrovo National Park, taking into account all international and national standards for nature conservation and protected areas, including IUCN protected area and World Heritage Sites standards. Increase efforts to complete the process of re-proclamation and adoption of a new law for Mavrovo National Park and prepare an effective and comprehensive management plan for the park.**

Progress with implementation: The relevant institutions have met to discuss the next steps around the valorization study, but there has not been any actual acceleration of the process.

- 29. Ensure that there are no further extensions for applications for legalisation of objects that were built without permission in Mavrovo National Park, other protected areas and World Heritage Sites.**

Progress with implementation: The Law on the determination of the legal status of illegal objects has reached Parliament, however it was taken off the agenda with the intention to organize a supervisory hearing on the implementation of the previous such law. The rationale for this is the uncertainty of the actual number of objects in question and their exact location in relevance to the zoning in protected areas moreover, lack of data about the implementation of the previous law could lead to inefficient legal solutions. The process should be initiated in the next month and the process would be finalized within 6 months ideally according members of the Parliament.

- 30. Improve and maintain the capacity of protected area management and monitoring structures in accordance with international methodologies and IUCN standards, including the principles of implementing the primary management objective for the protected area over at least 75% of its territory. Ensure that expert staff are deployed in all management unit positions to enforce legislation, carry out proper wildlife and habitat management, and carry out inspections and monitoring.**

Progress with implementation: No particular progress to our knowledge.

- 31. Harmonise spatial and sectoral plans, especially on tourism and urban settlements in order to prevent further urbanisation and degradation inside national parks and protected areas. Encourage sustainable, environmentally friendly forms of tourism, which are based on the IUCN standards for tourism in protected areas.**

Progress with implementation: Although there has been an initial development with the spatial planning process, to our knowledge, no CSOs have been invited to take part in the working group established by the Ministry of environment. The Law on urbanization was not properly consulted with public and after the reaction from a wide group of CSOs, the State Anti-Corruption Commission organized a public debate on the draft law. However, the law has regrettably not taken on board the need to harmonise with nature protection and environmental legislation. It is expected that the law will still go through public consultation process according to the national legislation.

In the last few months, plans for the development of large infrastructure projects in various protected areas (ski resorts, highways, roads and tunnels) were publicly promoted by state authorities.

- 32. Facilitate an independent review of the entire legislation framework related to spatial and urban planning, construction, environment and nature protection in order to eliminate any weaknesses for protected area and UNESCO World Heritage objectives, conducted by a team of specialised experts.**

Progress with implementation: No progress, please see report under the previous point.

- 33. Review, endorse and re-implement the *Conservation Action Plan for Balkan Lynx in National Park Mavrovo* developed in cooperation with the Balkan Lynx Recovery Programme in 2013 and ensure funding for the implementation of the plan.**

Progress with implementation: No progress to our knowledge.

- 34. Improve the cooperation between Mavrovo National Park, neighbouring national parks in North Macedonia, the adjacent communities and extant or potential lynx areas in neighbouring countries with regard to wildlife and habitat conservation and management to ensure the connectivity of these sites and the expansion of the lynx population. In this respect, consider the development and implementation of a National Lynx Action Plan.**

Progress with implementation: No progress to our knowledge. The work around the identification of two pilot corridors within the ecological network conducted in 2021 by the Ministry of environment was a good start but there has been no update on the next steps of this project since summer 2021.

- 35. Improve collaboration among government agencies, complainants, NGOs, scientists, and stakeholder groups to expedite the process of effective protection and management of Mavrovo National Park, Ohrid Lake, and Galichica National Park. This collaboration has improved greatly in recent years, but more efforts are needed to achieve protection and development goals. There is also an urgent need to involve Albanian decision makers and other relevant stakeholders and to promote transboundary cooperation between the two countries.**

Progress with implementation: WWF Adria through the work of Eko-svest in the country has initiated several workshops in the last quarter of 2021 to establish cooperation among various institutions and stakeholders and joint development of positions around the management and financing of protected areas. We are happy to share with you the outcomes of these workshops as agreed statements from the participants.

Please do not hesitate to contact us should you have any questions or comments,

Sincerely,
Ana Colovic Lesoska
On behalf of the Complainant Eko-svest