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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

42nd meeting

Strasbourg, 28 November - 2 December 2022

New complaint: 2021/08

**Possible threat to Rioni River from the
Namakhvani Hydropower Project
(Georgia)**

- REPORT OF THE GOVERNMENT -

*Document prepared by
the Ministry of Environmental Protection and Agriculture of Georgia*

- August 2022 -



გარემოს დაცვისა და
სოფლის მეურნეობის
საინჟინრო

MINISTRY OF ENVIRONMENTAL
PROTECTION AND AGRICULTURE
OF GEORGIA

N 7626/01
01/08/2022

საქართველო
GEORGIA

7626-01-2-202208011244



To: Ms. Ursula Sticker
Secretary of the Bern Convention
Head of the Biodiversity Unit

Cc: Permanent Representation of Georgia to the Council of Europe

Dear Ms. Sticker,

The Ministry of Environmental Protection and Agriculture of Georgia would like to express its deepest gratitude for continuous efforts of the Bern Convention in biodiversity conservation and support of Georgia in implementation of the Convention in our country.

In response to the Bureau decision (6-7 April 2022) regarding the "Complaint No. 2021/8: New Complaint: Georgia: Possible threat to Rioni River from the Namakhvani Hydropower Project" we would like to update the Bureau on the requested information:

Bureau requested synthesized information of the Environmental impact assessment report "Operating condition modifications of the two/stage Project on the Construction and Operation of the Namakhvani HPP Cascade (Tvishi HPP with installed capacity 100 MW installed capacity and Namakhvani-Zhoneti 333 MW installed capacity by ENKA renewables LLC, on the Rioni River in the Municipalities of Tskaltubo and Tsageri" in English. Please, be informed that the official translation of requested Namkhvani HPP mitigation measures is undergoing. The Ministry will

deliver detailed official translation of the agreed mitigation measures from the Environmental Impact Assessment in the nearest future for further consideration.

As stated in the Government report by our Ministry in response to the complaint, we had informed the Bureau about the fact that the construction of the Namakhvani HPP is pending. Once again, we wish to update the Bureau with the official information (Letter № 23/5600; 28.07.2022) by the Ministry of Economy and Sustainable Development of Georgia: "Due to the recent developments, the construction of Namakhvani HPP is temporarily not in progress and the parties are in the process of negotiations."

In response to the recommendation of the Bureau about elaboration of long-term energy/renewable energy/hydro-power strategy at national level, according to the information from the Ministry of Economy and Sustainable Development of Georgia, the long term Energy Policy Document is in the development phase. Document comprises long-term vision, main priorities and objectives of the energy sector development in order to ensure energy independence of the country.

The Ministry of Economy and Sustainable Development of Georgia also presents a table, from the draft version of the National Energy and Climate Action Plan, which shows the minimum amount of power plants to be built in the coming years, which is required to partially reduce the increased local consumption:

	Unit	2016	2017	2018	2019	2020	2025	2030	2035	2040	2045	2050
Coal-fired	MW	13	13	13	13	13	13	13	13	13		
Gas-fired	MW	1,081	1,081	1,081	1,081	1,311	1,171	1,171	1,401	961	899	909
Hydro	MW	2,968	3,161	3,253	3,325	3,325	3,559	3,992	3,992	4,284	4,923	5,510
Solar	MW					4	102	547	1,068	1,345	1,383	1,383
Wind	MW	20	20	20	20	126	226	750	1,021	1,273	1,423	1,573

Additionally, in response to the Bureau request, we would like to inform about the claim "On annulment of Environmental Decision of the Minister of Environmental Protection and Agriculture of Georgia of February 28, 2020 on the changes to the operating conditions in the construction and operation project of the cascade of two-stage HPPs on Rioni River (Tvishi HPP with an installed capacity of 100 MW and Namakhvani-Zhoneti HPP with an installed capacity of

333 MW) to annul the Ministerial order N2-191, by the "Green Alternative". The claim is accepted by the Tbilisi City Court in the proceedings, but the case is not yet discussed in substance.

In regards to the Pan-European Action Plan for Sturgeons (PANEUAP) and designation of the national focal point, we would like to nominate Ms. Salome Nozadze (e-mail: Salome.nozadze@mepa.gov.ge) for this role.

The Ministry of Environmental Protection and Agriculture of Georgia is looking forward to successful and strong cooperation and hopes for the further consideration of current information during decisions at the Bureau meeting in 2022. Eventually, we would like to kindly request the Bureau to close the case file - **Complaint No. 2021/8: Possible threat to Rioni River from the Namakhvani Hydropower Project**.

Sincerely,

Deputy Minister

Nino Tandilashvili

A handwritten signature in blue ink, appearing to be 'Nino Tandilashvili', written in a cursive style.

- February 2022 -



გარემოს დაცვისა და
სოფლის მეურნეობის
საინჟინერო

MINISTRY OF ENVIRONMENTAL
PROTECTION AND AGRICULTURE
OF GEORGIA

N 1870/01
28/02/2022

საქართველო
GEORGIA

1870-01-2-202202281032



To: The Secretary of the Bern Convention

Ms. Ursula Sticker

Copy: Permanent Representation of Georgia to the Council of Europe

Dear Ms. Sticker,

In accordance with the procedures of the Bern Convention, I would like to deliver explanatory information in response to the complaint (2021/8 3/11/2021) alleged by the Green Alternative and Nature Conservation Georgia, as stated in your letter on 10 November 2021. Georgian government disagrees with the information provided by the complainant, declaring that the authorities violated of Article 3, paragraph 1 and 2, Article 4, paragraphs 1, 2 and 3 of the Bern Convention by not protecting Rioni River and granting permits to build Namakhvani Hydropower Project.

All rivers and biodiversity, presented within the borders of Georgia are protected by national legislation, such as: *Law on Regulation and Engineering Protection of the Sea, Reservoirs and River Banks of Georgia; Law of Georgia on Water; Technical regulation on water protection zones (zones) of small rivers of Georgia; Law of Georgia on Environmental Protection; Law of Georgia on Fauna; Law of Georgia on the Red List and Red Book;* etc. Moreover, Georgia is a party to various international agreements, which, among others, serve the protection of sturgeons as well.

The conclusion (N73) on ecological expertise for the cascade of the HPP on Rioni River (Tvishi HPP - with installed capacity of 100 MW and Namakhvani-Joneti HPP - with a capacity of 333 MW) was issued on December 25th, 2015, by the Ministry of Environment and Natural Resources Protection of Georgia. Delivered Environmental Impact Assessment report (2015) included information on biodiversity, habitats and species, assessed information on expected impacts and appropriate mitigation measures. EIA report also focused on the Rioni river hydrofauna (benthofauna, ichthyofauna), including information about sturgeon species. Field studies and fish control catches were conducted to reexamine and enhance literature data (critical data on fish species in the study area). Additionally, information was obtained from the survey with the local population / local fishermen, in order to make assessments. Numerous measures were proposed to compensate the expected negative effects, including ichthyofauna, fish reproduction.

In 2019, the company submitted Screening application to the Ministry, to determine the need for complete EIA report, taking into account the planned changes for the Lower Namakhvani project. Based on the submitted report, the Ministry concluded that the activities under the Lower Namakhvani project were subject to a comprehensive environmental impact assessment. The submitted comprehensive EIA report (2019) as well included biodiversity (species and habitats) related studies and assessments, including the Rioni river hydrology and ichthyofauna, water quality, turbidity, and other relevant topics. The complex field surveys (including fish studies) assessed the background status of the hydrobiont habitats as well as the state of fish populations and water quality, the feeding ground of fish, etc.

Proposed mitigation measures for the possible negative impact analysis are considered appropriate to prevent/reduce these impacts. However, The EIA report reaffirms the need for a variety of compensation measures, including measures to anticipate damage to ichthyofauna.

Environmental decision for the Namakhvani HPP project, submitted to the Ministry by initiating company, was issued (Order of the Minister of Environmental Protection and Agriculture of Georgia N2-191 of February 28, 2020) in compliance with the requirements of the national legislation. The requirements of the Aarhus Convention regarding public awareness and participation were fulfilled. Based on above-mentioned, the permits issued for the EIA reports submitted in 2015 as well as in 2019 are relevant for the Upper and Lower Namakhvani projects.

Meanwhile, the company is obliged to take appropriate mitigation measures, including to conduct additional field research on sturgeons and their habitats (before authorizing the project). Abovementioned study and other obligations are additionally reflected in the list of mandatory conditions of the environmental decision, due to the precautionary principle. The decision (N2-191 of February 28, 2020) issued by the Ministry, was made based on the consultation with relevant field experts, including independent experts. In reference to opinions of the aforementioned experts, number of mandatory conditions have been identified for the Namakhvani HPP possible impact on sturgeons and threat reduction for the conservation status of sturgeon species. In this regard, the following commitments are particularly noteworthy:

Ltd „ENKA Renewables“ in agreement with existing HPPs on the Rioni River, must submit research-based information to the Ministry before commissioning the HPP. Submitted research must contain information on the impact of HPPs on Rioni River water regime change and increased turbidity; impacts caused by the operation of hydropower plants, prevention of these impacts and, if necessary, compensatory measures in relation to water biodiversity”; In reliance on the results of studies on sturgeons and aquatic biodiversity, the reservoirs washing regime and periodicity must be agreed among Ltd „ENKA Renewables“ and the upstream and downstream HPP operators.”

Pursuant to Article 3 (b) of the Environmental Impact Assessment Code of Georgia, an environmental decision is a mandatory precondition for carrying out activities subject to environmental impact assessment; in accordance with Article 13 (c) of the same Code, compliance with the conditions set out in the environmental decision is mandatory during construction, operation and after completion of operation.

It is noteworthy, that sturgeon conservation is an issue of special consideration in Georgia. All sturgeon species are included in the Red List of Georgia, and their conservation is a priority under the "Georgian Biodiversity Strategy and Action Plan" (NBSAP 2014-2020). In cooperation with the Ministry, several international organizations are working to protect the sturgeon species (WWF Caucasus Programme Office, Fauna & Flora International-FFI etc.). The Ministry works in cooperation with these organizations within the framework of the Sturgeon Conservation Project in Georgia. Stakeholder platform was already established in frames of the project and is coordinated by the Ministry; tangible results have already been obtained with the support of the project.

Expansion of Kolkheti Protected Areas is in the final phase (draft law has already been submitted to the Government of Georgia). Planned extension area of the Kolkheti, includes the right tributary of the Rioni

River Delta (confluence with the Black Sea). The main purpose of this activity is to preserve endangered sturgeon species by protecting their migration routes. Protection of the sturgeon breeding sites is constantly taken into consideration. One of the main priorities in terms of protecting sturgeons' breeding and migration routes, is to avoid negative impact on the area from the river confluence to the very first water intake. This is due to the fact that upper reaches of the river, where the planned project area is located, is used neither for breeding nor for the migration of sturgeons. Since the 1970s, sturgeon migration has not been possible in the upper reaches for a long time due to the location of several aquifers on the Rioni River. However, the lower reaches of the river are still used by sturgeons for breeding. The protection of this section is of great importance, therefore, the planned actions include the maintenance and restoration of the existing breeding and migration routes. An agreement has already been reached on the arrangement of a fish-pass on Vartsikhe-HPP (the first water intake mentioned above).

Obviously, in case of the project implementation, the Government does not eliminate certain negative impact on the forest habitats and species protected by Bern Convention, mentioned in the complaint; however, there is no threat of deterioration of their conservation status and extinction of populations. Nevertheless, in case of project implementation, mitigation measures were developed due to potential threats to the project area. In addition to the above, the project area is not located within the boundaries of the Emerald Network, which once again proves the absence of risks to the integrity of the Emerald Network.

As a conclusion, following findings were outlined:

- Procedures established by national legislation are followed accordingly (environmental decision issued on the basis of EIA is adopted and mandatory conditions are set)
- Following the recommendation of the Bureau of the Bern Convention of April 2021 and the commitment of the Georgian Government, the draft Law of Georgia on Water Resources Management was prepared by the Ministry in accordance with the obligations of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part. Georgian legislation will be aligned with EU legislation, including Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, which regulates river basin management issues. The draft law, as a result of public discussions, is submitted to the Parliament of Georgia (15.11.2021) for consideration and subsequent adoption.
- A survey on River Rioni potential was conducted with support of WWF Caucasus Programme to provide adequate protection of sturgeon spawning areas and survival of one of the last natural habitats of sturgeon population, which is a key objective of the Pan-European Action Plan for Sturgeons. Based on the above, the Government of Georgia had submitted (29.11.2021) the draft law on the expansion of the Kolkheti Protected Area (Emerald site). The core purpose of the Kolkheti Emerald site extension is to improve protection of marine area, especially the distance of 3 km from the river confluence for the sturgeon habitat conservation. After adoption of the draft law, marine protected area will increase by 510 hectares.
- In order to implement the Pan-European Action Plan for Sturgeons efficiently, the draft law on the Rioni Habitat/Species Management (IUCN category IV) Area was developed, with the financial support of the German government and the WWF. At this stage proposed section has status of a planned protected area.
- The entire project area of Namakhvani HPP is located outside the Emerald Network, which rules out the violation of the Emerald Network integrity (the nearest Emerald sites are: Prometheus Cave (GE0000039) - about 7.7 km away from the project area and Racha 3 (GE0000041) - about 5 km away from the project area). Moreover, based on the relevant EIA reports, negative impact on the habitats and species (presented in GE0000041, GE0000039) by the project, is not expected, especially significant impact. Furthermore, according to the results of the 2021 Biogeographical Seminar, the favorable conservation status of a number

of species (*Rhododendron luteum*, *Rhinolophus ferrumequinum*, *Ursus arctos*, *Lynx lynx*, *Sabanejewia aurata*, *Rosalia alpina*, etc.) has significantly improved compared to the results in 2017.

· We would like to notify the Secretariat that since the fall of 2021, the issue of construction of Namakhvani HPP is pending.

In the view of all the above-mentioned, we consider that the debates on the complaint cannot be considered as meaningful and we ask the Bureau of Bern Convention for dismissing it. The Ministry hopes on continuous successful cooperation with the Bern Convention and reaffirms its full readiness to develop the Emerald Network and fulfill its commitments, as well as to answer any questions which may arise regarding the complaint.

Sincerely,

Deputy Minister

Nino Tandilashvili

