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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

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

- REPORT OF THE ON-THE-SPOT APPRAISAL -

(12-15 June 2018)

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INTRODUCTION

1. THE VJOSA RIVER AND ITS CATCHMENT

The Vjosa River drains an area of 6,700 km² in the Balkan region of Europe. The river's source is in the Pindus mountains of Greece, where the river is called the Aoös. It flows some 80 km across Greece before crossing the border into Albania, where it is called the Vjosa, and then 192 km into the Adriatic Sea, northwest of Vlora. The average discharge of the river is 204 m³/s, with considerable seasonal variability; April flows are often ten times higher than flows in August The Greek sector of the catchment is mountainous, with numerous streams, lakes, caves, deep canyons and dense coniferous and deciduous forest, part of which includes the Vikos–Aoös National Park. There is one hydro-power dam on the Aoös River, built in 1987. The upper reaches of the Vjosa River and catchment in Albania are similar to those in Greece. However, the central section of the river around Poçem and Kalivac has alternating narrow gorges and wide valleys within which the river is braided with highly dynamic channels containing sediment bars and shoals of varying grain size (boulders, cobbles, sand), vegetated islands (often *Salix spp*.) and alluvial floodplains. The fertile floodplains are very important for local livelihoods particularly arable production and livestock breeding. The river provides abundant fish that support an economic local fishing industry. The river, its valley and the surround mountains produce a picturesque landscape and recreation and tourism on the Vjosa is increasing rapidly, particularly rafting and kayaking, swimming, with many new small eco-tourism businesses being established. This type of riverine environment is rare globally and the Vjosa has been badged as "the last free-flowing river in Europe" by NGOs in media campaigns.

The rich variety of wildlife has been reported to inhabit the catchment. Terrestrial environments support a range of floral species including spruces (e.g. *Abies borisii-regis*), oaks (e.g. *Quercus frainetto* and Quercus cerris) and juniper (*Juniperus*). Mega-fauna include brown bear (*Ursus arctos*), wolf (*Canis lupus*), marten (*Mattes foina*) and wild boar (*Sus scrofa*). The river itself sustains a population of the Eurasian otter (*Lutra Intra*) and many rare or endangered fish species type, such as the European eel (*Anguilla anguilla*) and various loach (*Pindus barbatula*, *Cobitis ohridana*, *Oxynoemacheilus pindus*) salmon (*Salmo faroides*) and sturgeon (*Acipenser stellatus*). Gravel bars in the braided river reaches provide breeding habitat for many bird species, such as stone curlew (*Burhinus oedicnemus*) and little ringed plover (*Charadrius dubius*), although population numbers and their dynamics are uncertain due to lack of systematic surveys. The mouth of the Vjosa River includes a large lagoon and delta, 194 km^2 of which form the Vjosa-Narta Protected Landscape encompassing freshwater wetlands, salt marshes, reed beds, woodlands, islands and sandy beaches.

2. HYDRO-POWER DEVELOPMENT OF THE VJOSA RIVER

Seasonally high rainfall and river flows provide abundant water resources and the various gorges along the river valley make excellent potential dam sites. Albania and its neighbours have expanding economies requiring additional electricity, so the production of hydro-power, with its low carbon footprint, from dams along the river is an attractive proposition for energy providers. Studies of the river (e.g. by Sogreha 2009 and the World Bank, 2012) have identified 25 potential dam sites, but the Albanian government reduced this to a maximum of 8 in 2014 and the Prime Minister has given assurances that the upper reaches of the Vjosa will not to be dammed. Work was started on the first Vjosa main-river dam in Albania at Kalivaç in 1997, but construction ceased after initial groundworks had been put in place. In May 2016, a concession was granted to build a 25 m dam at Poçem. Work had not started when in May 2017, the court in Tirana ruled against the construction, following a law suit by local communities and NGOs.

Like most countries, Albania has laws and policies that govern the development of large infrastructure to ensure that local stakeholders are involved, construction is safe, projects deliver fit-for-purpose outcomes and potential impacts on people and the environment are avoided, mitigated or off-set (including monitoring after construction to verify that environmental safe-guards have worked). Details of the rules applicable for HPP concessions in Albania were gathered during discussions at the new headquarters of the Ministry of Environment on the 1st day of the mission. There rules are described in Annex 1 to this report.

Since Albania is a signatory to the Convention on the Conservation of European Wildlife and Natural Habitats (the Bern Convention) it is obliged to ensure conservation and protection of wild plant and animal species and their natural habitats and to increase cooperation between contracting parties. Particular emphasis must be given to endangered and vulnerable species, especially migratory species (as listed in Appendices I, II and III of the Convention). Under the Convention, Albania has a further obligation to establish an Emerald network of protected areas to facilitate this binding international legal instrument. The EIA for a proposed dam project should include any potential impacts on species and habitats and actions required to avoid contravening the Convention. EIAs should more generally take account of local knowledge and views, adopt the principle of sustainable development and the precautionary approach where impacts are uncertain.

3. BACKGROUND OF COMPLAINT NO. 2016/5

The case concerns the alleged breach of the Bern Convention resulting from large-scale hydropower developments on the Vjosa River and its tributaries, in particular the Poçem and Kalivaç HPP schemes, plus additional smaller planned or projected hydro-energy installations.

The complainant, NGO Eco Albania, states that hydropeaking on this last free-flowing river in Europe, as planned could have disastrous impacts on biodiversity, thus breaching the obligation of Albania as a signatory of the Bern Convention (EcoAlbania, 2017). Secondary impacts linked to infrastructure development, such as fragmentation of habitats and alluvial systems are also expected. They say that the HPPs will:

- block the upstream and downstream movement of fish species
- prevent sediment transport downstream to the Adriatic Sea
- cause a decline in ground water
- reduced water quality due to the reduction in self-purification rate

The complainant further stresses the transboundary aspect of the ecosystem of the Vjosa/Aoos catchments (Albania/Greece), the unique free-flowing of the whole river, the biodiversity hot-spot it represents and the variety of hydro–morphological features it holds.

In addition, according to the complainant, a candidate Emerald site "Protected landscape of the wetland complex Vjose – Narte (IUCN Cat IV, RAMSAR site and IBA) would be potentially affected by the dam projects. Although the projects are not planned on any national protected area, the whole river system qualifies for many international designations and in particular European ones (Emerald and Natura 2000).

According to the complainant, all HPPs on the river have been planned without a proper EIA or SEA.

On 2nd May 2017 the Administrative Court in Tirana decided to rule against the construction of HPP Poçem. This means that the construction phase cannot start until final ruling by the Administrative Court of Appeal, which is on-going (by March 2018).

On May 26th, 2017 the Albanian Government took the decision to cancel unilaterally the concessionary contract with the Italian Company "B.E.G spa" for the construction of the Kalivaç hydropower plant. After almost 20 years a series of postponements, the cancellation was made officially public in the Agency for Public Procurement. The same day the Ministry of Energy and Industry announced officially the open of the new call for other companies to apply for the project. (Please refer to the terms and conditions set by the Ministry of Energy and Industry). The deadline for the applicants to submit the proposals was the 18th of July 2017.

On October 2017 at the Public Procurement Journal No. 43, date 30.10.2017 on pages (317-321), was made public the competition held in regard the Kalivaç hydropower project. In this document is also stated that the temporary joint venture of "Ayen Enerji" and "Fusha" sh.p.k was the winner of the competition with the best offer delivered by them in 28th of August 2017.

Taking into account these developments, after an electronic consultation and agreement by the Bureau to the Convention, the Secretariat of the Convention received a mandate to seek the authorities' agreement for the organisation of an on-the-spot appraisal (OSA) to the area in spring/early summer 2018.

The reasons behind this request were the recent developments at national level regarding the Kalivaç HPP, as well as the continuous concern of the Bureau over the effective protection of the Vjosa River and the ecosystem it forms and the allegations of the complainants of a lack of effective cumulative impact assessment for all the planned HPPs, including the two big HPP projects, namely Kalivaç and Poçem.

The agreement of the Albanian authorities for the organisation of the mission was received on 15 March 2018. At their meeting on 19 March 2018, the Bureau thanked the national authorities of Albania for kindly agreeing to host the on-the-spot appraisal to Vjosa River and instructed the Secretariat to move forward with the preparations of the visit, including contacting the IUCN Regional Office for Eastern Europe and Central Asia, in view of their possible participation in the mission as observers. The Bureau further thanked the complainant and its partners for the updated report.

4. OBJECTIVES OF THE MISSION

On the basis of the instructions by the Bureau, the information provided by the authorities and the complainant NGO and other stakeholders, the objectives of the mission were to:

- collect information on the state of implementation and functioning of operational and planned hydro power installations on the Vjosa River and its system;
- collect information on the known or potential impact on biodiversity and ecosystems along the Vjosa River and its system deriving from hydro energy;
- examine the hydro-energy planning procedures and SEA/EIA standards used in Albania, in particular in the Vjosa area and in relation to the 2 big HPPs subject to the complaint;
- discuss with relevant competent authorities at national and local level, including the NGOs, local stakeholders and citizen groups;
- draft recommendations to the Albanian authorities on actions to undertake to ensure the necessary safeguards are in place to avoid clashing with biodiversity priorities when developing hydro-energy;

5. THE POÇEM ENVIRONMENTAL IMPACT ASSESSMENT REPORT

An English translation of the EIA for the Poçem HPP project proposal (Llupo *et al*., 2015) was submitted to the Bern Convention as Annex II of the report of the complainant. No EIA report for Kalivaç has been made available.

The report was prepared by a team of 5, two of which are recorded as environmental expert/specialist. Whilst the core in-house team of this size may be appropriate, a project of this magnitude would be expected to involve external sub-consultants and/or individuals with particular expert knowledge of key issues, such as sediment transport, hydro-morphology, forests, birds, fish, mammals. No one beyond the team is acknowledged as being consulted or having provided information. It is also important to include any local or indigenous knowledge, such as sightings of birds, mammals or fish by local people. Even if these cannot be substantiated by professional field survey data, the precautionary approach would dictate these organisms may be present.

The EIA contains significant analysis of the Vjosa's past river flow regime, but does not assess the impacts of the dams on this regime; so it is not fulfilling its role as an EIA. Rivers flows downstream of the dam will be a combination of water from the turbines, releases through gates for ecological purposes and flood waters passing the spillway. In particular, flow will vary very rapidly as turbines are switched on and off during peak electricity demand times; hydro-peaking. Post-dam river flows will thus be very different from the pre-dam situation, yet these are not calculated even though they could be estimated and hydro-peaking is not mentioned in the EIA. The EIA has a section 6.2 on 'Impacts on hydrology and surface waters' (p. 65), but this does not mention alterations to the flow

regime at all. Section 6.7.1 'Impacts on surface waters' (p. 68) merely states that "The exploitation of river waters and sources feeding them may impact on water quantity needed for irrigation and ecological flows".

Maintaining an appropriate flow regime in the Vjosa River is essential to conserve its ecosystem and thus to meet Albania's obligations under the Bern Convention. The section of the EIA on Ecological flows (p. 69) handles this issue, but is probably the shortest of the report. It simply states that "Ecological flows in our country are mainly calculated (based on the most used practices) with minimal annual flows" and provides an equation for calculating a single number: ***Q365. (Q ecological = 20% Q minimal annual).*** This type of equation and thinking about environmental flows is 20 years out of date. It is recognised globally that environmental flows refers to the whole flow regime and not a single number, because each elements of the flow hydrograph (magnitude, frequency, duration, timing of low medium and high flows) are important for the river ecosystem (Brisbane Declaration, 2007). Too much flow at the wrong time can be as damaging as too little and hydropeaking can have significant negative impacts on the river ecosystem, such as fish stranding, and has been research widely around the world (especially in Norway). The International Hydropower Association, in collaboration with WWF, produce sustainability guidelines (IHA, 2004) and protocols (IHA, 2011) for hydropower dams. Recently, guidance on environmental flows for hydropower was produced by the World Bank (2018) and European Commission (2018). These should be followed in future EIAs in Albania.

The EIA report contains a long description of current terrestrial floral species, but there is no mention of aquatic or wetland species, such as fish or water birds. Section 6.2 'Biological impacts' (p. 65) is very short and simple reports that "permanent land servitude for the construction of new facilities, permanent changes to surface and ground hydrology, soil degradation because of spills from exploitation, loss of approaches to areas of visual values because of the interest in protecting their nature, reinstatement and/or creation of a new habitat". This is totally inadequate.

Section 6.6 (p. 66) 'Impacts to geology and geomorphology' states "The geological environment will not be impacted during the operation and maintenance". However, it is widely recognised that the retention of sediment in reservoirs behind dams often has major negative impacts on the ecosystems of river channels and deltas (with high profile examples being Tarbela in Pakistan and Aswan in Egypt). Despite potential impact on the river and delta, no mention of impacts on sediment and geomorphologcial structure of the river appear in the EIA. The only reference to sediment is the context of landslides (p. 48), construction phase (p. 72) and need for erosion control (p. 73). A study of the potential impact of Poçem and Kalivac HPP schemes on the sediment regime of the Vjosa river and implications for the environment is an essential requisite to a comprehensive EIA. This is totally inadequate.

The response to the complaint, sent to the Bern Commission from the Albanian government (Ministry of Environment, 2017), records that the EIA study Chapter VI (pp 45-51) states "the area planned for development of HHP Poçem does not fall within the boundaries of any protected area of Albania". This statement does not appear in the English translation (Llupo *et al*., 2015), but may be in the original Albanian version. Whilst the Poçem and Kalivac HPP schemes are not within a protected area, they could have a significant negative impact on the Vjose–Narte Protected Landscape because of alterations to the flow and sediment regimes. A study to confirm or counter this should be undertaken and meanwhile the precautionary approach should be taken that a serious negative impact cannot be ruled-out.

The EIA report contains many unnecessary detailed descriptions of, for example, surveying equipment.

Various sections of the EIA report (e.g. p. 9-10, p. 60) refer to the importance of the Vjosa River for tourism including "especially in recent years as enthusiasts have started to organize such activities as rafting, rowing, swimming, etc." (p. 15) and "Many small and new businesses such as developing eco-tourism companies (p.16)". New access roads, for example, built for the HPP project may have a positive impact and increase tourism (as suggested in the Table; p. 59). However, there are likely to be negative impacts where dams and reservoirs replace free-flowing river reaches and restrict rafting, fishing and other ecotourism activities that are being developed locally.

The conclusions section (p. 78) of the EIA report states that "The study conducted in order to meet the requirements set forth by an EIA has followed the national and international standards". This is not the case; it does not follow international best practice.

6. INFORMATION GATHERED BY THE MISSION TEAM IN TIRANA

Bern Convention and the Emerald network

The Ministry of Tourism and Environment recognises Bern Convention is applicable throughout Albania, not just in protected areas, but threats to protected areas are easier to define and to challenge. The Ministry relies on impacts on protected areas from activities outside of them to be highlighted in EIAs.

The Ministry of Tourism and Environment is responsible for completing the Emerald network of areas of special conservation interest. A key step was production of the National Biodiversity Action Plan, which was based on species distribution maps. On these maps the area around Poçem and Kalivaç HPP schemes are not shown as high in biodiversity, so it was not considered as an area for protection. The Ministry states that the decision was not influenced by potential dam building. In contrast, the NGOs states that available data, although limited, indicate that the area constitutes a major biodiversity hotspot for Albania supporting 177 species named in the Appendices of the Bern Convention, including 3 species of vascular plants, 9 insects, 32 amphibians and reptiles, 112 birds, 9 mammals and 12 fish species, making the area eligible for Emerald status, specifically recognising it wild-river habitats. Furthermore, these species are threatened by Poçem and Kalivaç dams. National and international environmental research experts (including from University of Tirana, BOCU university in Vienna and IGB Berlin) have been undertaking detailed quantitative surveys of the area. Both the Ministry and the NGOs agreed the need to exchange and review available data and knowledge, with an obligation on both parties to be proactive. It is recommended that a workshop is jointly organised in late 2018/early 2019, when many of the surveys will have been completed, with presentations on evidence of wildlife species and ecological process, such as sediment transport, in the Poçem - Kalivaç area. This workshop should have a wide invitation list including other Ministries (e.g. Energy and Infrastructure), Albanian and international scientists, Network of NGOS for Nature Protection, local people with wildlife knowledge. In line with the precautionary approach, no Environmental Declaration should be issued for either dam before the conclusions of the meeting are formulated.

Environmental Impact Assessment

The EIA study for the Poçem HPP project should be repeated taking into account the River Basin Management Plan, sediment dynamics of the river, any revision of the Emerald network, data from NGOs and any local or indigenous knowledge, adopting a precautionary approach to data uncertainty. The National Environment Agency's EIA permit commission, which approved the profound EIA, can consider complaints against certain decisions on an individual basis. Unfortunately, the Agency's representative only attended the early part of our meeting, so we were not able to ask her questions directly about the EIA process.

It is understood that a new EIA training programme is being developed, with an exam to get accreditation at Faculty of Civil Works Polytechnic of Tirana or Agro-Env Faculty of Agricultural University of Tirana. This programme should be reviewed to ensure that it meets international standards. The environmental impact of dams should be an important component and should feature guidance being produce for National Agency for Protected Areas on dams and international best practice such as from The World Bank and International Hydro-power Association.

Sometimes the Ministry of Tourism and Environment has a place on the working groups to evaluate proposals for projects; this was not the case with the Poçem and Kalivac HPP projects. The Ministry should be directly involved in any re-evaluation of these projects and future major hydropower projects.

Regional planning

Local Development Plans have been produced for each municipality containing the potential for activities in the area, involving many ministries and local participation, coordinated by the National Agency of Territory Planning. These should include Strategic Environmental Assessments (SEA).

Projects are then initiated according to these Plans. Integrated River Basin Management Plans are also being prepared for the 6 river basins in Albania, which will also include SEAs. Responsibility for these plans has been assumed by the National Agency of Water Resources established in early 2018. It is recommended that the Plan for the Vjosa is prioritised and undertaken urgently, with a strong focus on an over-arching strategic assessment of the cumulative impact of Poçem and Kalivac HPP projects.

The Ministry recognises the importance of ecotourism for the Vjosa River, particularly because of the creation of new jobs in ecotourism and its synergy with environmental protection. The potential for ecotourism should be a major part of strategic planning for the Vjosa River basin.

Role of academics and other experts

Academics reported that some are involved with ministries as consultants, but ministries lack research funds. Some academics have become accredited to undertake EIAs, but others are sceptical of the scientific credibility of EIAs because they have very limited funding, so they are not undertaken by interdisciplinary teams of experts and so fail to recognise many vital issues. There is an urgent need to build capacity environmental science capacity in Albania, which should include closer involvement of academics in environmental projects and strategic assessments e.g. River Basin Management Plans. The Ministry of Tourism and Environment should support proposals to EU for research funds Albanian partners. A good example of success was the EU-funded project that developed capability in Albania to define Natura 2000 sites, which also built agency capacity in monitoring methods and habitat analysis. The Ministry of Tourism and Environment should approach the Academy of Sciences, National Council for Research and National Agency of Research to prioritise funding for freshwater science, which would increase the knowledge base for EIAs.

7. INFORMATION GATHERED BY THE MISSION TEAM IN THE VJOSA CATCHMENT

The major conclusion of the Vjosa catchment visit was that, according to the complainants, several steps in the EIA process were not respected, the most prominent one being the lack of proper public consultation. In addition, it appears that other steps have not been followed or no evidence has been provided that they have been respected, notably, the development of summary assessment report from the pre-concession stage and a feasibility study from the pre-concession stage and its environmental and social impact assessment elements.

The Ministry of Environment (2017) reports that a public consultation was advertised on 18 February 2015, by placing it on the web page of the National Environment Agency, and held in Fieri on 8 March 2015. However, the Mayor of Mallakastra, Mr Agron Kapllanaj, stated that he should have been informed directly, but was not. He asserted that the only participants of the consultation meeting were employees of the construction company and a few administrators from Fiori, who did not represent the views of people from Mallakastra. It is unreasonable to expect local people to review the NEA web site constantly in case such a meeting is posted. Consequently, local people did not attend the meeting on Fieri. This mission was the first time the Mayor had ever seen anyone from the Ministry in his municipality on this matter. The Mayor supported consideration of the Poçem and Kalivac area of the Vjosa river basin as a protected area. This would protect the wild natural the beauty of the region and support alternative development through sustainable eco-tourism. He regretted that no options assessment had been undertaken into different future scenarios such as greater use of solar energy, which safeguards the environment.

A forest expert from the Agency for Protected Areas, based in Fieri, stated that the Poçem dam would likely adversely affect a 50 ha local nature reserve, a bio-monument of plain trees on floodplain. However, despite his local knowledge, no one had ever consulted him on this matter before.

Some 15 representatives from the village of Kute raised their strong objection to the proposals for dams at Poçem and Kalivac. They were enraged by the absence of communications from government and denial of any opportunity to express local opinions about local issues. Some 3000 people from Kute and surrounding villages had signed petitions against the dams. No one from government or the construction company had ever visited or consulted them. They had many generations of accumulated practical knowledge about the local environment and gave lists of bird, fish and mammal species (some from the Bern Convention appendices) they knew live in or near, and depended on, the river. Some bird species, including stone curlew (*Burhinus oedicnemus*), were observed by the mission

team. The local representatives stated that the free-flowing Vjosa River provides the basis of their livelihoods and their quality of life and they would fight to retain the environment that had supported local people for many centuries. They also asked why alternative energy sources, such as wind and solar were not being considered. Additionally, they felt the dams proposed would ruin their fledgling ecotourism developments.

Local representatives argued that the public consultation meeting was not appropriately advertised and so failed to attract representative of local communities and people with local knowledge who could have contributed to review of the EIA. Any future meetings should be advertised by direct contact with local government (such as Mayors) and other community representatives and local people by putting-up posters in villages throughout the potentially affected area.

The NGO Eco Albania reported that the proposal for the dam at Poçem (not available in English) included: (1) a fish ladder to allow migratory fish to pass (2) a means of pumping sediment from the reservoir past the dam to the downstream river (3) the position and capacity of water outlet structures in the dam that could facilitate environmental flows and mitigate water quality problems. However, the proposal did not include assessment of the risk of reservoir filling with sediment after 30-50 years thus shortening the design life of the dam and power generation facility. Follow-up information requests on these topics were sent to the Ministry of Tourism and Environment on 4 July 2018, but no responses had been received at the time of finalising this report (18 September 2018).

8. RECOMMENDATIONS TO THE GOVERNMENT OF ALBANIA

1. Use the precautionary approach and suspend both Kalivac and Pocem hydropower plant projects - as their implementation would pose compliance concerns with the Bern Convention - until the necessary strategic planning and additional assessments are carried out in conformity with Recommendations 2-10 below.

2. Urgently prepare an integrated River Basin Management plan, and strategic environmental impact assessment including social aspects, for the Vjosa river basin (including collaboration with Greece), particularly the potential for ecotourism.

3. Develop a study of the potential impacts of Poçem and Kalivac HPP schemes on the sediment regime of the Vjosa river and implications for the environment as an essential requisite to a comprehensive EIA, also taking into account other points of concern expressed under chapter 5 of this report. This should include potential negative impact on the Vjose – Narte Protected Landscape and candidate Emerald site.

4. Taking into account that the Albanian Emerald network of areas of special conservation interest (and ultimately the Natura 2000 Network in the country) still needs to be completed, consider areas along the Vjosa River, including reaches at Poçem and Kalivac based on available scientific knowledge, for possible designation under the Bern Convention Network.

5. Repeat the EIA study for the Poçem HPP project taking into account the River Basin Management Plan (Rec 2), the sediment study (Rec 3), any revision of the Emerald network (Rec 4), data from NGOs and any local or indigenous knowledge (Recs 6 & 10), taking a precautionary approach to data uncertainty.

6. Undertake a thorough consultation with local people to discuss development plans and EIAs. Meetings should be advertised by direct contact with local government (such as Mayors) and other community representatives and local people by putting-up posters in villages throughout the potentially affected area.

7. The Albanian EIA training programme should be reviewed to ensure that it meets international standards. The environmental impact of dams should be an important component and should feature guidance being produce for National Agency for Protected Areas on dams and international best practice, such as from The World Bank and International Hydro-power Association.

8. A strategic energy assessment should be undertaken for Albania to consider the merits of other options, such as wind and solar-based production.

9. A workshop should be jointly organised by the Ministry of Tourism and Environment and NGOs in late 2018/early 2019 with presentations on evidence of wildlife species and ecological process, such as sediment transport, in the Poçem - Kalivaç area. This should have a wide invitation list including other Ministries and relevant Agencies (e.g. Energy and Infrastructure, National Environment Agency, etc.), Albanian and international scientists, the Network of NGOS for Nature Protection and local people with wildlife knowledge.

10. Better collaboration is required between government ministries (and their agencies) and independent experts, this includes better use of local and indigenous knowledge. There is an urgent need to build capacity in Albanian scientists by their closer involvement in environmental projects. The Ministry of Tourism and Environment should stimulate this by supporting proposals to EU for research funds for Albanian partners. The Ministry should also approach research funders (Academy of Sciences, National Council for Research, National Agency of Research) and recommend prioritisation of freshwater science.

9. REFERENCES

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ANNEX 1: SUMMARY OF APPLICABLE RULES FOR HPP CONCESSIONS

The following information on the rules applicable for HPP concessions in Albania was gather during a meeting the new headquarters of the Ministry of Tourism and Environment on the 1st day of the mission.

I. Pre-concession stage

The applicable legislation on Concessions and Public private partnerships (PPPs) (Law 125/2013 as amended and Decision of Council of Ministers (DCM) 575/2013) considers the contracting authorities (CA) as "owners" of the concession/PPP process, who will be in charge of the whole process of the concession/PPP. The central government ministries and local governmental units are considered as contracting authorities responsible for the different stages which should be followed chronologically for any concession/PPP:

1. **The identification stage** of a project, which commences following a concrete proposal with the possibility for the realisation of a project. Firstly, proposals may be formulated by contracting authorities themselves within their area of competences, identifying those projects they deem necessary to be implemented through concession or PPP contracts. Moreover, a contracting authority may take into consideration the proposals delivered to it by the Prime Minister's office or by local or foreign institutions, but can also be submitted to the contracting authority by private investors interested to implement such a project, as an unsolicited proposal. In any of the above cases, the responsibility for the assessment of the proposal falls within the competence of the CA.

2. During the **evaluation stage** the project is examined for its feasibility. The CA, in cooperation with the Agency for the Treatment of Concessions appoints a special Concession/PPP Commission, whose tasks and competencies are: **(i) Prepares the summary assessment report on the identified project; (ii) Prepares the feasibility study;** (iii) Determines the type of procedure to be implemented during the bid; (iv) Drafts the tender documentation; (v) Evaluates submitted offers or requests for participation in the bid; (vi) Proposes to the contracting authority the selection of the bid considered as the successful one or the interruption of the procurement procedure, accompanied with a reasoned justification of such proposals.

    - **i) The summary assessment report** must contain a very large number of crucial elements, such as 1) a description of the current sector situation of the presented project, identifying and evaluating shortcomings and needs for development; 2) mid- and long-term forecasts for the specified sector; 3) a general description of the submitted project; 4) the identification of the legal basis that regulates the objective of the proposed investment; 5) identification and evaluation of strategic and operational benefits foreseen to be achieved by the implementation of the submitted project; 6) an evaluation of how the project will coordinate with general policies in the sector or with regional investments.

      In case of unsolicited proposals, the evaluation must consider the possibility of granting the bonus in favour of the proposing entity as well as of the percentage of this bonus' points. After the drafting of this report on the draft project the concession/PPP Commission sends this report for assessment to the competent contracting authority.

      Following the review of the summary report the CA may select between various alternatives, to reject the project implementation, to postpone the project implementation, to return for completion the unsolicited proposal, in cases when the identification of the project derives from an unsolicited proposal; or to continue the procedures for the project implementation. Following the finalisation of the summary report and its positive results, the Commission continues its work on performing further actions foreseen by the legislation with the feasibility study.

    - **ii) The feasibility study** should contain various crucial elements, including following elements: a general description of the assessed project; a summary of operational stages required for its performance; a detailed technical analysis; a detailed economic and financial

analysis; a detailed legal analysis; a structured analysis of **Concession/PPP Environmental and social impact assessments**; the Commission's conclusions and recommendations with regard to the assessed project. The legislation pays special attention to and details by specific provisions some integral elements of the feasibility study, namely: the technical analysis, the economic and financial analysis and the social and environmental impacts.

When, as a result of the conclusions of the feasibility study, it is attested that the project does fulfil all the requirements, the procedure for granting the concession/PPP can be followed, including a preliminary authorisation from the National Water Council, if the project is for an HPP.

3. **Procurement Stage**: When all the above are fulfilled, the process is followed by the procedures of awarding the concession/PPP, including several procedural stages that commence with the performance of competitive procedures through the public tender and the evaluation of bids submitted by private entities. In cases of successful completion of competitive procedures, it proceeds with the stipulation of the concession or PPP contract.

II. EIA process

Law 10440/2011, "On Environmental Impact Assessment" as amended (EIA law), partially transposing EIA Directive 2011/92/EU and DCM No. 686/2015 "On the rules, responsibilities and deadlines for the development of environment impact assessment procedure", define requirements, responsibilities, rules and procedures for the assessment of the adverse significant environmental impacts of the proposed private or public projects.

1. The EIA applications are submitted at National Business Centre (NBC) where an administrative check is performed. The valid applications are forwarded to the relevant Competent Authority, in this case the National Environmental Agency (NEA). At the end of the process the NBC submits the response to the developer/applicant. NEA is the overall coordination body for the whole EIA process and for the provision of compliance with all legislation in force. NEA is a subordinate structure of the Ministry of Tourism and Environment. NEA has under its jurisdiction the whole Albanian territory, through the central office and regional branches, the regional environmental agencies (REAs).

2. According to the EIA law, **HPP where an amount of water held back or stored exceeds 10 million m3 are subject to a profound EIA**. The Profound EIA process consists of:

   - Notification by the developer of intention to submit a profound EIA
   - The NEA consults with other institutions (Ministry of Planning, Protection of Public Health, Agriculture, Economic Development, Public Infrastructure Development, REAs, local government units and the public and NGOs on the issues to be addressed in the profound EIA report, neighbouring countries in case of EIA on transboundary projects
   - The publication of the profound EIA application on the NEAs website, where it should reside for at least 20 consecutive days
   - The NEA communicates with the developer on the issues the consulted parties require to be addressed in the profound EIA report
   - The NEA, REA and local government units organize public hearings following notification from developer for the preparation of a profound EIA Preparation of the profound EIA report by the developer, and organization of public hearings.
   - The REA forwards to NEA, within 5 days from the end of the public hearing, a report on public hearing carried out and records of comments/suggestions raised during public hearing
   - The NEA publishes REA report on NEA's website upon reception.

3. A preparation of the environmental declaration (approval or a refusal) by NEA and its issuance, after the Minister's signature. An "Environmental Declaration" is the official document issued by the Minister for the environmental assessment of projects that are subject to a profound EIA

process and serves as a guidance document for the planning authority and/or any other responsible authority in the decision-making process for a development consent or any other specific permits. The environmental declaration is submitted to the NBC and parties involved in the EIA process. The environmental declaration is published at NEA's website.

ANNEX 2: PROGRAMME OF THE ON-THE-SPOT APPRAISAL VISIT

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE AND NATURAL HABITATS

On-the-spot appraisal (OSA) mission in the frame of the Bern Convention File on Stand-by Complaint No. 2016/5: Presumed negative impact of hydro-power plant development on the Vjosa river (Albania)

12-15 June 2018

PROGRAMME

TUESDAY, 12 JUNE 2018	
	Arrival in Tirana and accommodation
21h00 – 22h00	Meeting of mission team to review programme and ToR (Monarc Hotel, Tirana)
WEDNESDAY, 13 JUNE 2018	
8h45	Pick-up from the Monarch Hotel
9h00 – 11h00	Meeting with representatives of the Ministry of Tourism and Environment, Ministry of Energy and Industry, national Agency for Protected Areas and other relevant Agencies (meeting room of the Ministry of Tourism and Environment, Scanderbeg square, Tirana)
11h00 - 11h20	*Coffee break*
11h30 – 13h00	Meeting with all stakeholders (authorities, complainant organisation, NGOs, scientific community, local actors such as mayors, national and regional relevant agencies, etc.) (meeting room of the Ministry of Tourism and Environment, Scanderbeg square, Tirana)
13h00	*Lunch*
14h30 – 16h30	Meeting with complainant organisation (Hotel Theranda, Str. Andon Zako Çajupi, Vila 6&7, Tirana)
16h30 – 17h30	Meeting with the EU Delegation to Albania (ABA Business Center, Rr. Papa Gjon Pali II, 17th floor)
18h30 – 19h30	Meeting with representatives of Academia (Hotel Theranda, Str. Andon Zako Çajupi, Vila 6&7, Tirana)
THURSDAY, 14 JUNE 2018	
7h30	Travel to relevant localities on Vjosa River
9h30 – 10h00	Visit of Pocem Bridge
10h00 – 11h00	Meeting with local communities and actors in XX & XX
11h00 – 12h00	Travel to Kutë and meeting with local communities
12h00 – 13h30	Lunch break in Kutë
13h30 – 15h00	Visit of Kalivaç dam construction site
15h00 – 17h30	Meetings with local communities in Qesarat & Anëvjosë
20h00 – 23h00	Return to Tirana
FRIDAY, 15 JUNE 2018	
08h30 – 10h00	Meeting of mission team to review mission and actions (Monarc Hotel, Tirana)
	Return flights for OSA team members

ANNEX 3: PARTICIPANTS LIST OF THE ON-THE-SPOT APPRAISAL VISIT

OSA MISSION TEAM:

Prof. Mike Acreman, Independent expert mandated for the mission
Mrs Iva Obretenova, Secretary of the Bern Convention, Council of Europe

NATIONAL AUTHORITIES:

Mr Pellumb Abeshi, General Director of Environmental Policies, Ministry of Tourism and Environment
Mrs Elvana Ramaj, Head of Biodiversity Unit, Ministry of Tourism and Environment and Focal Point to the Bern Convention
Mrs Klodiana Marika, Director of programmes, Ministry of Tourism and Environment
Ms Evisi Kopliku, Director of Integration, Ministry of Tourism and Environment
Ministry of Energy and Industry (name to be completed by the national authorities)
Mr Zamir Dedej, National Agency for Protected Areas (excused)

COMPLAINANT:

Mr Olsi Nika, Executive Director, NGO EcoAlbania
Mrs Theresa Schiller, EURONATUR
Prof. Aleko Miho, Faculty of Natural Sciences, Tirana University
Dr. Taulant Bino, Polis University, Ornythologist

OTHER STAKEHOLDERS TO BE MET BY THE OSA MISSION TEAM:

Requested by the complainant organisation:

Mr Agron Kapllanaj, Mayor of Mallakastra Municipality
Mr Përparim Shametaj, Mayor of Selenica Municipality
Mr Demir Murataj, Mayor of Kutë village
Mr Islam Islami, Mayor of Shkoze village
Mr Trifon Murataj – Kutë village representative
Mr Vladimir Meçi, Meçi legal office
Mrs Elvana Tivari, Meçi legal office

Requested by the national authorities:

National Agency of Natural Resources (name to be completed by the national authorities)
Mr Edison Konomi, Director, National Environment Agency