

SURVEY

on biodiversity v. energy and extractive projects



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- 1. Is there a conflict between biodiversity conservation and energy and extractive industries in your country? If yes, please give a short description and if possible, give examples of investments that demonstrate this conflict.**

The extractive industries in Albania consist of the mineral and oil industries, while the energy industries consist mostly of the construction of HPPs. While for the mineral industries are not reported damages to biodiversity, most of it comes from the oil extraction industries in the Patos Marinza area, but also in the Vjosa River valley, where Shell is drilling in search of new oil resources.

Patos Marinza area is suffering environmental pollution and degradation caused by the activities of oil extraction – polluting and impacting adversely the air, water, soil and natural habitats and wildlife. Although the public attention is focused at the polluting impact on air, water, and soil, but not to the negative impact of natural habitats and wildlife there, except of sporadic cases of reaction from CSOs.

However, the biggest harm to biodiversity is caused by the energy industry, the construction of hydropower plants. Albania ranks first in Europe for the construction of HPPs with a reported (not officially) number of 1008 HPPs on 2021 (official number is 714 according to a report on august 2019). The construction of hydropower plants has not spared the Protected Areas, where the damage in these areas is reported to be even greater due to the diversity of wildlife in these areas.

Albanian legislation provides protection for biodiversity in case of development of energy and extractive industries, but in practice this part of the legislation is bypassed. For example, in the case of the construction of HPPs, an Environmental Impact Assessment is required, which necessarily includes damage assessment to biodiversity. The assessment in the vast majority of cases is made formally and does not reflect the reality by not including important parts of biodiversity or at best, providing for preventive measures of avoiding damage to biodiversity assessed in the document, which further lacks monitoring of these measures. The problem always remains consulting the public on one hand and getting the opinion of scientific institutions and organizations that protect biodiversity, on the other hand. Both of these consultations are mandatory by Albanian legislation. In general, we can say that biodiversity is in constant conflict with the development of energy industries (dominated by HPPs) and

extraction (that of oil and quarries), due to the failure to develop projects in compliance with all environmental standards. The biggest failure in biodiversity protection is in the development of these projects within protected areas, where the relevant legislation prohibits any kind of industry. Despite this in Albania there are some cases of development of this industry, for example the case of construction of a HPP in 2019 inside the National Park Shebenik-Jabllanica. This investment was opposed by residents and civil society through protests and petitions, after it was made public by an investigative article by a freelance journalist, but was never opposed through the courts, as residents did not have enough courage to oppose the local and central government in this way, while civil society organizations were not organized and did not take the initiative to take appropriate further action. In this context, this investment took place although in violation of the legislation for protected areas. In addition to HPPs in Albania there are projects for the construction of wind farms, but no harm to biodiversity is reported. On the other hand, biodiversity is also affected by other projects such as the construction of Vlora International Airport, within the central part of Narta (an important protected area), but this investment is not related to extraction or energy industry.

2. Is there a public attention towards the said conflicts? Is there public media coverage of the said conflicts? If yes, please give a short description and if possible, give examples of investments that demonstrate this conflict.

Lately the media is paying more attention to the impact of investments in environment than before. Organizations dealing with environmental protection in general and those concerned with biodiversity protection have to search, ask, and find opportunities themselves to appear in media. So, they find ways to push the media to report on the negative impact that extractive and energy industry investments have on biodiversity. The coverage is mostly neutral and short, or it is done indirectly through the presentation of research or analyses done by the experts and organizations of biodiversity. Generally speaking, the biodiversity does not attract the attention of the public and consequently is not in the focus of the media.

The primetime, front pages are always occupied by the political news. There are very few exceptions where the environmental cases are part of the political and media agenda. One of the successful cases in this regard has been the campaign for the protection of Vjosa River in Albania that has made it to become part of the political discussion during the pre-election campaign. Thus, the public discourse included Vjosa's case, and the rich biodiversity there, shows into the prime-time media. Generally, the media has treated Vjosa's debate in a positive narrative. Other environmental issues (biodiversity included) are generally covered by some media outlets, but not centrally.

Another lack of media coverage of biodiversity issues is the fact that the public often driven by motives of overcoming poverty, is more interested in immediate economic benefits, rather than a sound vision towards a sustainable development. The widespread poverty has often produced lack of attention and insistence from Governments, over the costs of environmental damage caused by polluting industries, which would have impact on employment, salaries, would further increase cost of products, etc. For example, the booming of HEC constructions all over the country, is being followed merely by some forms of employment, etc., rather than long-term sustainable economic benefits.

3. Are there active civil society organizations working for the protection of biodiversity in your country? Do they implement actions against energy and extractive industry projects that are in conflict with biodiversity conservation? If yes, please give a short description and if possible, give examples.

The number of environmental CSOs in Albania is estimated between 80-100. Most of them are based in the capital (Tirana), but branches or CSOs are established at regional and local level, although half of the environmental CSOs are based in Tirana. In general, the CSOs are independent, have good expertise (although limited in number); yet they often have insufficient facilities and equipment. Their principal areas of activity include environmental education and raising awareness. There is no umbrella organization to represent the interests of CSOs, but there is good will to cooperate and communicate amongst the CSOs.

Some of them implement actions against decisions related to industries that have an impact on the environment, and especially near protected areas.

There are rare cases of action against the extractive industry, such as the search for oil fields in the Vjosa area by Shell.

Exploration for oil in block no. 4 includes the Vjosa valley (baptized as the "last wild river in Europe", the valleys of Zagoria, Drinos, Lengarica, Deshnica, etc. In these areas there is rich biodiversity, and the CSOs did engage the community of the areas.

Another example for the extractive industry that threatens biodiversity are quarries. A typical example is Tomorri Mountain National Park, which is an interesting natural ecosystem. Damage was caused by the presence of at least twenty-two operating quarries in these areas. Through pressure from civil society, the boundaries of the park were expanded in 2018 with a Decision of Council of Ministers, with the aim of increasing the protection of the protected area. As a result, twelve quarries were included within the new expanded park boundaries and after frequent inspections and monitoring, the Ministry of Tourism and Environment revoked environmental permits for the twelve respective enterprises. Meanwhile, all quarries that have been operating for more than 20 years in the area have mining permits for 25-35 years. A current case that organizations are pursuing has to do with quarries very close to the Shushica River, which is a tributary of the Vjosa River.

The majority of civil society actions are concentrated in the energy industry. Albania has a rich river system, and the common typology of electricity power plants is that of building hydropower plants on rivers. Several civil society organizations have been active against HPPs, taking concrete actions ranging from community awareness, setting up pressure groups on decision-making bodies, active participation in public consultations, protests, petitions, and more recently cases before the court. As a result of litigation, it has become possible for some biodiversity-rich areas to provide legal protection. Thus, Pocem HPP was banned by a court decision from Eco Albania. The Kalivac HPP was shut down by the government following widespread public pressure to protect the Vjosa River, while the development company launched a lawsuit against the Ministry of Tourism and Environment. Eco Albania also participated in this process, influencing the refutation of the claims of the development company. Another interesting case is the blocking of HPP putting in operation in the Valbona River by the Toka association. Another example of success is the non-issuance of the permit

for interconnection of HPP in Zall Gjoçaj, leaving it out of the network. The case was advocated by various CSOs and by informal groups such as the ATA group, as well as in court by lawyers from an OSFA-supported legal clinic. Another case of action is the opposition to the construction of HPPs on the Shushica River, as tributaries of the Vjosa River, an issue which is being pursued by the lawyers of the Res Publica centre. Preparations are being made for Benca River too. Certain community groups have become aware and have started to organize in other places, such as Skavica, Shebenik-Jabllanica national park, etc.

In a 2017 study of the organizations Milieukontakt, Eco Albania and Lex Ferenda, resulted in eighteen water conflicts which are exactly the cases when the construction of HPPs conflicts with the interests of nature conservation.

Other energy generation technologies are generally rare and there have been no cases of civil society reaction. However, some associations, like AOS, are closely monitoring possible developments with regard to wind farms and solar power plants, which are still in the design phase. A problem that has recently arisen is that of incinerators that burn urban solid waste to produce energy. CSOs concern is related to pollution caused by the lack of standards and control, especially when these businesses are operating in conditions of suspicion of corrupt practices.

4. What would these active NGOs need in order to improve their work against energy and extractive industry projects that are in conflict with biodiversity conservation? What kind of support (e.g., funding, networking, training, joint actions, joint legal cases, scientific support in analysing environmental assessment reports, etc.) would these NGOs require for their work?

Experience shows that the biggest weaknesses of civil society organizations are related to the type of actions they choose, while protecting biodiversity from the developing energy and extracting industry. It is noted that in addition to protests and petitions, it is imperative that opposition to investments with a negative impact on biodiversity be focused on legal actions too, both in administrative proceedings and through the court litigations. In Albania, the investments that impact the environment usually violate laws and the illegality can be challenged through administrative and judicial procedures. These actions should be in focus and supported by other actions such as protests, media coverage, etc., where the latter aim to capture public opinion. In Albania, the most successful cases have been exactly these cases when CSOs have made tools as much as possible through lobbying, media, etc. but in order to support the challenging before the court.

On the other hand, it is noticed that only recently, genuine legal actions have started to be supported on their own, such as the case of a strategic litigation or simply a judicial objection. However, these cases are sporadic, so it is recommended to orient the funds in these types of actions, separately. Also, it is a fact that the market does not offer many lawyers with experience and expertise in the field of environment law, as these types of cases are not financed at best, or they pose a risk of other types of conflict at worst, such as threats from big investors, or by the governmental actors. The only actors interested in pursuing these issues are CSOs. For this reason, these organizations should be strengthened in terms of financial support for lawyers and training dedicated to them.

Also in the same context, it is necessary to support these issues with scientific expertise which also in itself require funding and time. Scientific expertise is a necessity for all types of actions, especially for court cases, or for effective participation in public consultations.

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