

Virpazar: 10.02.2017

**Ms Iva Obretenova,
Secretary of the Bern Convention**

Dear Ms Obretenova,

We would like to make additional comments to our complaint number 2016/4 against approved Porto Skadar Lake project and future developments within National Park Skadar Lake.

Status of approval and development of the project Porto Skadar Lake

State Location Study Mihailovici (SLS) was developed to satisfy interest of private and inexperienced investor who purchased land in Zone III of Lake Skadar National Park, zone that has up to now been completely untouched by human development. Mr. Sonigo and his Montenegro Resort Company Ltd. started purchasing land in the vicinity of the village Mihailovici in 2008 with the intention of exploiting its natural beauty while wider public and national interest, that lie in parks biodiversity exploration and protection have been put aside. According to the state study this development includes up to 70% of villas with individual swimming pools destined for sale on the market and generating private profit.

<http://www.portoskadarlake.com/en/eco-resort/villas-privees>

Spatial Plan for the Special Purpose Area of Lake Skadar National Park for the period 2001-2015 (Official Gazette of the Republic of Montenegro 46/01) is still current, while new one is drafted, is not foreseeing any large-scale tourist development on the shores of the NP Skadar Lake. Its section 4.3 Tourism (page 99) claims:

“ because the backbone of development in the area of the park are excursions and other forms of non-stationary tourism”.

Decision was adopted by the Government on 4 October 2012 and it was based on the **Law on Spatial Development and Building of the Structures (Official Gazette of the Republic of Montenegro No. 51 as of 22 August 2008, 40/10, 34/11, 47/11, 35/13, 39/13, 33/14)**. See attached photo.

Citing Article 47:

“The Parliament of Montenegro shall adopt the Spatial Plan of Montenegro and the Special Purpose Spatial Plan Plan. The Government shall adopt detailed spatial plan and location study at the state level”.

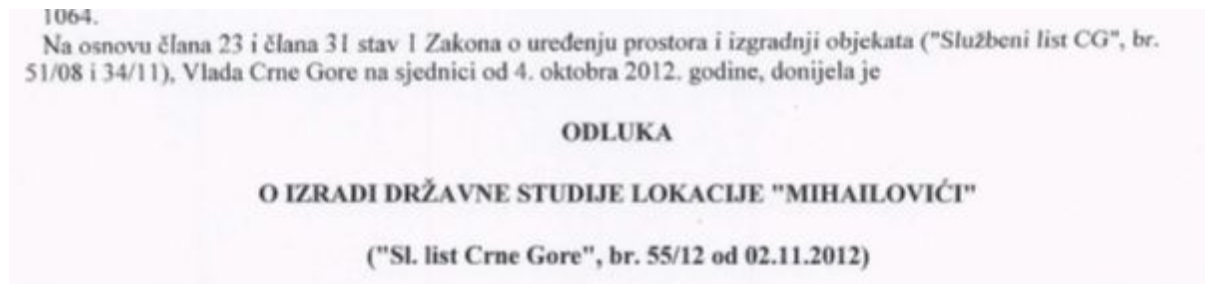
Citing the article 23:

“Location study at state level may be adopted for the regions which are within the scope of the Special Purpose Spatial Plan and which are not elaborated in details by such plan.

The location study at state level shall determine requirements for construction and execution of works within the region of the Special Purpose Spatial Plan."

This effectively means that Government (executive power) can bypass Parliament (legislative power) by using a tool of State Location Study as it happened in the case of the SLS "Mihailovici". Creating a situation that the Law of Spatial Plan as major document governing the future development of the area could be completely ignored. Jelisava Kalezić a Prof.dr of architecture and urbanism and former Montenegrin MP, in her televised debate in TV Vijesti claims this law being unconstitutional.

<https://www.youtube.com/watch?v=0kbbBIIIMtAc#action=share>



Extract from Government decision on SLS "Mihailovici" showing legal basis.

Current status of the project: two diggers have been transported to the site in December 2016 and have moved very little since. For any large-scale building: access road, water and electricity supply are essential and all three are missing. Two building permits issued by Agency for Environmental Protection of Montenegro and Ministry of Sustainable Development and Tourism were to expire on 26.01.2017 and 27.03.2017 respectively. Hence urgent need to show building working have begun.

Assessment of Investors credibility found some serious issues with proof of funds, false claims, dubious experience and business history. Assessment can be found in the attachment together with photos dating from December 2016 and most recent one from February 2017 showing the situation tip of the Biski Rep peninsula, site of Porto Skadar Lake Project. (Zipp file).

Strategic Environmental Impact Assessment has been prepared **WITHOUT** detailed biodiversity study of the area. Citations from the original document regarding biodiversity:

"The terrain where there is a range of SLS "Mihailovic" covered with dense vegetation, mainly bushes and underbrush with rocks and forests in places. Because of the density of vegetation and steep slope represents almost impassable terrain, making it difficult to research the flora and fauna. There are no written data of research in this area". Page 56

"Up to date, there haven't been any significant floristic and vegetation research in area of SLS "Mihailovic or its immediate vicinity. Data used relate to the whole area of Skadar Lake." Page 57

There are no precise and expertly confirmed data about the animal world in the location of SLS "Mihailovici" and its immediate surroundings, but certainly we can expect many animal species that find optimal habitat in the sub-Mediterranean forests and thickets .."Page 57

These sentences found in SEA have been copied in exact wording from SLS " Mihalovici " and could be found on the page 24 and 25.

*"From these three groups (aquatic vertebrates) special attention should have the otter (Lutra Lutra). It is, not only at the lake but on a state level, a protected species. It appears in the Habitats Directive (Natura 2000), list-Annex II and IV; list of the Berne Convention, the list-Annex II; CITES list - appendix I and in the appendix of the Bern Convention (CMS - Convention on the Conservation of Migratory Species of Wild Animals). Knowledge about this species of Lake Skadar is scarce, thus we can not say with certainty what concrete impact construction of buildings like these that is subject of this study will have. Concluding, that this species should be given more scientific attention and should be a permanent subject of monitoring. " **Page 103***

*"For the assessment of the impact of any anthropogenic effect on nature would be ideal to carry out a detailed study (in this case the study of wildlife) of the area allocated for construction, just before the preparation of these studies. This would determine the concrete (or "zero") status, which would allow a very accurate analysis of possible impacts. Also, this research would later be used in monitoring qualitative and quantitative changes in the environment and provided an estimate of the level and degree of human influence. " **Page 110***

Analyzing SEA's dealing with other potential effects of this projects are numerous. We will use only one example. Citation from effect of population :

"The construction and operation of facilities will not cause migration of the population, because it is expected that the required number of employees of appropriate qualifications will be recruited from nearby settlements ".

In reality Porto Skadar Lake Project has become an open invitation for other landowners, in its proximity, to to advertise their land for commercial development. In the current environment with inexistent controls this will lead to devastation, seen already in many areas of the Montenegrin coast.

Example in following link : <http://www.realitica.com/hr/listing/1147978>

There are currently no known ECO building standards in Montenegro. State Location Study "Mihaliovici" does not mention any international standards, for example: International Green Construction Code (IgCC) or similar. Investors claims that they posses UN Green Globe Eco certification was dismissed by the same agency. This leads to conclusion that ECO claims will be left to investors subjective interpretation.

Had the Environmental Impact Assessment been conducted prior to granting of the building permit ?

In our knowledge, EIA was approved prior to the acquisition of the building permit. *Study on the Hydrological-Hydrogeological Characteristics of the Location Terrain* was also drafted but according to EIA which was already approved by The Environmental Protection Agency there were 5 possible water source option and its conclusion was: *“The most suitable variant of the water supply will be chosen after a detailed hydrogeological research before making the next phase of the project documentation”*. EIA study, **page 35**.

Meaning only one thing: EIA for the project was approved without the hydrological study.

Building permit was issued by the Ministry of Sustainable Development and Tourism on 27.03.2015 and not on 6 June 2015 claimed by ministry.

Did the Environmental Impact Assessment cover the Biodiversity Study and what were its bases and conclusions ?

EIA for PSL was prepared by Eco Aqua Consulting without a single biologist involved. Experts in the field of biodiversity from Montenegrin University, Natural Museum and NGOs were not consulted. All biodiversity data used for this project were data of the whole basin of NP Skadar Lake, same is true for SEA of the SLS. Current biodiversity data are largely out of date or non-existing (see CZIP comments on current avian fauna used for Spatial Plan NP Skadar Lake). GAP report from 2012 from Montenegrin University for example states the area affected by PSL project as likely home of Eurasian Otter (*Lutra lutra*) . No concrete data on this species are available and hasn't even been mentioned by EIA of the project ! An assessment of EIA was given Dr D. Mrdak, professor of the Faculty of Natural Sciences and Mathematics, University of Montenegro. In which he summarised proposed „Eco“ water treatment for the project as pure science fiction! (EIA assesment in the attachment).

If the process of wastewater treatment has been deemed unrealistic how is it possible that- citing ministry: “Study identified relevant measures for prevention, reduction and elimination of potential adverse effects on the environment.”?

Status of adoption of the Special Purpose Spatial Plan for Lake Skadar National Park (PPN for Lake Skadar NP)

Special Purpose Spatial Plan for Skadar Lake National Park is actually in its final stage or Draft 3. Contrary to Ministries claims that the process is in its beginning or that public participation is wide and involves all aspects of society. Reality is very different, and it follows the same pattern in which SLS “Mihailovici”, Porto Skadar Lake and many other projects in Montenegro were approved. Inviting public to participate by Official Gazette of Montenegro or via small print in official web sites insures inadequate public or expert consultation , its non-transparent. Population in the lake is approximately 17.000 and they live mostly of fishing, tourism and agriculture and rely on direct form of communication. Not surprisingly most people in the largest settlement on the lake Virpazar have hardly heard of the Drafting of the future Spatial Plan for the lake the live on and that will directly affect them. Consultations carried out for SEA and EIA of state location and Porto Skadar Lake Project were conducted in the similar way. Simultaneously largest news agencies in the country had ample and numerous articles advertising this project

with claims that it will be not only friendly to the nature, but actually protect it and bring wealth to the locals.(see Analysis of Investors claims)

In addition, unprofessional and not adequately prepared questionnaire was set up for 30 days at the Governmental site in small print instead of hiring professional polling agency.

Green Home, a local NGO who participated on creation of the Management Plan for NP Skadar Lake 2016-2020 and Noe Conservation involved in protection of lake pelican colony, should be first to be informed about the creation of Spatial Plan for the National Park. Instead they were informed of the Forums existence by our Informal Citizens Group from Virpazar and not drafters. They were only able to participate in its very last Forum.

Forums are organised in such a manner that participants are given very short notices, meetings are held during working hours and deadlines are extremely short. Concrete example how this process works in practice:

Last Forum was held on Monday 3rd of October 2016 at 11 am (working hours of most people) and participants were given only 5-day notice and were expected to analyse 124-page document and submit their written suggestions by 10th of October (7 days!). In this way from 46 participants of the Forum, majority (37) were representatives of the drafters, ministries, municipalities and government agencies, only 5 were NGO members, 2 hunting society members, and only 1 from Montenegrin University and one citizen! Clearly with the aim of fulfilling government claim: *“We would like to stress once again that with a view to achieving transparency and participation of both professional and non-professional public, Public Consultations were organized in which there was no interested public.”*

Biodiversity data used in this Forum are out of date or inaccurate. Their analysis by CZIP (Bird Life Montenegro) concerning only avian species are very critical. Data for other species are similar or as in case of *Lutra Lutra*- non existent. (see Appendix)

Drafting company (CAU) involved in creation of the future Spatial Plan for NP Skadar Lake is the same company responsible for creation of SLS “Mihailovici” and Porto Skadar Project. Conflict of interest?

Even if future PPPN for Lake Skadar NP is adopted with most advanced aspects of sustainable development and protection, the threat for State Location Study as tool in Government possession could be used to approve further development projects.

Information deemed relevant concerning measures undertaken in the implementation of the Recommendation No. 157 (2011) with regard to Lake Skadar, candidate Emerald site

Claim that special attention has been paid to the activities aimed at monitoring, conservation and management of the NP Skadar Lake is only declarative and based on citation of laws. There are no monitoring data to show the extent of illegal activities in the national park so numbers of alleged prosecutions, stated by Ministry could be irrelevant or very significant. Data on how many convicted poachers and how many illegal buildings were removed are lacking! People on the lake laugh when they hear these statements because they know the measures of protection are ineffective.

Lake Skadar National Park is managed by a Public Enterprise on the basis of five-year plans (adopted by the Government) and annual plans which include the elements required by the law with a view to protection and achieving sustainable use of this space. This Public enterprise is severely underfunded and unable to effectively manage and protect the lake and in some cases its rangers and personnel are participating in the illegal activities themselves. For this reason, its authority and its esteem in the local population is very low. Furthermore, Public Enterprise managing Skadar Lake National Park in its decree no. 03-2435 has invited public (via its web site) on 23rd November 2016 to submit applications for temporary building permits within all NP in Montenegro. And again, in the fashion of short deadline of one week. Clearly something designed that only few and well informed individuals could participate in. Distinction between temporary and permanent for anyone living in Montenegro is widely known is non-existent.

Project Porto Skadar Lake planned marina is within borders protected by Ramsar Convention. Its report No. 56 from 2005 (page 4) recommends clearly to the Montenegrin authorities that all illegal buildings were to be removed at owner's cost and that Motel Plavnica, also illegally built, should not be a precedent. Today Motel Plavnica has been retrospectively legalised and despite being advertised as an "ECO" hotel dumps untreated wastewater directly into the lake Zone II. What law would Ministry like to cite for this?

NGO MANS survey study of illegal buildings in NP SL from 2009, recorded 53 illegal constructions, 89% of those were confirmed to be illegal by building inspectorate. When it came to verifying progression and conclusion of these cases out of 46 submitted requests 86% have been unanswered. Not one single illegally built structure has been removed up to date.

Carp Protection Team an NGO with 20 members and 50 volunteers has been active on the lake since 2009 on a daily basis and are recording and fighting illegal fishing practices. Their statement directly contradicts Ministries claims and contains evidence of large scale illegally caught fish making its way to the national supermarkets during the no fishing season. (Declaration in the Appendix).

Documented illegal bird hunting is ignored and not prosecuted by the authorities:

<http://czip.me/aktuelno/570-krivicna-prijava-za-krivolov-na-skadarskom-jezeru>

Same **Law on Spatial Development and Building of the Structures that Ministry has used for SLS "Mihailovici"** is also governing procedures of monitoring and prosecution of illegal buildings. Seems that law in this case has been selectively used. On the other hand, there was a will and finances available to approve and carry on SLS (cost 20.000 euros to Montenegrin taxpayer) for a private business.

European commission's last report SWD (2016) 360 on Montenegro's progress toward the EU clearly points out towards the lack of monitoring and implementation of its laws in all sectors but particularly in the field of environment.

From all above is evident that Implementation of the Recommendation No 157 (2011) is declarative and on the paper. Citing the laws is not going to protect the lake. What's important is that current level of protection and illegal activities are alarming.

Plans of competent authorities to propose Lake Skadar candidate site to be approved as Emerald site at the next 36th Meeting of the Standing Committee of the Bern Convention

The 36th Meeting of the Standing Committee of the Bern Convention has been and gone. It's very unlikely that Skadar Lake will be a full member as EMERALD and NATURA 2000 any time soon. It is important to emphasize that Plan for the management of the National Park Skadar Lake includes activities that are in part depend on the available international funding and donation for projects and these are often non achievable. These planned activities end up being dropped year after year because Public Company responsible for NP Skadar Lake does not have a capacity to monitor, manage or control any impact on lakes eco system let alone by increased tourist numbers brought in by Porto Skadar Lake.

In Summary:

- NONEXISTENT AND INEFFICIENT MANAGEMENT OF ILLEGAL ACTIVITIES IN THE NATIONAL PARK SKADAR LAKE
- ·APPROVED PROJECT PORTO SKADAR LAKE UNDER CONTROVERSIAL CIRCUMSTANCES: LAW ON SPATIAL DEVELOPMENT AND BUILDING OF STRUCTURES AND STATE ALLOWS GOVERNMENT TO BYPASS ANY SPATIAL LAWS APPROVED BY PARLIAMENT. THIS IS MAKING ANY SPATIAL PLANNING IRRELEVANT.
- ·METHOD OF PUBLIC PARTICIPATION WAS INADEQUATE AND LARGELY MADE BEHIND A CLOSED DOOR WITHOUT WIDE PUBLIC OR EXPERT PARTICIPATION. SEVERAL TIMES REPEATED MINISTRIES STATEMENT: THAT THERE WERE NO INTERESTED PARTIES, SHOULD BE EMBARRASSING AND SHOULD RAISE THE FLAG THAT PROCESS NEEDS REVIEWING.

SIMILAR METHOD IS USED FOR CREATION OF FUTURE SPATIAL PLAN FOR THE NATIONAL PARK.

- SLS MIHAILOVICI ON WHICH PORTO SKADAR LAKE PROJECT IS BASED IS CREATED FOR PRIVATE INVESTOR FOR SOLE PURPOSE OF BUILDING COMMERCIAL PROPERTY AND COMPLETELY DISREGARDS WIDER NEGATIVE EFFECT IT HAS ON FUTURE OF THE WHOLE NATIONAL PARK IN CURRENT UNREGULATED ENVIRONMENT.
- SEA AND EIA ARE MADE TO ORDER, NO BIODIVERSITY STUDY FOR THE AREA WAS CONDUCTED SO IT'S NOT POSSIBLE TO CLAIM THAT THERE WILL BE NO EFFECT ON THE LAKE'S BIODIVERSITY KNOWING WE DON'T KNOW WHAT "ZERO" STATUS IS AND HOW WILL BE EFFECTIVELY MONITORED IF AT ALL.
- INVESTORS CREDIBILITY AND EXPERIENCE IS DUBIOUS. THERE ARE NO ECO STANDARDS THIS PROJECT IS SUBJECT TO.

We claim that government has done very little to manage and protect the national park while approving private investment projects that are detrimental for the future of the Park, not only its biodiversity but also sustainable tourist development. We clearly see this process in other parts of Montenegro. Citing and selectively using the laws or "made to order" Environmental Impact Studies will not protect the lake.

Excluding public and expert participation on decisions involving such important national and international sites could have catastrophic and irreversible consequences. Projects like PSL together with plans to build temporary objects has sent clear message to the public: **Doors to uncontrolled construction are open!** Real estate pages are rapidly filling up with ads offering land for sale and citing PSL as an example of what is coming. This is an alarming precedent which will eventually lead the building frenzy spilling from the coast to the national parks.

We believe that only way forward is to halt any kind of construction within national park Skadar Lake and its buffer zone until:

1. Detailed biodiversity studies are conducted for the whole of the national park, especially for species which we know very little about like Eurasian Otter (*Lutra Lutra*).

2. Efficient and effective methods of monitoring implementation of existing laws are put in place and executed in a manner that is visible on the lake.
3. Importance of the NP Skadar Lake is promoted with local population through communication, education, participation and awareness (CEPA).
4. NP Skadar Lake becomes full member of EMERALD and NATURA 2000 programme.

Thank you for your time and please do contact us should You need more information. Members of SaveSkadarLake project :

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CC

Gabriel Schwaderer and Stefan Ferger, Euronatur

Tobias Salathe, Ramsar

EU delegation in Montenegro

Appendix :

1. Spatial Plan for the Special Purpose Area of Lake Skadar National Park for the period 2001-2015
2. Assessment of Investors credibility with supporting evidence and photos of current situation (Zipp folder)
3. SEA for SLS "Mihailovici"
4. EIA for Porto Skadar Lake project
5. CZIP comments on avian fauna biodiversity data
6. EIA assessment
7. Carp Protect Tean NGOs declaration
8. Questionnaire used for Special Spatial Plan for NP Skadar Lake
9. Bern Convention letter (same as above in PDF form)

