



**PRACTICAL  
MANUAL**

**FOR UNDERSTANDING AND  
USING ENVIRONMENTAL LAW IN  
ALBANIA**

**CASE STUDY:  
LEGAL PROTECTION OF THE**

# **VJOSA RIVER**

TIRANA, DECEMBER 2021



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**Disclaimer:** This guide was drafted by the author within the project “Campaign for the protection of the Vjosa - inspiration for activation in Albania”.  
The contents of this guide are the exclusive opinion of the author and do not necessarily reflect the principles and policies of EcoAlbania or the donor.

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With the special contribution by EcoAlbania team



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## Preamble

Albania's measures to prevent the deterioration of the environment and to respond to environmental change have been increasingly driven by commitments under multilateral environmental agreements on the one hand, but also by domestic needs on the other. This requires government officials not only to understand how to implement existing international commitments, but also how to contribute to the negotiation of new international commitments.

A precondition to that is the good understanding of the development, features, functioning and implementation of multilateral environmental agreements. On the other hand, civil society actors, environmentalists often face the inability to understand the legal complexity of international environmental law and how to use it in their daily work.

The purpose of this handbook is to provide an overview of international environmental law, focusing on some important multilateral environmental agreements known to the general public.

To help CSOs understand the basics of international engagement, this handbook is divided into several sections. In the first part, is given a general information of international environmental law and its historical development. While in the second part is given an explanation of environmental conventions about the entry into force, their functioning and implementation. In this section is also given a practical guidance to CSOs so they can understand the mechanism of compliance and the conventions' implementation in practice.

Based on this information, the third part provides an overview of environmental law in Albania focusing briefly on horizontal environmental legislation. The fourth part is built around the practical implementation of national and international environmental legislation focusing on the case of the Vjosa River and the legal battle followed by EcoAlbania.

The target audience for this handbook is basically the CSOs that work on the field of environment, but it can also be practically used by other stakeholders that seek to understand commitments under multilateral environmental agreements.

The manual is produced in Albanian and English and will be available on the EcoAlbania website.

# Abbreviations

<b>ACCC</b>	Aarhus Convention Compliance Committee
<b>NEA</b>	Ntional Agency for Environment
<b>NAPA</b>	Ntional Agency for Protected Areas
<b>IUCN</b>	International Union for the Conservation of Nature
<b>KiE</b>	Council of Europe
<b>VC</b>	Vienna Convention
<b>MIE</b>	Ministry of Infrastructure and Energy
<b>MEA</b>	Multilateral Environemntal Agreement
<b>MoTE</b>	Ministry for Tourism and Environment
<b>NGO</b>	Non-Governmental Organisations
<b>PIC</b>	Preliminary Informed Consent
<b>TP</b>	Meeting of Parties
<b>UNECE</b>	United Nation Economic Commission for Europe
<b>UNFCC</b>	United Nation Framewrok for Climate Changes
<b>EIA</b>	Environmental Impact Assessment
<b>HPP</b>	Hydropower Plants

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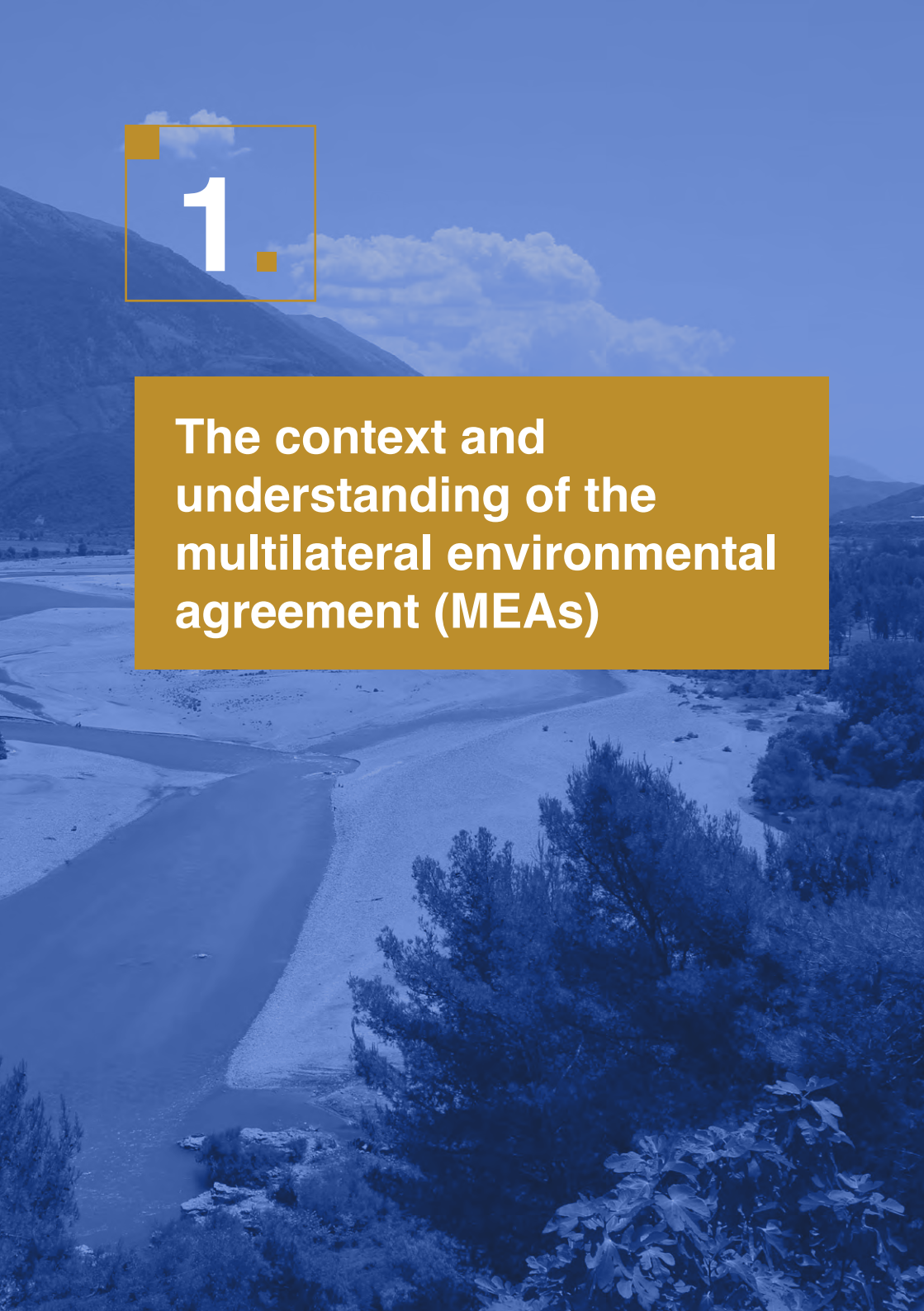


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1.



**The context and  
understanding of the  
multilateral environmental  
agreement (MEAs)**

## 1.1 The context and understanding of the multilateral environmental agreement

International environmental law is a branch of public international law - a legal body established by States to govern the problems that arise between States. It is about trying to control pollution and depletion of natural resources within a sustainable development framework. Multilateral Environmental Agreements (Multilateral Agreements) are a subset of international conventions recognized by Article 38 (1) of the Statute of the International Court of Justice as a source of international law with a particular focus on environmental issues (see Figure 1 below). Note that court decisions and legal writings are not a source of binding law per se, but are aids in law-making.

International environmental law cov-

ers topics such as biodiversity, climate change, ozone layer depletion, management of toxic and hazardous substances, desertification, marine resources and air, land and water quality. International environmental law operates in synergy with international laws such as trade, human rights, international finance, etc.

## 1.2 What is a multilateral environmental agreement?

The term multilateral environmental agreement relates to a number of legally binding international instruments used by states to engage in the achievement of specific environmental goals.<sup>1</sup> These agreements may have different names, such as convention, treaty, agreement and protocol. However, the change in names does not change the



Figure 1: Schematic presentation of the international regulatory framework

<sup>1</sup> 1969 Konventa e Vjenës për Ligjin e Traktateve

legally binding nature of the agreement. As long as the agreement is intended to be governed by international law and creates an obligation, then it is an international treaty. The 1969 Vienna Convention on the Law of Treaties makes this principle clear. It defines a treaty as an international agreement concluded between states in written form and governed by international law, embodied in a single instrument or in two or more related instruments and whatever its specific definition.

As a principle of international treaty law, multilateral environmental agreements, like any treaty, bind only those states that have agreed to be bound by it. However, multilateral environmental agreements may also affect non-Parties, for example by prohibiting or restricting trade by non-Parties. Some multilateral environmental agreements rely heavily on annexes that are updated

from time to time by the Conference of the Parties established to oversee the agreement.

### 1.3 How has multilateral environmental law developed over time?

The reasons for the increase include the response to the gravity of environmental problems and an increase in the understanding that environmental issues are often global. Therefore, the solutions and tools to deal with them must also be global. First-generation arrangements primarily address the conservation and use of a particular nature of resources.

Examples include the Ramsar Convention of 1971 on the Importance of International Wetlands, the 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora. These multilateral environmental

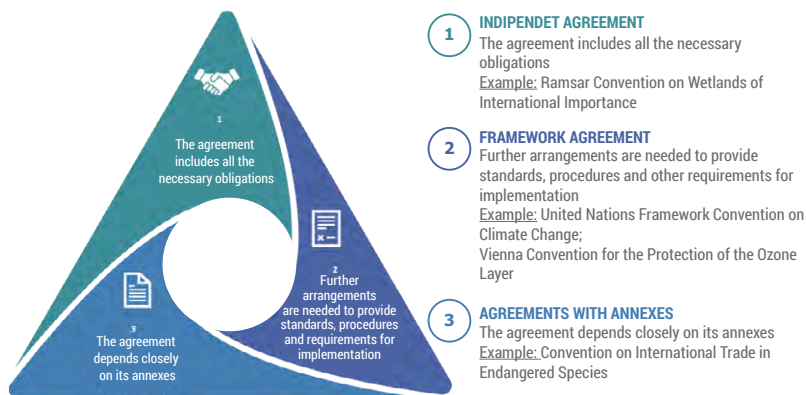


Figure 2: Comparative presentation between different types of international agreements

agreements set out principles for addressing threats to ecosystems such as wetlands, or species such as wildlife and marine ecosystems.

Many of the second-generation environmental agreements evolved after the Rio Conference held in 1992 with representatives of governments from around 180 countries, where two new conventions were addressed for signature: the UN Framework Convention on Climate Change, and which is sectoral in its dealings with climate and atmosphere but recognizes the wider impacts of

climate change on ecosystems, food, production and sustainable development; and the Convention on Biological Diversity which seeks to bring together agriculture, forestry, fisheries, land use and nature conservation in new ways. The UN Convention to Combat Desertification was adopted after the 1994 Conference and aims to combat desertification, mitigate the effects of drought, and promote sustainable land management. These three conventions together are often referred to as the 'Rio Conventions'.

<b>I Generation</b> Conservation and use of natural resources	1971	<b>Ramsar Convention</b>
	1972	<b>UNESCO</b>
	1973	<b>MARPOL</b>
	1982	<b>UNCLOS</b>
	1985	<b>Vienna Convention</b>
	1987	<b>Montreal Protocol</b>
	1989	<b>Basel Convention</b>
<b>Conference of Rio</b>	1992	<b>CBD/UNFCCC</b>
<b>II Generation</b> Holistic approach with a focus on sustainable development	1994	<b>UNCCD</b>
	1997	<b>Kyoto Protocol</b>
	1998	<b>Rotterdam Convention</b>
	2000	<b>Cartagena Protocol</b>
	2001	<b>Stockholm Convention</b>
	2010	<b>Nagoya Protocol</b>
	2013	<b>Minamata Convention</b>
	2015	<b>Paris Agreement</b>

**Table 1:** Chronological presentation of the most important international agreements on the environment



# 2.

## Functioning of Multilateral Environmental Agreements

### 2.1 Agreement negotiation process

Negotiations for a new multilateral environmental agreement usually take place under the auspices of an intergovernmental negotiating committee while the main body for negotiations on existing multilateral environmental agreements is usually the Conference of the Parties. In fact there are various factors that shape the negotiation process and are responsible for its success.

### 2.2 How states engage in a multilateral environmental agreement

When states want to engage in a multilateral environmental agreement, there are a number of steps that must be taken before it becomes a Party. These steps are set out in the Vienna Convention on the Law of Treaties of 1969.

#### Adaptation

In practice, diplomatic conferences usu-



Figure 3: Schematic representation of the process of negotiating international agreements

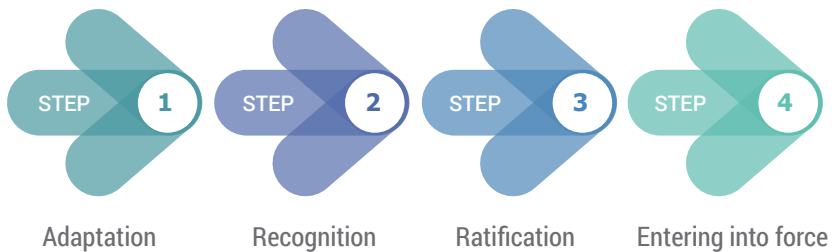


Figure 4: Schematic representation of the process of engaging the parties in an agreement

ally take place during the final stage of negotiations: the final text of the agreement is formulated, approved and adapted by the participants.<sup>2</sup>

### Signing

An authorized representative of the state must sign. The signing can take place even after the holding of the diplomatic conference that closes the negotiations or within a certain period after the agreement is open for signing. Multilateral environmental agreements usually have an article indicating the period when the agreement is open for signature. The signature confirms the text of the agreement as the one that has been finally agreed. While the signature generally does not bind a state

under the terms of the agreement, it nevertheless states the intention of the state to become a party to that agreement.<sup>3</sup>

### Ratification

A State becomes a Party to the agreement and accedes to it through ratification or accession. The ratification or accession process is an international act by which a state decides internationally its consent to enter into an agreement.

The ratification process can be divided into an internal part defined by the constitution of a country and an external part defined by the Vienna Convention on the Law of Treaties of 1969 and the relevant agreement.

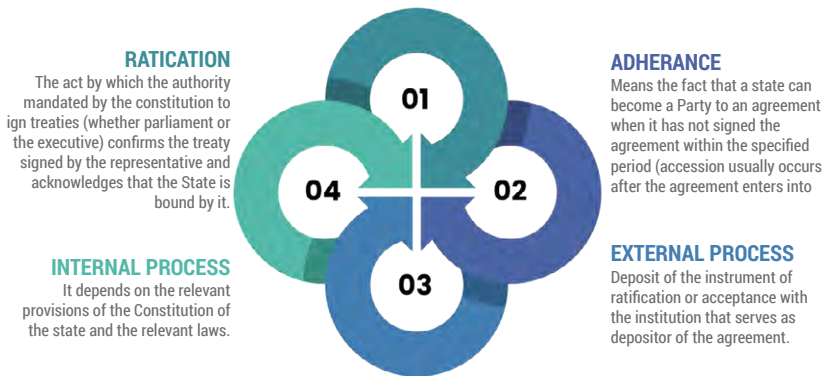


Figure 5: Schematic representation of the stages of approval of an interstate agreement

2 UN Treaty Collection: Glossary of terms relating to Treaty actions [https://treaties.un.org/pages/overview.aspx?path=overview/glossary/page1\\_en.xml](https://treaties.un.org/pages/overview.aspx?path=overview/glossary/page1_en.xml)

3 UN, 2012, Treaty Handbook. <https://treaties.un.org/doc/source/publications/THB/English.pdf>



*Entry into force*

A multilateral environmental agreement enters into force when the requirements normally specified in an article of the agreement are met. This usually happens within a specified time (for example 30,60,90 days) after a specified number of States have ratified the agreement.<sup>4</sup>

Numbr of States	Percentage of States	I.e percentage for the Emissions
Number 50 ir 60	Proportional number i.e. 20%	Proportional number i.e. 20%

**2.3 What are the key elements of multilateral environmental agreements**

Most MEAs are structured in a similar way with similar elements. These el-

ements can be classified into the following groups: context, commitments, institutions, and compliance (according to the figure 6 below). Other clauses may relate to the entry into force of the agreement or amendment procedures..

**2.4 What are the main principles of international environmental law?**

Most multilateral environmental agreements are based on and refer to certain principles of international environmental law. Most of them, such as the sovereignty of the state over natural resources and the principle of common but differentiated responsibilities, have been merged into the Rio Declaration on Environment and Development adopted at the Rio Conference in 1992. The principles of international environmental law can be have many functions.

**CONTEXT**

- ❖ Preamble
- ❖ Definitions
- ❖ Objectives
- ❖ Principle
- ❖ General Guidelines

**COMPATIBILITY**

- ❖ Communication
- ❖ Compliance
- ❖ Disagreement resolution



**ENGAGEMENT**

- ❖ Substantial commitments
- ❖ Financial support
- ❖ Technological assistance
- ❖ Education and training
- ❖ Research and monitoring

**INSTITUTIONS**

- ❖ Conference of the Parties
- ❖ Institutions of subordination
- ❖ Secretaries

**Figure 6:** *Key elements of multilateral agreements*

4 UN, 2012. *ibid*

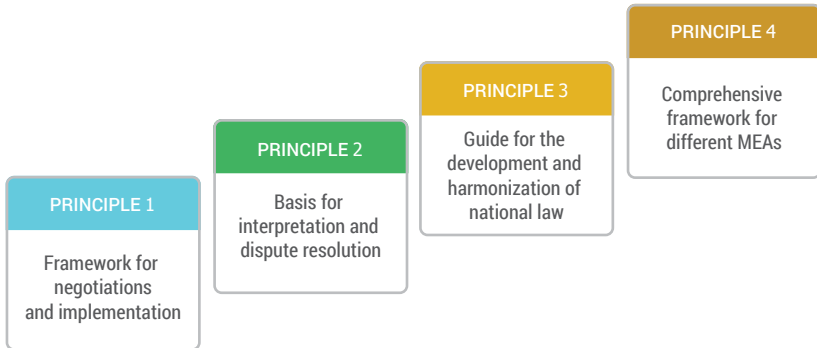


Figure 7: Key principles of multilateral agreements

**State Sovereignty over Natural Resources.** State sovereignty is a general principle of international law, including the concept of equality sovereignty where all states are treated equally as legal persons in international law. States have the right to control the exploration, development and disposal of their natural resources, including biological resources. The Prior Informed Consent Procedure (PIC) as set out in the Rotterdam Convention on the Transboundary Movement of Hazardous Chemicals recognizes the Sovereignty of States to decide on potentially harmful activities within their territory.

**The right to development.** The right to development is a human right according to which every person and all people have the right to participate, contribute and enjoy economic, social, cultural and political freedom development, in which all rights and fundamental human freedoms can be fully realized. According to Principle 3 of the Rio Dec-

laration, the right to development must equally meet the developmental and environmental needs of present and future generations.

**Sustainable Development.** This principle is related to the interdependence of all humanity.

**The common heritage of humanity.** According to the principle, territorial areas and elements of cultural or natural importance are defined that should be kept in trust for future generations and protected from exploitation by individuals, states and corporations.

**Prohibition to cause cross-border damage.** The principle relates to areas within national jurisdiction, recognizing the interdependence of all ecosystems and drawing parallels with other areas of common interest such as human rights, humanitarian aid and international labor relations.

**Prevention.** The principle of prevention states that environmental protection is achieved better than trying to rehabilitate and compensate for the damage caused by destruction.

**The principle of care.** This principle stipulates that scientific uncertainty cannot be used as a reason to postpone measures to prevent environmental damage, where those measures are cost effective.

**Notification, consultation, cooperation and environmental impact assessment.** To ensure a good coexistence of neighboring states, there are some procedural obligations that are well established under international environmental law. They relate to prior notice to all potentially affected States of potentially harmful activities planned, the duty to consult in good faith including the opportunity to review and discuss proposed harmful activities, the request for prior informed consent of States in relation to planned activities in its territory and the obligation to undertake environmental impact assessments (EIAs) in a cross-border context.

**The right to transparency and public participation.** Transparency, participation in decision-making and access to justice provide opportunities for people to have a saying in decisions that affect their living conditions. Together, these rights give to the people a voice to strengthen environmental democracy. Consequently, environmental decisions are not only made at the state level, but

also involve individuals and communities. The rights to transparency and participation in decision-making are enshrined in Rio's 10th Principle.

**The polluter pays principle.** This principle aims to ensure that full environmental costs are ultimately reflected. This principle has been included in many multilateral environmental agreements, but remains controversial. It is reflected in 16th Principle of the Rio Declaration.

## 2.5 What are the mechanisms used in multilateral environmental agreements

Different types of agreements have different legal mechanisms to ensure environmental protection. They can be classified into two groups:

Prohibition / Restriction / Standards	Approved procedure
- The activity or product is generally prohibited	- The activity or product is generally allowed

### Prohibition or restriction of polluting activities

If an activity, product or process poses a significant risk of environmental damage, strict measures may be imposed in an effort to reduce or eliminate the damage. When the likelihood of danger is very high, a complete ban can be imposed. For example, under the 1987 Montreal Protocol, states must gradually phase out the production of the many substances responsible for ozone de-

pletion.<sup>5</sup>

### **Prohibition or restriction of the usage of biological resources**

If a particular use threatens biological resources, measures aimed at conservation and protection may be put in place. For example, the 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora uses trade restrictions and trade bans as a means of protecting endangered and endangered species.

### **Product and process standards**

Multilateral environmental agreements can set standards for products and processes that affect the environment. Standards are descriptive norms that regulate products or processes or impose limits on the amount of pollutants or emissions produced. For example, the 1987 Montreal Protocol prohibits trade in products containing ozone-depleting substances.

### **Emission standards**

Emission standards specify the amount or concentration of pollutants that can be emitted from a given source. As a general rule, discharge standards apply to fixed installations, such as factories or homes; Mobile sources of pollution are most often regulated by product standards. Emission standards define output obligations, usually leaving the pollutant to adjust to the norm. For example, the 1997 Kyoto Protocol formu-

lates commitments to limit or reduce emissions.

### **Licensing and prior permission**

Multilateral environmental agreements may require states to license activities or enterprises that are potentially harmful to the environment or that use natural resources. For example, the 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora requires States to establish a licensing system for the import and export of certain species.<sup>6</sup>

### **Prior Informed Consent (PIC)**

Prior Informed Consent (PIC) is a procedural mechanism used before activities to avoid potential conflicts and reduce the risks of environmental damage. Internationally, prior informed consent requires the decision-making and dissemination of importing countries whether they wish to receive shipments of restricted or prohibited products after being fully informed of the risks posed by the products. There are four global environmental agreements based on some form of informed informed consent: the 1989 Basel Convention on Transboundary Movements of Hazardous Waste, the 1998 Rotterdam Convention on the Informed Approval Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, The Cartagena Protocol 2000 on Biosafety, and the Nagoya Protocol 2000 on access to genetic resources and equitable and eq-

5 Montreal Protocol

6 CITES Convention

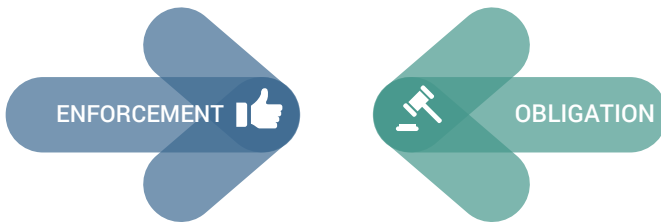
uitable sharing of benefits.

## 2.6 Implementation of international agreements

When a multilateral environmental agreement is signed and ratified, the Parties agree on a number of commitments in relation to the objectives set. Once a state becomes a Party to a mul-

tilateral environmental agreement, it must begin implementation and efforts to strengthen it.

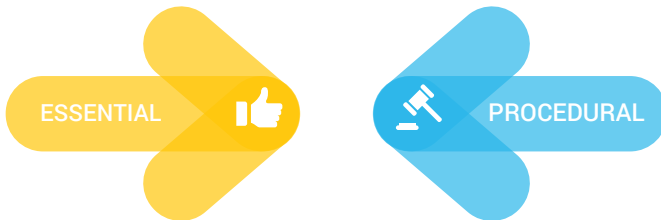
Multilateral environmental agreements usually distinguish between essential commitments that need implementation and enforcement, as well as procedural commitments related to the functioning of the agreement.



Fulfillment of the obligations of the agreement by: adoption or amendment of environmental laws and regulations, reorganization or construction of national institutions.

Procedures and actions to ensure that organizations and individuals comply with environmental laws and regulations (Inspection, sanctions).

**Figure 8:** *Mechanisms for implementing multilateral agreements*



Orientation towards the application of specific measures to improve the specific environmental issue engaged in a multilateral environmental agreement

**For example:**

Measures to reduce greenhouse gas emissions under the Paris Pact

Completion of procedures established by the multilateral environmental agreement, such as reporting on the status of national implementation

**For example:**

National communication and biennial update according to UNFCCC

**Figure 9:** *Measures and obligations for the implementation of multilateral agreements*

## What happens in cases of non-compliance?

Some multilateral environmental agreements include clauses for the development of procedures and mechanisms to promote compliance and identify and address non-compliance cases.

There are generally no clear binding means for the international implementation of multilateral environmental agreements. However, some Parties may use trade relations or devices to influence compliance with instruments, such as eligibility criteria for trading in the Kyoto Protocol mechanisms and trade measures of the Montreal Protocol or CITES.

Compliance is often based on the obligations of the Parties to present nation-

views and environmental monitoring functions.<sup>7</sup>

### 2.6.1 Aarhus Convention

The UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters was adopted on 25 June 1998 in the Danish city of Aarhus at the Fourth Ministerial Conference on the 'Environment for Europe' process.	Enter into force: 30.10.2001 Parties: 47 Adherence of AL: 27.06.2001 Focal Point: MoTE
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The Aarhus Convention has been at the forefront of promoting the rights of Rio's 10 Principle. The Convention remains innovative in its link between environmental and human rights, its obligation to future generations, and its focus on governance and processes. It

#### Compliance Mechanism

Compliance committee with facilitating role  
Example:  
Article 15 of the Paris Agreement



#### Reporting Obligation

Submitting communication and review reports.  
Example:  
Article 12 of the UNFCCC

#### Dispute resolution

Procedure for resolving disputes with non-binding findings  
Example:  
Article 14 of the UNFCCC

Figure 10: Mechanisms of multilateral agreements

al communications and report on key indicators. These reporting provisions are also applicable to treaty review re-

7 UNEP, 2007, Compliance Mechanisms under selected Multilateral Environmental Agreements [http://www.unep.org/delc/portals/119/Compliance\\_mechanisms\\_under\\_selected\\_MEAs.pdf](http://www.unep.org/delc/portals/119/Compliance_mechanisms_under_selected_MEAs.pdf)

was adopted on 25 June 1998 in Aarhus, Denmark and entered into force on 30 October 2001. Albania ratified it in 2001. The context and objective of the Aarhus Convention are set out in the preamble and Articles 1-3. In particular, the preamble emphasizes the link between environmental and human rights and the importance of these rights for sustainable and environmentally sound development. Article 1 sets out the objective of the Convention; respectively, “to contribute to ensuring the right of every person of present and future generations to live in an environment conducive to his health and well-being”, ensuring that the Parties guarantee the right of access. Articles 2 and 3 define some of the key terms, such as “environmental information”, “public” and “interested public”, and set out the general provisions on how the Convention works.

## Context

The Aarhus Convention is a new type of environmental agreement. The Convention:

- Connects environmental rights and human rights;
- Recognizes that we owe it to future generations;
- Finds that sustainable development can only be achieved through the involvement of all stakeholders;
- Connects government accountability and environmental protection;
- Focuses on interactions between the public and public authorities in a democratic context.

## Convention's Approach

The Convention adopts a rights-based approach. Article 1, which sets out the objective of the Convention, requires

### CONTEXT

- Objectives
- (Preamble)
- Definitions
- (Article 2)

### INSTITUTIONS

- Conference of the Parties
- Secretariat
- Task Force
- Compliance Committee Committee
- National Authorities



### ENGAGEMENT

- Akses në Informacion (Neni 4)
- Pjesëmarrja Publike (Neni 5)
- Akses në Drejtësi (Neni 9)

### COMPLIANCE

- Komunikimi
- Zgjidhja e Mosmarrëveshjeve (Neni 16)

Figure 11: Functional framework of the Aarhus Convention

the parties to guarantee the rights of access to information, public participation in decision-making and access to justice in environmental matters.<sup>8</sup> It also refers to the goal of protecting the right of every person of present and future generations to live in an environment conducive to health and well-being, which represents an important step forward in international law. These rights underlie the various procedural requirements of the Convention.

### Institutions

The Aarhus Convention is administered by a Secretariat that is within UNECE. The Conference of the Parties is the leading decision-making authority. The Conference of the Parties is assisted by

the Bureau and the Working Group and three task forces (information, public participation and justice). Each party has established the Focal Point of the Aarhus Convention to communicate, advise and play the role of exchanging information with all stakeholders.

### Compliance

Article 15 of the Aarhus Convention on Conformity Review requires the Meeting of the Parties to decide on «optional arrangements of a non-confrontational, non-judicial and consultative nature for the examination of compliance with the provisions of the Convention». Following this obligation, the Meeting of the Parties established a working group to prepare such a mechanism.

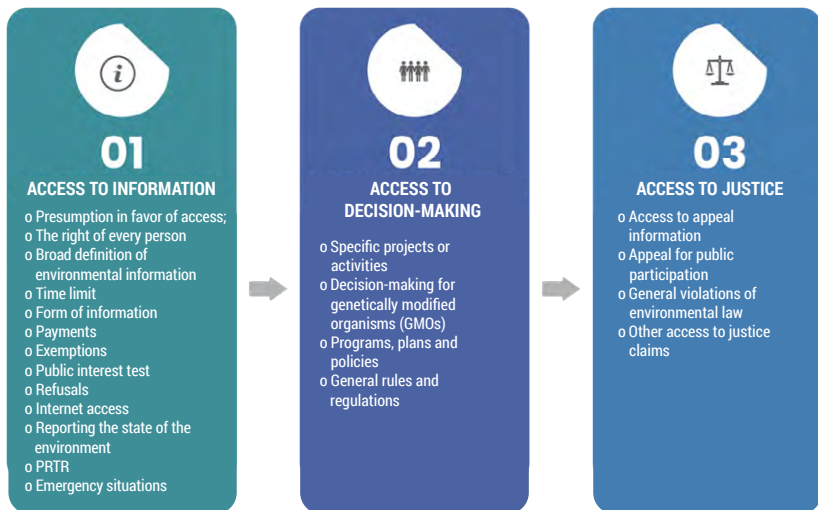


Figure 12: The building blocks of the Aarhus Convention (Principles)

8 UNECE, Aarhus Convention. [Content of the Convention | UNECE](#)





Figure 13: Institutional framework of the Aarhus Convention

At its first hearing (October 2002), the Meeting of the Parties adopted Decision I / 7 on the review of compliance and elected the first Aarhus Convention compliance committee. The Parties shall regularly address compliance issues, based on the reports of the Committee. On the recommendation of the Committee, they adopt decisions on general compliance issues as well as

The compliance mechanism can be activated in four ways:

In addition, the Committee may consider compliance issues on its own initiative and make recommendations; prepares reports on compliance or implementation of the provisions of the Convention at the request of the Meeting of the Parties; and monitor, evaluate and facilitate implementation and com-

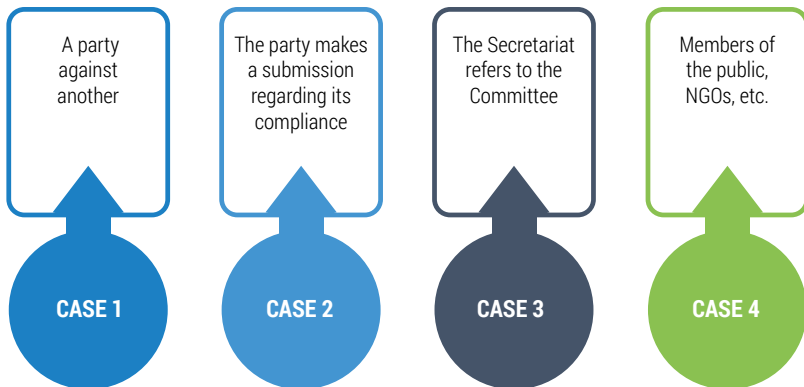


Figure 14: Activation of the Aarhus Convention compliance mechanism

decisions on compliance by individual parties.<sup>9</sup>

<sup>9</sup> UNECE. Aarhus Convention. [Background I](#)  
[UNECE](#)

pliance with reporting requirements under Article 10, paragraph 2, of the Convention.

### 2.6.2 Espoo Convention

UNECE Convention on Access to Information, Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 1991) - Espoo Convention (EIA)	Entered into force: 10.09.1997 Parties: 47 Adherence of AL: 04.10.1991 Focal Point: MoTE
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Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 1991) - The Espoo Convention (EIA) sets out the obligations of Parties to assess the environmental impact of certain activities at an early stage of planning. It also sets out the overall obligation of States to notify and consult each other on all major projects under consideration that are likely to have a significant adverse environmental impact across borders. The convention consist of a total of 20 Articles and 7 Annexes.

**Article 3** (8) of the Convention states that interested parties shall ensure that the public of the affected Party in the affected areas is informed and provided with the opportunity to comment or object on the proposed activity and to broadcast such comments or objections to the competent authority of the Party of origin, or directly to that authority or, where appropriate, through the Party of origin. Public and non-governmental organizations (NGOs) have a vital role to play in developing, implementing and supporting the Convention on Environmental Impact Assessment in a

Cross-Border Context (EIA Convention) and its Strategic Environmental Assessment Protocol (SEA Protocol).

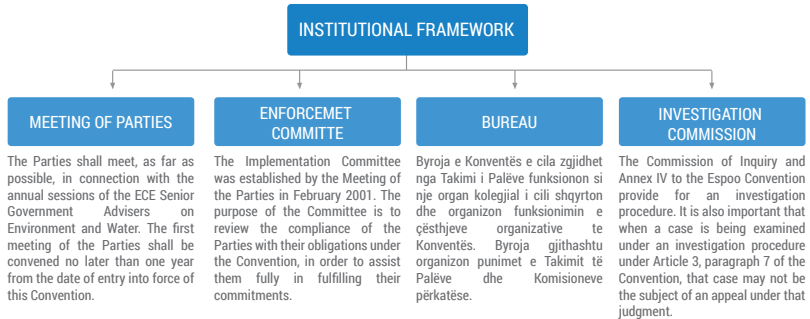
The public and NGOs can be involved through:

- Participation in the environmental assessment of projects that have cross-border impacts, according to the EIA Convention
- Participate in the environmental assessment of plans and programs (and possibly policies and legislation), according to the SEA Protocol
- Encourage their government to ratify and fully implement the Convention and the Protocol

Meeting of the Parties. Article 11 of the Convention specifies:

**1.** The Parties shall meet, as far as possible, in connection with the annual sessions of the ECE Senior Government Advisers on Environment and Water. The first meeting of the Parties shall be convened no later than one year after the date of the entry into force of this Convention. Thereafter, meetings of the Parties shall be held at such other times as may be deemed necessary by a meeting of the Parties, or at the written request of any Party, provided that, within six months of the request to be communicated to them by secretariat, it is supported by at least one third of the Parties.

**2.** The Parties shall keep under con-



**Figure 15:** *Institutional framework, Espoo Convention*

stant review the implementation of this Convention and, having regard to this purpose, shall:

**a)** Review the policies and methodological approaches of the environmental impact assessment by the Parties with the aim of further improving the environmental impact assessment procedures in a cross-border context.

**b)** The exchange of information regarding experience gained in concluding and implementing bilateral and multilateral agreements or other arrangements regarding the use of environmental impact assessment in a cross-border context in which one or more parties are parties.

**c)** To seek, where appropriate, the services of competent international bodies and scientific committees in the methodological and technical aspects of achieving the objectives of this Convention.

**d)** At their first meeting, consider and

adopt by consensus the rules of procedure for their meetings.

**e)** Consider and, when necessary, adopt proposals for amendments to this Convention.

**f)** Consider and take any additional action that may be required to achieve the objectives of this Convention.

**Implementation Committee:** Established by the Meeting of the Parties in February 2001. The purpose of the Committee is to review the compliance of the Parties with their obligations under the Convention, in order to assist them fully in fulfilling their commitments. The Committee was established by the Meeting of the Parties in February 2001 (under the decision II / 4 of the Second Meeting of the Parties, revised as decision III / 2, which provides for the structure and functions of the Implementation Committee and the procedures for reviewing compliance). The Committee consists of eight members, appointed by the Parties who, in turn,

are elected by the Meeting of the Parties. Alternators are selected for Protocol issues.

**Compliance Commission:** Article 3 and Annex IV of the Espoo Convention ensure an investigation procedure. Also important is paragraph 15 of the Annex to Decision III / 2 (“Where a case is being examined under an investigation under Article 3.7 of the Convention, that case may not be the subject of an application under this Decision.”).

**Implementation and compliance**

The committee opens an issue in 2 cases:

- If a state raises an issue of non-compliance of the other party
- Takes an initiative itself when notified of cases of non-compliance

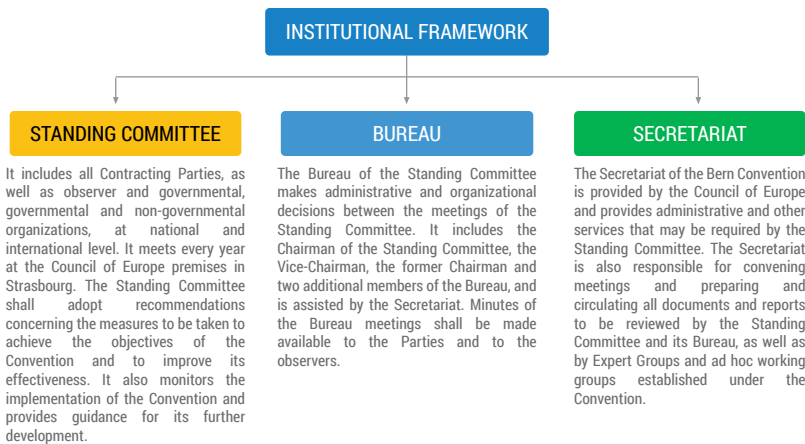
The second case applies to NGOs / the public and a complaint (actually called information) can be sent according to a ready-made template found on the Convention website.

**2.6.3 Bern Convention**

CoE Convention on the Conservation of Habitats and Wildlife on the European continent. (Bern, 1979) - Berne Convention	Entered into force: 1982 Parties: 51 Adherence of AL: 1999 Focal Point: MoTE
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**Purpose and summary**

The Berne Convention is the only Nature Conservation Treaty in Europe. It was established by the Council of Europe in 1979 and signed by the European Union and 51 countries committed to wildlife conservation, both species and their habitats.



**Figure 16:** Institutional framework, Bern Convention

## Institutions of the Bern Convention Applicability and cases of complaints

The case file system, dating back to 1984, is a unique monitoring tool based on complaints of possible violations of the Convention that may be filed by NGOs or even private citizens. Complaints received in this way are processed by the Secretariat, the Bureau and, where particularly relevant, also by the Standing Committee, in accordance with their merits and on

the basis of the information submitted. When the Standing Committee or its Bureau deems that further information is needed, they may arrange site visits by independent experts, who report to the Standing Committee. The Standing Committee may review the implementation of the Convention in a Contracting Party by analyzing legal and policy reports prepared by independent experts.

## Complaint Mechanism at the Bern Convention

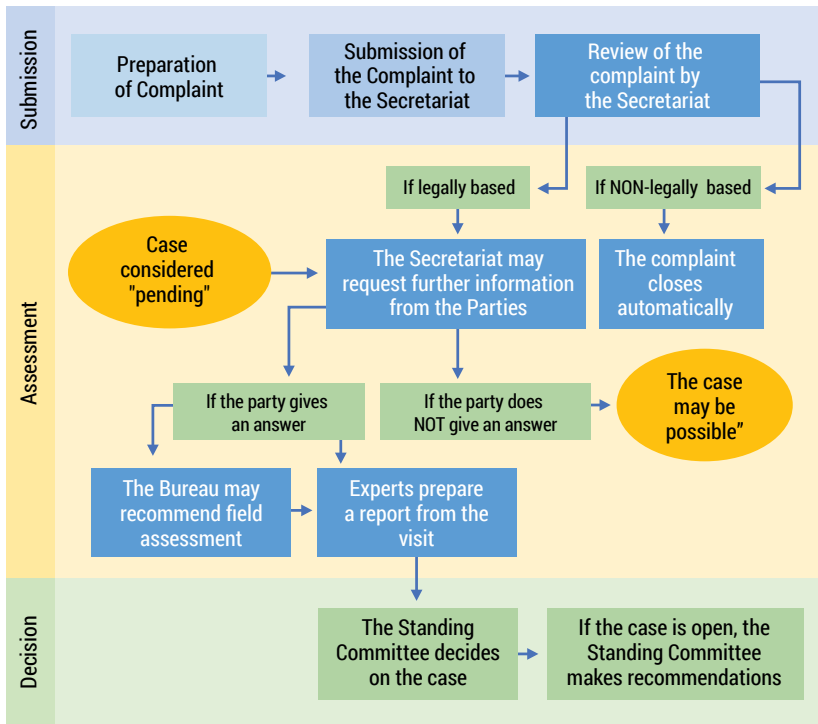


Figure 17: Schematic representation of the complaint process & mechanism at the Bern Convention

### 2.6.4 Basel Convention

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Destruction	Entered into force: 05.05.1992 Parties: 186 Adherence of AL: 29.06.1999 Focal point: MoTE
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The 1989 Basel Convention is the most important legally binding international agreement on hazardous and other wastes. During the first decade, the main focus of the Convention was the elaboration of control over the transboundary movement of hazardous substances, which is the movement of such waste across international borders, and the development of criteria for sound environmental management of waste. Recently, the work of the Convention has emphasized the full implementation of the treaty, commitments, the promotion of environmentally sound management of hazardous waste, and the life cycle approach and minimization of hazardous waste generation.

#### Objective

According to the Preamble, the Basel Convention aims to reduce waste production, strictly control the transboundary movements of hazardous waste and sound management of hazardous waste and other waste.

Objective	Reduction of Waste	Strict control of transboundary transport	Fair management of waste
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Figure 18: Basel Convention principles

Approach: The Basel Convention has 29 articles and 7 Annexes specifying 47 waste streams and 35 notification requirements.

Annex I	Waste categories to control
Annex II	Waste categories that require special consideration
Annex III	List of dangerous features
Annex IV	Demolition operations
Annex VA	Informacioni që duhet të sigurohet për njoftimin
Annex VB	Information to be provided for the movement document
Annex VI	Arbitration
Annex VII	Other parties and states which are members of the OECD, EU and Lichtenstein

Table 2: Content of the Basel Convention

Its regulatory system focuses on the concept of prior consent detailed in Article 6. It ensures that the transboundary movement of hazardous waste is based on the consent of the affected countries.

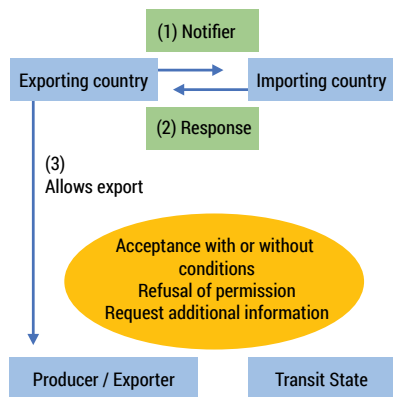


Figure 19: Presentation of the hazardous waste circulation scheme according to the Basel Convention

In case a movement of hazardous waste is carried out illegally or incompletely, the Basel Convention attributes the responsibility and imposes the duty to ensure safe disposal, either by re-importing into the country of production or otherwise. Hazardous waste may not be exported to Antarctica, to a state not party to the Basel Convention or to a Party that has banned the import of hazardous waste.

## Content

The text of the Convention can be roughly divided into articles that provide the context for its understanding, articles that formulate commitments to the Parties, articles that establish institutions, and articles that establish procedures to ensure compliance.

## Compliance

To monitor compliance with the Basel Convention, Article 13 requires the Parties to transmit various information

regarding enforcement activities to the Secretariat. In the event of a dispute over the application of the Convention, Article 20 provides for a dispute settlement mechanism which may include arbitration in accordance with Annex VI.

## Compliance Implementation Committee

- Established in 2002
- The purpose is to assist the Parties in complying with their obligations under the Convention, and to facilitate, promote, monitor and ensure compliance with and compliance with their obligations under the Convention.

It has a double mandate:

- Review of general implementation issues Eg. Reporting, legal framework
- Specific applications of parties experiencing implementation and compliance difficulties



Figure 20: Content of the Basel Convention

The Committee has 15 members appointed by the parties with inexhaustible representation according to the 5 Geographical regions of the UN.

- Up to 2 mandates of 5 years are elected
- Decision making 2/3 ie 8 members
- If there is no consensus then all the opinions of the members are reflected in the decision

**Who can file a complaint to the Committee?**

Specific submissions may be made to the Commission by:

- a) A Party regarding implementation and difficulties of compliance - known as the self-surrender of the Party (Paragraph 9 (a));
- b) A Party with respect to the implementation and compliance by another Party with which it is directly involved under the Convention - known as a submission by the Party to the Party; Before
- c) make its submission, the Party must inform the other Party of its intention and both Parties must endeavor to resolve the matter through consultation (Paragraph 9 (b));
- d) The Secretariat of the Basel Convention, concerning the difficulties of a Party with specific obligations

under the Convention to transmit information to the Secretariat (information to designate country contacts in accordance with Article 5 and national reports in accordance with paragraph 3 of Article 13), provided that the matter has not been resolved within three months by consultation of the Secretariat with the Party concerned - known as a submission by the Secretariat (Paragraph 9 (c)).

The graph below presents an overview of the specific grievance procedure.

*2.6.5 Helsinki Convention*

Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention)	Entered into force: 1996 Parties: 46 Adherence of AL: 5.01.1994 Focal Point: AMBU
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The Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention) is a unique international legal instrument and intergovernmental platform which aims to ensure the sustainable use of transboundary water resources by facilitating cooperation. Originally negotiated as a regional instrument, it is open for accession to all UN member states in 2016..

**Purpose of the convention**

The Convention numbers 41 Parties or member states. "Cross-border waters"



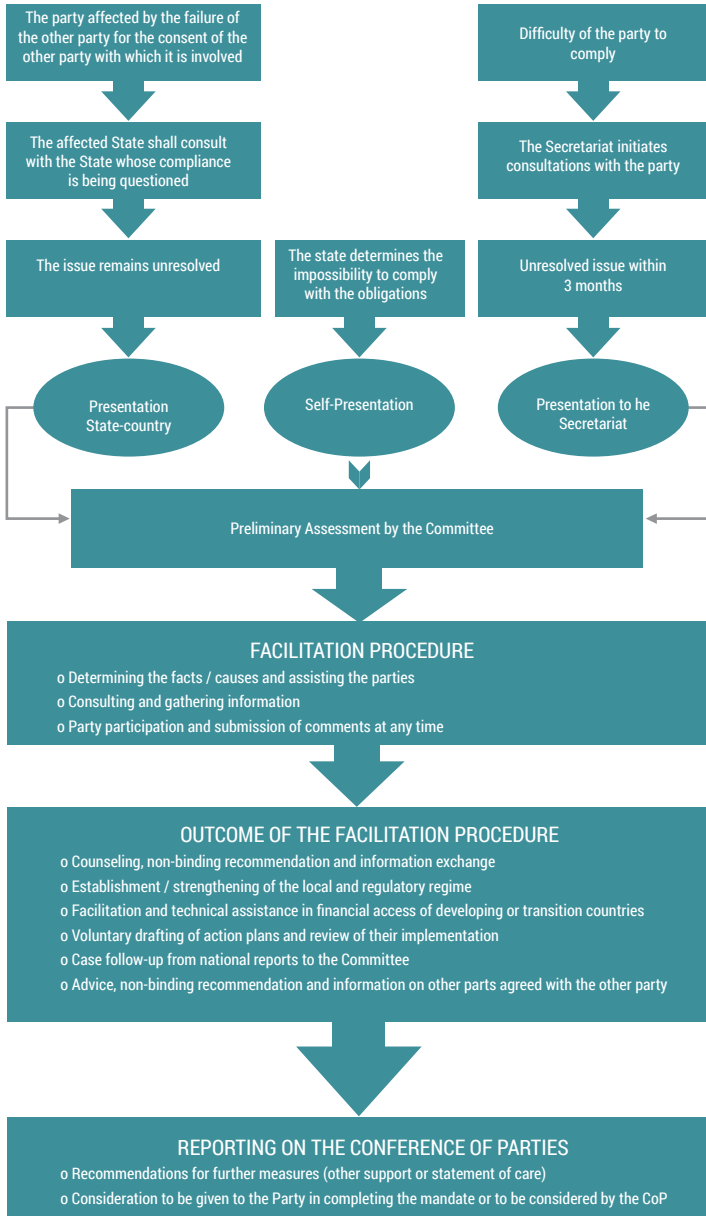


Figure 21: Schematic representation of the complaint process & mechanism of the Basel Convention

(Article 1 (1)) - Surface or groundwater that marks, crosses or lies at the border between two or more states (Article 1 (1)) Development of harmonized policies, programs and strategies covering the respective areas of the watershed (Article 2 (6)).

**Enforcement**

**Enforcement Committee.** The Implementation Committee under the Water Convention was established at the sixth session of the Meeting of the Parties to the Convention (Rome, 28-30 November 2012) which adopted decision VI / 1 to support implementation and com-

pliance. Established in 2012 for dispute prevention and case-oriented practical assistance. 9 members in personal skills, advocates and outstanding water professionals, selected by the Meeting of the Parties between the candidates. Meets twice a year in an open, public and transparent manner. Procedures (advisory procedure, Committee initiative and others). Measures (national implementation plan, cross-border water agreement, capacity building, facilitation of technical assistance), may recommend stronger measures for the Meeting of the Parties.

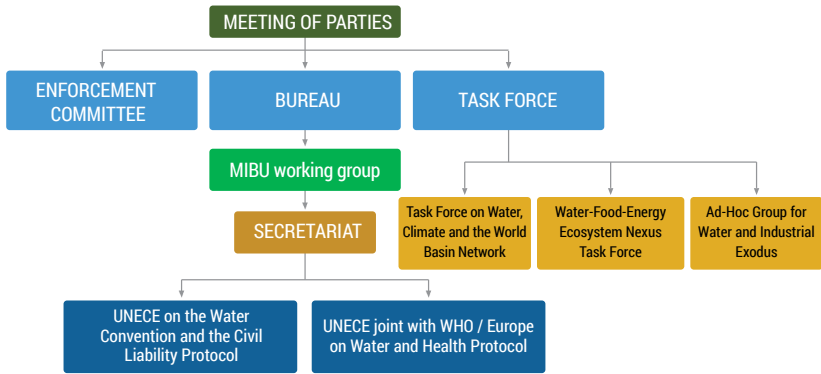


Figure 22: Institutional Framework of the Helsinki Convention



3.

## Environmental law in Albania

Environmental law is the set of legal norms that regulate human relations with the environment. This relationship is being given more and more importance with the aim of a healthy environment. As a fundamental right, the right of citizens to be informed about the state of the environment and the obligation to protect it are directly guaranteed by the Constitution of the Republic of Albania as the highest legal act in the hierarchy of norms. Environmental rights fall into the category of rights where state institutions have an obligation to act to guarantee a healthy and ecologically suitable environment for present and future generations. Public authorities often make decisions that can have significant effects on the environment as well as on public health

and the well-being of citizens, so they must always consider the constitutional obligation for a healthy environment.

### 3.1 Constitution

Article 56 of the Constitution sanctions the right of citizens to receive information on the state of the environment and its protection by state institutions. Public participation in environmental decision-making enables citizens to express themselves and decision-makers to consider the opinions and concerns that are relevant to decision-making. This right increases the quality, accountability and transparency of the decision-making process and contributes to raising public awareness on environmental issues.

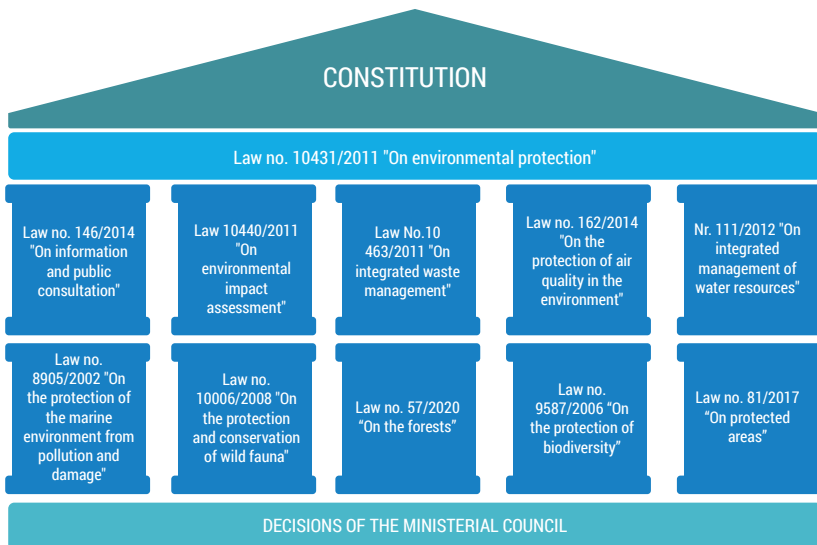


Figure 23: Schematic presentation of the environmental legal framework in Albania

### 3.1.1 Law no. 10431/2011 “On environmental protection”.

This law forms the basis of environmental legislation, defining the general principles and conditions of environmental protection. The purpose of the law is to protect, preserve and improve the environment and consequently the quality of life. Legal provisions are designed to guarantee sustainable development. At the core of this law are the principles on the basis of which all other legal definitions are established, such as requirements, responsibilities, rules and procedures for environmental protection.

The law stipulates that the components of the environment: air, water, soil and nature must be protected from pollution through appropriate measures and their quality must be improved. In order to protect the environment, public authorities develop and implement effective national and local strategies and plans periodically. In the case of plans and programs in areas defined by law, plans and programs in protected areas and strategic planning documents, a strategic environmental assessment is performed.

The law has given great importance to the right to information by dividing it into two moments:

The right of the public to request environmental information and the obligation of the authorities to provide this information in a timely manner;	The obligation of public authorities to ensure that the public has every opportunity to be informed without making a request in advance, in order to be able to participate in procedures for identifying the state of the environment, drafting and approving strategies, plans and programs related to environmental protection.
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### 3.2 Law no. 146/2014 “On public information and consultation”

Draft documents of national strategies, plans, policies of high public interest are subject to the process of public notification and consultation. Unlike other laws that provide in principle for the obligation of the authorities to conduct public consultation, this law provides for the rules and procedure for conducting public consultation and public participation in policy-making and decision-making processes.

This law guarantees the right of the public to be informed, consulted, to be involved in decision-making by cooperating with public bodies so that the influence of the public in decision-making is as high as possible.

These rights are an obligation for public bodies, which should create opportunities for public participation in decision-making based on:

<b>The transparency principle,</b>	<b>The effectiveness principle,</b>	<b>The responsibility principle,</b>
enabling the wide dissemination of information subject to notification and consultation by the most effective means;	by creating mechanisms that facilitate public participation as well as taking into account their recommendations;	regarding the consequences that may come from the violation of legal obligations

**Table 3:** Principles of the law on public information and consultation

Initially, public bodies should take all measures to make public all acts that are subject to public notification and

consultation through publication in the electronic register of draft acts, in the transparency program. The organization of public meetings is a right left to the discretion of the public body. If a public meeting is not organized, the public consultation is organized in writing by submitting recommendations / opinions to the public institution or electronically, within the set deadline.

In cases when the public body deems it necessary, it may publish a preliminary notice on the act that it will draft to provide information from interested parties. In order for the contribution of stakeholders to be as effective as possible, they must be provided with all the necessary information. In case of non-provision of all information by the public body, interested parties have the right to request the perpetrators. Comments and recommendations must be submitted within 20 days from the date of notification or 40 days for complex acts.

For a more effective participation, in the case of a procedure that takes place through public meetings, due to the importance of the draft act and the high interest of the public, the latter is informed not less than 20 working days before the meeting along with copies of the project.

Minutes are kept during the meeting which reflect the comments and recommendations given by the participants. Their review is done by the public body responsible for drafting the draft act,

which decides on the reasoned acceptance or rejection of the recommendations received from the consulted stakeholders, making them public.

In case the rights of the interested parties have been violated, they have the right to make an administrative appeal to the head of the institution that drafted the act, when the draft act has not been approved yet and in case of approval to the Commissioner for the Law of Information and Protection of Personal Data within 30 days of approval. When the holder finds a violation by the responsible public body, notifies the party and enables the reflection of the remarks submitted by the complainant, giving him the opportunity to submit recommendations, and the Commissioner after reviewing the position of the public body and the complaint of the interested party, if found a violation proposes responsible public body taking administrative measures against the responsible person / persons.

### **3.3 Law on Environmental Impact Assessment (10440/2011)**

In order to protect the environment from proposed public or private projects which may cause direct or indirect effects prior to their adoption, this law provides rules and procedures for the prevention, minimization and compensation of damage to the environment.

The environmental impact assessment procedure includes:

- a) the preliminary process of environmental impact assessment;
- b) in-depth process of environmental impact assessment.

Projects that are subject to the preliminary environmental impact assessment process are well defined in the annexes attached to this law, while for projects that are subject to the in-depth environmental impact assessment process, in addition to those listed in Annex 1, are also subject to those projects of Annex II for which the KTA deems necessary. For projects that are subject to the in-depth environmental impact assessment process, the Minister at the end of the procedure issues the environmental statement based on each decision:

- a) Approval of the permit;
- b) Approval of the permit with the fulfillment of certain conditions
- c) Rejection of the permit application in case of negative impacts on the environment with long-term consequences.

Part of the procedure are also the local government units and line ministries which after receiving the documentation give an opinion according to the respective functions and responsibilities. The public affected by the proposed project and non-profit organizations also play an important role. The project developer who is subject to the in-depth EIA procedure has the obligation to inform and consult with them, as it is part of the necessary documentation

submitted for the environmental statement. Meanwhile, the public hearing and NGOs is conducted by the NEA in cooperation with local government bodies and the project developer. Their opinions are essential for the decision of the EIA.

Authorities who are required to issue permits or licenses for certain activities are required to consider the EIA or Environmental Permit declaration. In case he makes a decision contrary to the statement he must give the relevant arguments. If the activity or project, which has undergone the EIA process, does not start implementation on the ground within 2 years from the date of approval of the declaration or decision on EIA, then these documents are considered invalid and the EIA process starts from the beginning.

This law also applies to proposed projects which separately or together with other projects implemented or proposed have a significant negative effect on the integrity of a particularly protected area. In this case the responsible authority does not allow development unless there is no other solution or when major public interests such as public safety or human health prevail or with significant positive effects on the public.

In the case of a project with cross-border effect, the NEA upon receiving the EIA report from another state informs the ministry to start negotiations or if it

becomes aware mainly, requests information about the project. In this case, the procedures for the assessment of the impact on the cross-border environment are followed, which are regulated by laws and bylaws and by international agreements or conventions.

### 3.4 Law 10006/2008 “On the protection and conservation of wild fauna”

This law aims at the protection, management and control of wild fauna, with the aim of preserving the species, populations, habitats where they live, migration routes, as well as to ensure their requirements for food, shelter and reproduction. Wild fauna in the territory of the Republic of Albania is a national property, which is administered and protected by law, in accordance with the relevant international conventions, to which the Republic of Albania is a party.

The protection of the fauna will be considered appropriate according to this law if it will be done according to the type, condition and habitat where it lives. This law guarantees the protection of flora and fauna in general but by differentiating the degree of protection for a specific species. Endangered and endemic species enjoy special protection in relation to breeding plans, continuous monitoring, prohibition or restriction of activities that destroy these species.

This law provides protection of habitats from economic activities with negative

consequences, wild fauna from climate change with negative effects, hazardous materials and waste, other harmful substances or any other type of human activity that brings consequences, providing the necessary measures taken to avoid these consequences.

**The exemption** applies only to the public interest, health, scientific and educational research. A number of actors such as management structures, local government bodies, universities and research centers and NGOs have the obligation or right to design and implement wildlife care programs in case of natural disasters.

Wild fauna is protected from a range of harmful actions while being allowed to be used only for scientific purposes, cultural education, zoological collections and for the benefit of vital products. In certain periods their use may be prohibited, while the use of protected wild fauna is allowed only for scientific, cultural, educational reasons.

In order to monitor the wild fauna, a bio-monitoring program is drafted which contains data submitted by natural and legal persons, public and private. This data should be published in order to inform the public.

**The National Council** for Wild Fauna is a consultative body that helps facilitate the implementation of the provisions of this law and other bylaws, while the Forest Police and the Inspectorate cover-



ing the fishing area are specialized bodies for controlling the implementation of the provisions of this law. , bylaws in its implementation, as well as relevant conventions, to which the Republic of Albania is a party.

### 3.5 Law on Protected Areas 81/2017

The purpose of this law is to provide special protection of environmental protected areas and important components of biodiversity and nature in them, by declaring environmental protected areas of special importance for their natural, economic or social values, such as part of the natural and cultural heritage of the environment;

Environmentally protected areas and their natural and biological resources are declared, preserved, administered and managed, based on the principle of sustainable development. The environmental, economic, social and cultural functions of protected areas are realized through:

**a)** Identification, definition and addition of environmental protected areas or expansion of existing ones;

**b)** Provision, conservation, rehabilitation and renewal of ecosystems of natural habitats, species, reserves and natural landscapes within environmental protected areas;

**c)** Sustainable use of environmental protected areas, integrating its elements in strategies, plans, programs and decision-making of all levels

The law has provided legal remedies for the protection of protected areas by declaring protected areas of special importance for their values, their development by setting mitigating conditions and informing the public about the situation and usefulness.

**Legal objectives are achieved based on:**

**a)** The principle of sustainable development so that land resources are carefully planned and managed;

**b)** The principle of integration of environmental and economic policies;

**c)** The principle "polluter pays" where the responsibility pays for the rehabilitation of the damaged environment

**d)** The principle of preventing the occurrence of consequences.

Development	Facilitation	Information
Development and protection of environmentally protected areas, national assets of special importance for the rare and irreplaceable values of natural balances, biodiversity, as an obligation in the interest of present and future generations	Facilitating the conditions for sustainable development and promoting and evaluating ecosystem/environmental services;	Informing and educating the public about the condition and usefulness of environmental protected areas.

**Table 4:** Principles of the law on environmental protected areas

Environmentally protected areas, according to the type of interest for which it has received protection status, are:

<p><b>1. Protected areas of national interest</b></p>	<p><b>2. Protected areas of international interest that are categorised as:</b></p> <ul style="list-style-type: none"> <li>- At Zones "Ramsar";</li> <li>- Areas of interest to the European Community (SACs), including specific habitat and poultry conservation areas (SCIs and SPAs);</li> <li>- Areas of special conservation interest (Emerald network areas);</li> <li>- "Biosphere reserve" areas;</li> <li>- Natural heritage areas.</li> </ul>
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**Table 5:** *Categories of protected areas of national interest*

Protected areas can be state or private and their administration is done in 4 forms: state, private, municipal and combined.

The Ministry responsible for environmental protected areas prepares the plan for the declaration of protected areas in cooperation with the responsible ministries taking into account the existing network of protected areas. The declaration of protected areas or the change or removal of status can also be done at the request of any state institution, non-profit organization or community. The plan is published on the official website of the responsible ministry so that any interested person within 1 month to make a suggestion or remark. After drafting the proposal, the minister proposes the draft decision of the Council of Ministers for declaring the area.

These institutions together with stakeholders in the direction of the NAPA draft a management plan for protected areas. The management plan of protected areas is a legal act which contains detailed provisions for the realization of objectives, policies, plans and sectoral programs. The implementation of management plans is monitored by the committee.

**The categories of environmental protected areas are:**

Category	IUCN Category
Strict nature reserve / scientific reserves (category I)	I
National Park (category II)	II
Nature Monument (category III)	III
Managed nature reserves / nature park (category IV)	IV
Protected landscape (category V)	V
Managed resource protected area (category VI)	VI
Municipal Natural Park (category IV)	IV
Green wreath (category V)	V

**Table 6:** *Categories of environmental protection areas according to IUCN standards*

**Institutions**

**The Ministry of Tourism and Environment** responsible for environmental protected areas is the central policy-making institution for the protection and administration of protected areas in the Republic of Albania.

**The National Agency of Protected Areas (NAPA)** is the central state institution responsible for protected areas, under the Minister and has the task of administering and controlling them throughout the territory of the Republic of Albania. The NAPA operates at the central and local level on a regional basis, the so-called regional administration of protected areas. The law provides for the duties and responsibilities of this institution in order to protect protected areas. In function of the management competencies, the municipalities carry out this task in cooperation with the regional administration of the protected areas and with the administration of the respective areas, creating the unit of environmental protection. In order to follow the implementation of the management plans in the protected areas, management committees are set up, composed of the municipality / municipalities, within whose administrative territory / which the protected area is located, NAPA, by local institutions that have direct relations with them. , such as agriculture, tourism, infrastructure, civil society, representatives of forest and pasture owners located in protected areas and run by the mayor.

The public in addition to the right to give contribution to the drafting of management plans and advertising of protected areas also has the obligation to abide the rules and restrictions decided by the national agency of protected area.

The control of protected areas is done by the **Forest Police Inspectorate** and the administration of the protected area. Anyone who damages the environment of protected areas is responsible for the damage, as well as covers the costs of repairing and rehabilitating the area and returning it to its previous state.

### 3.6 Criminal Code

In the ordinary sense, environmental crime means all actions that cause harm to the environment. However, in the legal sense, this definition can be summarized as “the set of provisions that establish criminal (or administrative / civil liability when we are not dealing with a criminal offense) for certain behaviors due to the damage, whether this is possible or effective. to the environment”.

The Constitution of the Republic of Albania stipulates in its article 56 that everyone has the right to be informed about the state of the environment and its protection. Further in the chapter of social objectives in article 59 paragraph 1 point d) and dh) the constitution contains a more specific regulation of the environment providing that “The state, within the constitutional competencies and means at its disposal, as well as complementing the initiative and private responsibility , aims at a healthy and ecologically suitable environment for present and future generations; dh) rational use of forests, water, pastures and other natural resources on the ba-

sis of the principle of sustainable development.

The above constitutional obligations are also detailed in important legal acts, including the Criminal Code of the Republic of Albania. Our criminal legislation guarantees legal-criminal protection against the environment by undertaking to directly protect the legal relations established in the Constitution or in other laws related to the environment. Criminal norms provide protection of the environment from all socially dangerous acts or omissions as such unlawfully committed with guilt and associated with the occurrence of dangerous consequences. In the framework of criminal-legal protection, concrete criminal penalties are provided which are applied by the court to the perpetrators of these criminal offenses.

Not only individuals but also legal entities are criminally liable for criminal offenses committed in their name or

for their benefit by their bodies and representatives. Local government units are criminally liable only for actions committed during the exercise of their activity by their officials. The criminal liability of legal persons does not exclude that of natural persons who have committed or are accomplices in committing the same criminal offenses. Criminal offenses and relevant punitive measures, which are applied to legal entities, as well as the procedure for their establishment and execution are regulated by law no. 9754, dated 14.6.2007 "On criminal liability of legal entities".

The Criminal Code of the Republic of Albania provides for concrete figures of criminal offenses against the environment as well as the respective punishments for the perpetrators of these criminal offenses. Criminal offenses against the environment together with the changes that entered into force on 08.10.2019 are provided in Chapter IV of the current Criminal Code, as follows:

Nr.	Criminal offenses against the environment	Punitive measures depending on the danger
1.	Article 201- Pollution of air, water and soil	<b>Imprisonment for up to 15 years</b>
2.	Article 201 / a - Waste management	<b>Imprisonment for up to 15 years</b>
3.	Article 201 / b - Transportation of waste	<b>Fine up to 5 years in prison</b>
4.	Article 201 / c - Dangerous activities	<b>Imprisonment for up to 15 years</b>
5.	Article 201 / ç - Nuclear materials and dangerous radioactive substances	<b>Imprisonment for up to 20 years</b>
6.	Article 202- Damage to protected species of wild flora and fauna	<b>Fine up to 7 years in prison</b>
7.	Article 202 / a - Trade of protected species of wild flora and fauna	<b>Fine up to 3 years in prison</b>
8.	Article 202 / b - Damage to habitats in environmentally protected areas	<b>Fine up to 5 years in prison</b>
9.	Article 203-Ozone depleting substances	<b>Imprisonment 1 - 7 years</b>
10.	Article 204- Prohibited fishing	<b>Fine up to 2 years in prison</b>
11.	Article 205- Illegal logging	<b>Fine up to 1 year in prison</b>
12.	Article 206- Cutting of decorative and fruit trees	<b>Imprisonment for up to 3 months</b>
13.	Article 206 / a - Destruction of forests by fire	<b>Imprisonment for up to 20 years</b>
14.	Article 206 / b - Destruction by fire negligence of forests and forest environment	<b>Imprisonment for up to 8 years</b>
15.	Article 207- Violation of the quarantine of plants and animals.	<b>Fine</b>

**Table 7:** Summary of sentences for criminal offenses against the environment



# 4.

## **Case Study: EcoAlbania's Legal Way to Protect the Vjosa**

## 4.1 Overview of the Vjosa valley (values and threats)

### - Values

The Vjosa River in Albania is one of the last wild rivers in Europe. On its way over 270 km, the Vjosa flows naturally uninfluenced, characterized by beautiful canyons, rapids, islands and curves that create magnificent meanders. In some areas the river bed expands to more than 2 km in width. What makes this river truly special internationally is the fact that almost all of its tributaries flow uninterrupted and untouched, creating a vibrant river network like something not currently encountered in Europe.

The main source of the Vjosa River is in Greek territory near the village of Vouvousa (from which it takes its name). In the first 80 km of its flow, through Greece the river is called Aoós, while upon entering the Albanian territory it changes its name and is called Vjosa. In Albania the two main tributaries are the Drino River (also originating in Greek territory) and the Shushica River, which is located between the mountains, between Vloa and Gjirokastra. The lower part of the meadow expands into a valley with wide wetlands, providing habitats for growing fish, migratory birds and many other species. The Vjosa Valley occupies a total area of 6,700 km<sup>2</sup> from Greece to Albania. The average discharge flows in the Adriatic Sea are about 204 m<sup>3</sup> / s.

The Vjosa River in Albania has a pan-European or even global importance. It represents one of the last systems of large untouched rivers in Europe, carrying all different types of ecosystems: from narrow gorges at the top to wide winding parts in the middle to the natural delta near the Sea Adriatic. Scientific knowledge about the Vjosa and its biodiversity or essential physical processes such as sediment transport or groundwater systems is very limited. Although few, existing studies emphasize the importance of the river valley as a biodiversity hotspot in Albania that offers ideal aquatic habitats for many species.

The Vjosa River Basin offers all kinds of river ecosystems, including canyons, large sections of large gravel islands, meandering bends and an estuary that forms one of the most important lagoons in Albania, the Narta Lagoon. In this context, Vjosa represents one of the natural treasures of the country.

A very large proportion of Albanian amphibians (13 out of 16 species reported in Albania, or more than 80%) and reptiles (32 out of 37 species reported in Albania or more than 86%) are present in the Vjosa watershed. A large variety of bird species is present (257 species or approximately 80% of the known species in Albania) and associated with different aquatic habitats. There are more than 70 species of birds, mainly in the wetlands of the Vjosa Delta. The area is home to about 70 of the 83 re-

corded mammal species in Albania (about 84%), e.g., the European canoe (*Lutra lutra*), a globally endangered mammal. About 150 species of already known flora and fauna are listed in the Appendices to the Berne Convention. Moreover, although not fully studied, Vjosa offers habitats for approximately 40 new species for the Albanian flora and fauna, of these 2 new species for science. (Shumka et al., 2018).

Along the river there are several protected areas: Strict Nature Reserves (1); National Park (1); Monuments of Nature (110); Managed Nature Reserves (1). However, the river ecosystem has served more as a boundary with these protected areas than an integral part of the bio-corridors. As such, the river is of tremendous value, which makes it worthy of a special designation of protection: The first Wild River National Park in Europe.

Free-flowing Vjosa is extremely important for different species of migratory fish, i.e. for critically endangered fish species such as eels (*Anguilla anguilla*), as well as sub-endemic fish species such as *Cobitis ochridana* and *Oxynoemacheilus pindus*.

In terms of bird population, the area provides breeding ground for (Burhinus oedicnemus), Little ringed plover (*Charadrius dubius*) and others, terrain for (*Sterna albifrons*), Egyptian Vulture (*Neophron percnopterus*) and Lesser Kestrel (*Falco naumanni*), as well as

an important habitat for the otter, endangered species (*Lutra lutra*). Due to lack of knowledge, the status of some species is unclear, for example *Sterna albifrons*, which is regularly seen in the Pocom area and below, but nesting sites have not yet been recorded. Undisturbed morpho-dynamic processes with the displacement of large amounts of sediments have led to a continuous natural regeneration of these habitats, as well as to lateral erosion, producing large-scale river banks. These provide breeding grounds for thousands of sand martins (*Riparia riparia*), for kingfisher (*Alcedo atthis*) and bee-eaters (*Merops apiaster*).

The flora of the Vjosa ecosystem is also impressive. The upper section of the river carries a variety of endangered plant species, such as the endangered *Solenanthus albanicus*. The lower valley is characterized by mixed oak forests (*Quercus* sp.) And strawberry tree (*Arbutus andrachne*); for the latter the Vjosa valley represents the only habitat in the country. This woven river system is characterized by large gravel shores with pioneer vegetation, islands, side wings, ponds and alluvial forests with maple trees (*Platanus orientalis*), willow (*Salix* spp.).

Only the unique conservation values make the Vjosa known as the “queen” of European rivers. In this context, the Vjosa is considered a hotspot of freshwater biodiversity and one of the important areas for freshwater conser-



vation “in situ” in Europe. Moreover, the inviolability of the river system makes it an outdoor laboratory. In the Vjosa watershed, so far there are only small-scale interruptions along some tributaries, enabling a largely unimpeded dynamic along its longitudinal, vertical and lateral course. This situation with minimal anthropogenic morphological impact, creates a living river network, which is extraordinary on a European and global scale.

The Vjosa River has a special and decisive place in the daily life of the people living along its banks. Its terraces provide the villages with fertile land for agricultural and livestock activities. The abundance and variety of fish is vital to the economy and well-being of local fishermen. Recreational tourism in Vjosa and its tributaries is ever-increasing, especially in recent years in which enthusiasts have started to enjoy activities such as rafting, kayaking, swimming, etc..

Many small-scale businesses and new emerging eco-tourism companies have based their existence on the fact of the uninterrupted flow of Vjosa waters. Moreover, the Vjosa and its crystal clear water have had an impact on the hearts of Albanians and their cultural values. The name Vjosa continues to be very popular for girls in Albania, a name that describes the beauty of the river and its untouched nature.

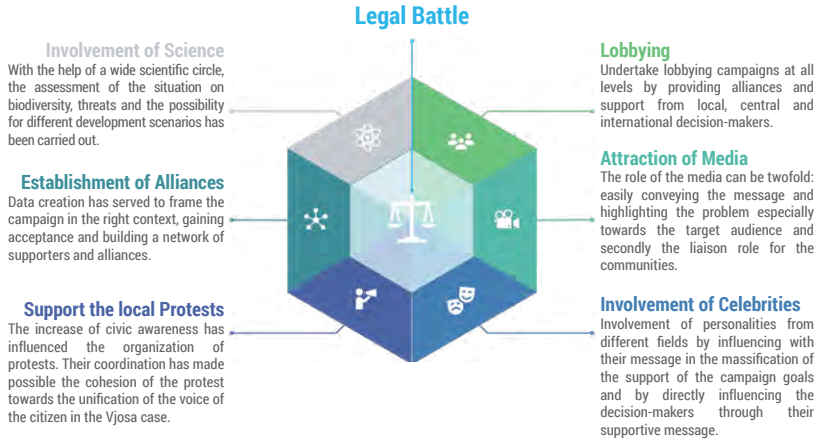
#### - Threats

Although Vjosa is still largely unharmed, it is seriously threatened by a number of problems. In the coming years about 3,000 hydropower dams are planned in the Balkans while about 1,000 are currently in operation. About 37% (1,004) of planned HPP projects will be built in Environmentally Protected Areas (Schwarz et al., 2018).

In the Vjosa watershed, 45 hydropower plants are planned, of which only 7 small HPPs have been built in its branches. Thus, most of the river system is still in a natural state.

Dams have a major and severe impact on some aspects of river ecosystems. The effects of dams are transmitted along the entire length of the river system with different impacts appearing both in the reservoir area as well as in the upstream and downstream of the dam location. The most important negative impact is the breakdown of the longitudinal connection of the system..

Dams disrupt inherent processes such as energy flow and nutrient cycle (Ru et al., 2020), sediment balancing and bonding (Gilvear et al., 2016; Poff & Hart, 2002; Wohl, 2019) and reduce hydrological dynamics (Graph , 2006) thus leading to a serial outage which severely affects all parts of the river, not just the reservoir area (Schmutz & Moog, 2018). Numerous studies reveal large-scale trends of fish species loss



**Figure 24:** Schematic presentation of the campaign strategy for the protection of the Vjosa

and stock reduction due to habitat loss, habitat fragmentation and hydrological regime disruption (Carvajal - Quintero *et al.*, 2017; Dynesius & Nilsson, 1994, Liermann *et al.*, 2012; Nilsson *et al.*, 2005).

## 4.2 The campaign for the protection of the Vjosa

The campaign for the protection of the Vjosa has started since 2013 and aims to protect the Vjosa basin from the uncontrolled development of hydropower plants. The campaign has proven to be successful with battles won and many obstacles as well. The overall campaign strategy is based on the 7 main pillars described schematically as in the graph below:

### 4.3 Mechanisms of national law used in the case of the Vjosa campaign

#### 4.3.1 History of construction of HPPs in Vjosa

##### - Kalivaç HPP

The middle course of the Vjosa is one of the most dynamic parts of the river. Here, the river landscape extends up to 2.5 kilometers in width. In one of the "straits" of the river near the village of Kalivaç it is planned to build a dam project that bears the name of the village.

The Kalivaç project is the first hydropower plant in Vjosa, whose permit dates back to 1997. Construction of the dam began in 2007, but has been halted several times. Initially, the main source of investment was the Italian investor "Becchetti Grup" and Deutsche Bank, but the construction works reached up to 30%, keeping the river still intact. The Italian company also had ongoing

liquidity problems with subcontracted companies, which have abandoned the works. In May 2017, the Albanian government canceled the concession contract with the Italian company “Kalivaç Green Energy” of the investor Francesco Becchetti and resumed the procedures for opening the tender for the construction of the Kalivaç HPP.

In October 2017, the Ministry of Energy and Industry announced the winners of the concession the merger of the companies “Fusha sh.p.k.” and “Ayen Enerji”, for the latter, the Administrative Court took the decision to cancel the concession in its ownership for the construction of the Poçemi hydropower plant, which is planned to be built about 10 km below the Kalivaç dam on the Vjosa River. With a 47m high dam, the Kalivaç hydropower plant expects to cover about 1,700 ha of various habitats, arable land and more than 120 houses in the Municipality of Memaliaj. The 500-meter-long dam, located on both sides of the hills, is planned to form a reservoir with a volume of 350 million m<sup>3</sup> with an installed energy capacity of 111MW. The local community as well as NGOs, scientists and civil society in Albania are against this project that would destroy the best part of the Albanian natural heritage.

- *Poçem HPP*

In the Poçemi area, the river creates extraordinary habitats of alluvial vege-

tation and provides fertile land for the people living along it. The main income of the inhabitants is mainly based on agriculture. The second largest hydro-power plant in Vjosa is that of Poçem and its dam is planned to be built near the village of Poçem. The project of the Poçem hydropower plant envisages the construction of a dam about 30m in height, 200m in length and with an installed capacity of 102, 2 MW. The HPP dam will create a reservoir of 24 km<sup>2</sup>, which will flood about 2,000 ha of agricultural land in the villages of Malakastër and Selenica Municipalities. The concession was given to “Kovlu Energji” which is the merger of two Turkish companies “Ayen Enerji” and “Cinar San” in September 2016.

The projected hydropower plants would have severe impacts on the species and pristine habitats of the Vjosa river system. In summary, Poçemi and Kalivaçi as well as other projects envisaged in Vjosa and its tributaries would destroy Europe's last wild river system untouched. They would lead to a severe loss of biodiversity and affect all ecosystem services, such as natural water treatment, groundwater layers for drinking water supply and agriculture, flood mitigation and its possibilities unique for a recreational development. Unlike the “big” dam projects envisaged in the Vjosa River, the smaller hydropower plants on the tributaries are designed with diversion: up to 95% of water is taken from the river, diverted into pipes in the electricity generating turbine at a higher

altitude. low. In addition, the criteria for respecting the minimum ecological flow are not respected in most cases.

#### 4.3.2 Administrative Complaint

EcoAlbania from the beginning has been committed to oppose this project that according to the collected data would ultimately compromise the natural values previously identified in the Vjosa River.

The objection started following the steps of the administrative appeal which includes written correspondence with the decision-making authorities, part of the process in the case of the Kalivaç project. The objection action started with the collection of preliminary information, which includes the concession contract and all the accompanying documentation of the standard procedure, the Environmental Impact

Assessment Report, as well as the accompanying documentation.

In cases when this information has been delayed or refused to be provided by the relevant public authorities, the administrative appeal procedure has been followed through appeal letters against the institutions initially. In cases when the institutions did not have cooperative access, the complaint was followed through the Commissioner for the Right to Information and Personal Data Protection.

In cases when this information has been delayed or refused to be provided by the relevant public authorities, the administrative appeal procedure has been followed through appeal letters against the institutions initially. In cases when the institutions did not have cooperative access, the complaint was



Figure 25: Administrative grievance mechanisms used in the Vjosa campaign

followed through the Commissioner for the Right to Information and Personal Data Protection.

After providing the information, a detailed analysis was conducted in the legal and technical aspect of the accompanying project documents as well as the procedure developed. In the case of both the Kalivaç and Poçem HPPs, the group of lawyers and scientists with whom EcoAlbania has cooperated have ascertained the numerous and inherent shortcomings of the public authorities and the project development companies.

The accumulation of these deficiencies in the grievance documents has been the next step followed within the non-administrative grievance process. The documents together with the accompanying documents have been forwarded to various institutions in the form of complaints, including the Parliament, the President of the Republic, the People's Advocate, etc. Traditional forms of administrative grievances such as Letters of Concern or Petitions have also been followed in this context. A series of petitions have been drafted and addressed against the construction of HPPs in Vjosa, which have been promoted or supported by EcoAlbania. Thus, the petitions addressed to the Albanian Government have been signed by:

- o Mayors of the Vjosa Basin
- o A group of 147 national and international organizations
- o A group of 778 scientists from around the world
- o A group of about 2,500 inhabitants of the Vjosa valley
- o A group of about 48,000 people through online signing up

Letters of Concern have also been part of the traditional administrative grievance in case of opposition to HPP projects in Vjosa. In this context, some letters or open messages were also sent to the Albanian Government expressing concern over the danger that threatened the Vjosa as a European cultural heritage from the construction of HPPs. Public reactions have included various personalities of art, sport and science in both Albanian and international districts. In these reactions can be mentioned: Nobel Prize winner, Michael Succow; Hollywood actors, Leonardo Di Caprio and Edward Norton, singers like Ellie Goulding, Rita Ora etc. It is the involvement of these personalities in the campaign of increasing concern for the Vjosa that has made it possible to raise a public complaint against the construction of HPPs at a very high level. However, the decision-making for Vjosa has changed course with the use of judicial grievance mechanisms as long as the will of the Government has been unwavering towards the orientation of the construction of HPPs. In this context, EcoAlbania has also followed the path of appeal court.

#### 4.3.2 *Litigation at the Court*

The case of the court appeal against the construction of the Poçem hydro-power plant was the first case of filing a lawsuit in the court on environmental issues in the history of the Albanian judiciary. Following the administrative appeal procedures, EcoAlbania together with representatives of the affected community, residents of the Administrative Unit Kuta, Mallakastër, has undertaken legal action against the Ministry of Energy and Industry, the Ministry of Environment, the National Environment Agency and the company development. The team of lawyers after collecting and administering the facts and evidence during the process have filed a lawsuit in the Administrative Court of Tirana.

Given the fact that the company did not conduct any public hearings with the affected community and Local Government Units thus violating Albanian legislation and international conventions. After a series of petitions, letters of concern and protests, 38 residents and 3 NGOs filed a lawsuit seeking the annulment of the contract for the Poçem hydropower plant on December 2, 2016. Within 5 months after a series of court hearings on May 2, 2017 the Administrative Court of The First Instance in Tirana decided to declare the cancellation of the concession contract signed between the Ministry of Energy and Industry and the Turkish company "Kovlu Energji" as a result of a series of

violations of procedural law. The process is ongoing as the Public Authorities appeal the Court's decision.

This process has paved the way for other lawsuits against the construction of HPPs not only for Vjosa but also for other cases. In this way EcoAlbania has been part of the process initiated by the concession company of HPP Kalivaç against the Ministry of Tourism and Environment launched in September 2021. In this process, EcoAlbania has positioned itself as a third party interested in the process by supporting the authority public by providing scientific arguments and facts for the decision to refuse to issue the Environmental Statement for the construction of the HPP. The Administrative Court in the case of Kalivaç HPP has decided to topple the concession company which has further appealed the decision.

However in the campaign to defend the Vjosa, the legal battle is one of its most important components. In this prism, even against the small HPPs planned in the Vjosa branches, EcoAlbania is following both the path of administrative appeal and potentially the path of court appeal.

#### **4.4 Mechanisms of international law used in the case of the Vjosa campaign.**

##### *4.4.1 Complaint to the Aarhus Convention*

As noted in the previous chapter, the Aarhus Convention has opened up a very important space for addressing environmental issues not only in the domestic system of the states that have ratified the convention but also by using the convention grievance mechanism of the convention itself. . This mechanism, which operates on the principle of a secretariat, is called the Aarhus Convention Compliance Committee.

Where the committee first receives, submits and evaluates complaints to see if they comply with the provisions of the Convention for further consideration by the parties.

Since Albania has ratified the Aarhus Convention, EcoAlbania has also used this grievance mechanism to file with the Compliance Committee of the Convention, the grievance against the construction of the Pocem hydropower plant in 2017. In this grievance the most important part identified is the fact that the company and the public authorities have failed to organize a regular process of involvement of the community and interest groups in decision-making violating the two main pillars of the Convention, that of access to information and access to decision-making processes environmental.

The appeal has been recorded but since in parallel this process is being followed by the Albanian court, the Committee

can not express itself before the end of all trial stages.

#### 4.4.2 *Complaint to the Bern Convention*

The Berne Convention of the Council of Europe also provides a grievance mechanism. This mechanism was also used by EcoAlbania to address the expected negative impact on the flora and fauna of the Vjosa ecosystem if the two HPPs Poçemi and Kalivaçi were to be built. Complaint to the Berne Convention filed with the Secretariat in 2016 before the annual meeting of the Standing Committee of the Convention.

The complaint listed the potential risk of about 150 species identified as part of the Convention complaints, which were threatened by the negative impact that the construction of HPPs would bring. The complaint document also highlights the conservation values of the Vjosa ecosystem and the possibility of applying a degree of environmental protection that would include not only the area planned for the construction of HPPs but the entire Vjosa river system. EcoAlbania also requested the Convention to undertake an independent on-the-spot verification mission in order to prove the evidence submitted as part of the complaint.

During the meeting of the Standing Committee, it was decided that this mission be undertaken in the spring of 2017. Also in the same year, based

on the report of the independent field verification mission at the next meeting of the Standing Committee, the recommendation was approved. no. 202 which decided that the Convention should open a case against Albania and approve a list of 12 recommendations consisting of a thorough review of the construction plans of the HPPs, as these projects were contrary to the principles of the Convention and threatened the values of nature conservation. in the Vjosa ecosystem.

Albania continues to have this issue open in the Convention even after 5 years as the Albanian Government has not yet fulfilled the recommendations adopted by the Convention based on recommendation 202/2017.

#### *4.4.3 Complaint to the Energy Community Treaty*

The Energy Community, also known in the past as the South East European Energy Community, is an international organization established between the European Union (EU) and a number of third countries to expand the EU's internal energy market. in Southeast Europe and beyond. By signing, the Contracting Parties undertake to implement the *acquis communautaire* on energy in the EU, to develop an adequate regulatory framework and to liberalize their energy markets in accordance with the "act" under the Treaty.

The Treaty was signed on 1 October 2005 and entered into force on 1 July 2006. Albania signed the Treaty on 24 May 2006.

The Energy Community aims to create a pan-European energy market, extending the European Union energy act to the territories of third countries. The Energy Community legal framework covers legislation in the areas of energy, environment, and competition of EU legislation.

Following its entry into force, the treaty act has been extended in several cases. It now also includes legislation related to security of supply, energy efficiency, oil, renewable energy and statistics. In line with the EU level update, the Energy Community transposes and implements the EU Third Energy Package since September 2011.

The treaty secretariat also functions as a grievance mechanism and based on this, EcoAlbania has filed with the secretariat in 2019 a grievance against the construction of the Pocem hydropower plant.

The main argument in this complaint was precisely the non-compliance by MEI and MTM of the Albanian domestic legislation which is a transposition of the EIA and SEA directives. In this context, the failure of the Albanian authorities to guarantee a process where



stakeholders had access to information and were part of the decision-making process was the basis of the argument on which the complaint was based.

The complaint was evaluated during 2019 by the Secretariat and in 2020, the mechanisms of the Treaty have set in motion the Albanian Government, respectively MoET and MIE to provide detailed information reports regarding the issue of HPP Poçemi. The community has also maintained an open stance by

supporting the Albanian Government in refusing to issue an environmental permit in the case of the Kalivac HPP in September 2020. Officially, the complaint is only one step away from the final approval of the Energy Community, which would constitute the case. First where this treaty decides to take a critical stance towards the construction of a hydropower plant at a time that is generally an institution that promotes hydropower as renewable sources.

## 5. Conclusions

- o Knowledge of environmental legislation is a more important area in day-to-day politics in Albania for many of the actors targeted in this handbook. In the situation when the environmental legislation becomes more and more advanced and technical and has a high applicability at the local level, it is important that training programs, education, updating of knowledge are constantly for actors.
- o Competent institutions for drafting and approximating the legal framework with the EU should continue their activity by working on the approximation and adaptation of legal provisions in order to be more practical to be used by local actors.
- o Civil society organizations and environmental activists should make the most of international and national environmental law in the fight against their environmental causes. Only through the court system can a positive experience and a real practice be built in our country for many of the issues that today are concrete conflicts.

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**PRACTICAL  
MANUAL**

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ENVIRONMENTAL LAW IN ALBANIA**

**CASE STUDY:  
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