

Vjosa National Park: An In-Depth Analysis of Its Legal Framework, Management and Protection Under Albanian Civil and Criminal Legislation

Etlon Peppo ,Enda Rekaj
(Faculty of Law, University of Tirana, Albania)

Abstract: This study aims to provide a comprehensive overview of the Vjosa River as a National Park of the 2nd category, along with the associated legal requirements for environmental protection. Furthermore, it is also focused on the aspects of the managing and preserving this national heritage. The scope of this paper also concentrates on the provision and examination of criminal law protection designated for the environment in a broader sense, and more specifically, for protected areas. In this context, particular attention is given to the criminal sanctions imposed on individuals committing offenses against the environment. It is imperative that the executive authorities establish an inclusive and adaptable management plan that actively involves local communities and stakeholders to meet international standards. This management plan should be flexible to address the changing needs of the protected area. However, the effectiveness of the management plan lies not only in its establishment but also in its rigorous enforcement. The Albanian Criminal Code and Law no. 81/2017 “On Protected Areas” provides the corresponding administrative and criminal sanctions, as well as designate responsible authorities for environmental protection. Moreover, this paper underlines the importance of civil measures aimed at promoting responsibility rather than solely relying on punitive measures.

Key words: Vjosa River, National Park, protected area, criminal law, legal remedies

JEL codes: K320, Q50

1. Introduction

The Vjosa River, which emerges from the Pindos Mount in Greece and passes through both the Greek and Albanian territories before reaching the Adriatic Sea, is regaining the recognition it has enjoyed earlier in ancient times. Its recent designation as a Category II National Park is a significant milestone that acknowledges its importance. However, the declaration of the national park is just the first step as the real test lies in managing this invaluable natural asset in an effective manner.

To ensure the preservation and the sustainable management of the Vjosa River, a comprehensive management plan is essential to be carried out. This plan requires the involvement and collaboration of various stakeholders,

Etlon Peppo, Dr., Professor of Law, University of Tirana; research areas: law, international law, criminal law, intellectual property law. E-mail: etlon.peppo@fdut.edu.al.

Enda Rekaj, Master of Science in Law, Faculty of Law, University of Tirana; research areas: law, international law. E-mail: endarekaj@gmail.com.

including government bodies, local communities, environmental organizations, and other interested parties. The objectives of the management plan must be clearly defined by taking into account the legal conditions and limitations, as well as through the incorporation of international reports and recommendations to align with the best practices.

Serious violations posing a substantial threat to the integrity of the river are categorized as criminal offenses under the criminal code. This designation produces a deterrent effect and enables the punishment of individuals or entities involved in activities damaging the river. By imposing the legal consequences, such as fines, penalties, or even imprisonment against their perpetrators, the lawmaker aims to discourage any kind of illegal action against the environment and impose the proper liability for such unlawful acts.

Additionally, various administrative measures are provided to address minor violations in order to ensure the compliance with regulations in force. Lastly, the civil measures are primarily focused on remedial actions and such measures can be also combined with the criminal and administrative measures in order to restore the damages caused to the environment. As conclusion, this comprehensive legal framework serves as a crucial pillar to safeguard the sustainability of the river.

2. An Overview of the Historical Background of the Vjosa River

Vjosa River has played a significant role in various periods throughout history. According to historical texts, the river was originally named Aoos and it continues to be referred under that name within the Greek territory even nowadays. In the ancient times, Vjosa was considered as a sacred river (Përmet Tourism 2022).

The upper Vjosa Valley formed part of the historical region of Epirus, and along the Valley ran the routes which connected the region of Epirus with Thessaly and Illyria and the Adriatic Sea (Mediterranean Mountainous Landscapes, 2014). By the year 146 B.C., like the rest of Epirus, the Vjosa Valley was under the administration of the Roman Republic, and was included in the province of Macedonia (MEMOLA Project, 2014).

As per the aforementioned source, subsequently, the Vjosa River experienced a similar course of events as the Balkans, undergoing occupation by the Bulgarian Empire and later the Byzantine Empire until the 14th century. At that point, it became incorporated into the Ottoman Empire.

The ottoman rule, which lasted until the break up of the Ottoman Empire, in the Early 20th cent, brought drastic change in the historical landscape of the area, in the people's ways of life, architecture, land management, etc. However, the largest landscape changes seem to have happened during the communist regime (1945-1990), where the agrarian collectivization reforms and the new ways of land exploitations, brought large transformation or loss of the traditional agrarian systems of the region (Mediterranean Mountainous Landscapes, 2014).

On the other side, the period after the 90's was associated with large scale of land abandonment, destruction or decay of irrigation and drainage systems, massive devastation of forest and pasture areas, causing additional larger loss of the historical landscape of the territory (Mediterranean Mountainous Landscapes, 2014).

The focus once again shifted to the Vjosa River, initially with the intention of harnessing its power for electricity generation. However, this endeavor faced significant opposition from both national and international entities, leading to its failure. The first significant action taken to safeguard the river came in the form of Decision no. 60, issued on January 26, 2022. This decision declared the Vjosa River a protected area and designated it as a Natural Park under the category of Managed Nature Reserves/Natural Parks (Category IV).

The designation of the Vjosa River as a natural park did not offer the adequate level of protection required for such a valuable national resource.

To ensure the protection of the Vjosa River, the Council of Ministers, through Decision no. 155 on March 13, 2023, designated it as a “National Park” under Category II, implementing in this way measures to reduce access and establish stringent regulations for any development activities in its vicinity. These measures were put in place to safeguard the river's ecosystem and minimize any potential harm caused by human intervention.

3. Vjosa National Park: A Brief Legal Overview of the Characteristics of This Protected Area

From its sources in the Northern Pindos mountains in Greece, the Vjosa/Aoos River enters into Albania and discharges into the Adriatic Sea (Vjosa/Aoos Ecomuseum, 2013-2023). Today, the Vjosa River stands as the last remaining wild river in Europe, making it a unique and invaluable natural asset. Its significance extends beyond our country's borders, encompassing the entire continent. The preservation of the Vjosa River is of utmost importance, considering its ecological value and the role it plays in maintaining the natural heritage of Europe. It has a length of 272 km from which 192 km flow through Albanian territory.

The Vjosa River National Park encompasses a total area of 12,727 hectares. Out of this, approximately 6,030 hectares (47.3%) are comprised of water surfaces. Surface riparian areas and low-lying active floodplains cover approximately 4,593 hectares (36.1%). Land surfaces, including river belts, canyon slopes, and eroding slopes, make up 1,199 hectares (9.5%), while 905 hectares (7.1%) are river belts that are prone to erosion (Decision of the Council of Ministers of Albania no. 155/2023).

In Albania, the Vjosa catchment has a mean elevation of about 885 m, and it is shared among seven districts: Ersekë, Përmet, Gjirokastër, Tepelenë, Mallakastër, Fier, and Vlorë. Because the river has not been subjected to large damming or channeling schemes, it is considered one of the rare remaining natural flow regimes in Europe (Wickel and Galaitsi, 2017).

4. Analysis of the Perspectives for the Management of Vjosa National Park as a Protected Area by Law

Pursuant to law no. 81, dated 4.5.2017 “On Protected Areas”, “National Parks (Category II)” are declared those large territories that are usually not smaller than 1,000 ha and are unique in terms of national and international values, and which are preserved and managed for the protection of ecosystems, species, and for the education and recreation (relaxation and entertainment) regulating the sustainable human use of natural resources.

Its objective is to maintain the territory in its natural state, where biotic communities, genetic resources, and species are protected to ensure ecological stability and diversity (Law no. 81/2017 “On Protected Areas”).

The National Agency for Protected Areas has been designated as the responsible authority to develop and implement a management plan for the Vjosa River National Park. This plan must be completed within a specified timeframe of two years. The Ministry of Tourism provides supervision and oversight throughout the process, while collaboration with local authorities is essential to ensure effective management of the park.

Albania stands out from many countries in that it has a legal requirement for a management plan, clearly defining the executive competent authorities, the time needed for its preparation, and the duration of the plan. This legal framework ensures that there is a structured and systematic approach to managing protected areas like the

Vjosa River National Park.

However, the management process faces various challenges. One of the main issues is the lack of a clear definition by the Regional Administration for Protected Areas regarding the territory where their responsibilities should be carried out. Currently, they are responsible for managing all protected areas within a region, leading to potential ambiguity and overlap.

Additionally, a significant challenge is the insufficient staffing, which hampers the effective implementation of management activities. The limited number of personnel may result in difficulties in adequately monitoring and enforcing regulations within the protected areas.

Furthermore, there is a lack of coordination among the staff, which further impedes the smooth functioning of the management process. The absence of effective communication and collaboration can lead to inconsistencies and inefficiencies in the overall management efforts (Ministry of Tourism and Environment of Albania, Patagonia, IUCN, 2022).

According to the authors, the recommended management structure should adhere:

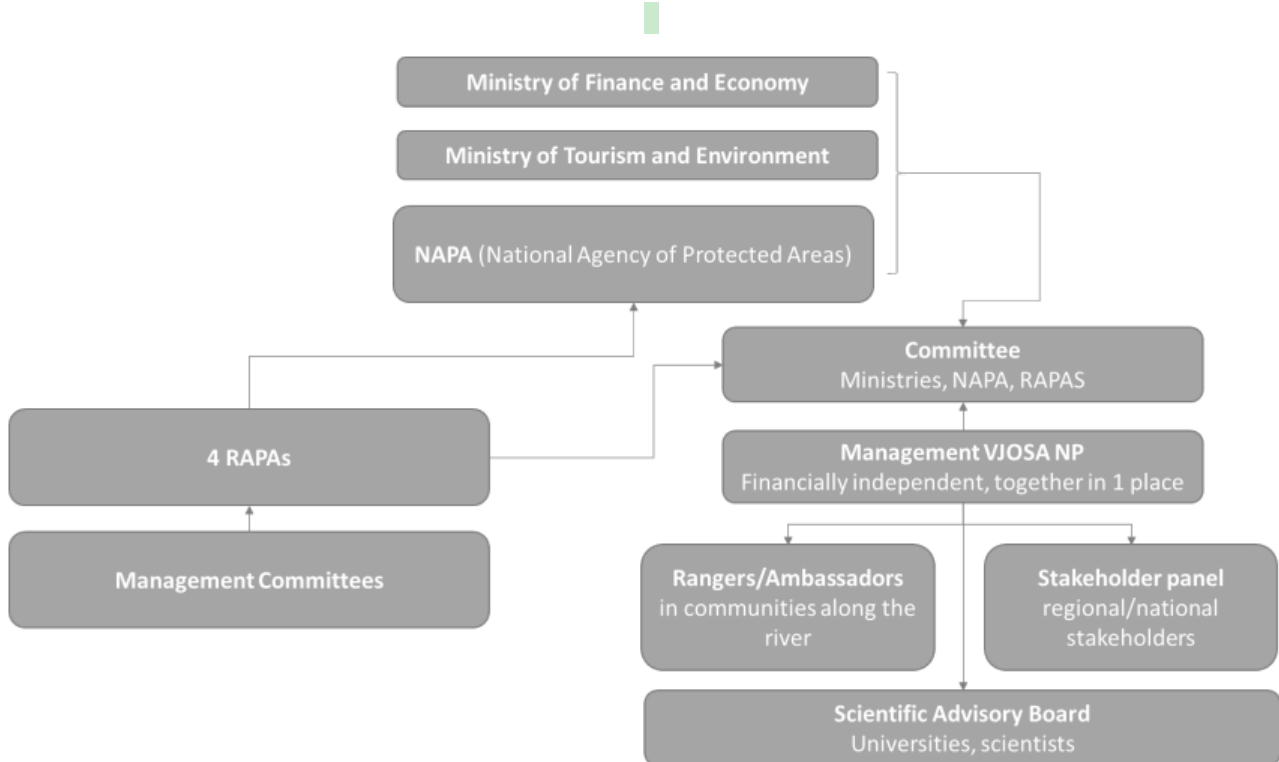


Figure 1 Structure of Proposed Option 1: Individual Management

As shown in the Figure 1 (Ministry of Tourism and Environment of Albania, Patagonia, IUCN, 2022), the management of the Vjosa Wild River National Park in this case is a separate organization, in addition to the already existing RAPAs (Regional Administration for Protected Areas). It operates at a supra-regional level to manage the entire National Park across several regions. It is on the same hierarchical level as RAPAs. The management is located in one place (location to be determined at a later stage), where all the staff works together in one building. Additionally, there are rangers (also called ambassadors), who are patrolling and have supervisory and informational functions. Besides the management, there is a stakeholder panel, where all important stakeholders at the regional

and supra-regional level are represented (e.g., municipalities, communities, NGOs (Non-governmental organization), tourism representatives, and universities).

Additionally, a scientific advisory board provides scientific input and supports the management with expertise. The stakeholder panel and the scientific advisory board meet regularly with representatives of the management and discuss current challenges and future activities of the National Park. A committee is set up as a link among the management of the National Park, the national decision-makers, and RAPAs. In their regular meetings, the budget is discussed, the objectives for the coming year are set, and the management activities of the previous year are presented and evaluated. The committee includes representation from the National Park, two ministries important to PA management, and the participating RAPAs. The board/committee meets regularly and serves as a decision-making body (Ministry of Tourism and Environment of Albania, Patagonia, IUCN, 2022).

When building a management plan, several key points should be considered. These include:

(1) “Management by objectives”

In the broader field of management science, the style of management brought about by management planning is known as “management by objectives”. Management by objectives is proactive rather than reactive. It is also “results-oriented”, emphasizing accomplishments and outcomes. Four distinct steps have been identified within this type of management and decision making:

- a) formulation of clear, concise statements or objectives;
- b) development of realistic action plans for their attainment (including an analysis of threats to attaining the objectives);
- c) systematic monitoring and measuring of performance and achievement;
- d) taking corrective actions necessary to achieve planned results (Thomas, Middleton, 2003).

(2) Time requirement

As per Albanian law and regulations, the time required to finalize the management plan for the Vjosa River National Park is set at a maximum of two years. This timeframe allows for a comprehensive planning process that considers various factors and stakeholders involved in the management of the park. Furthermore, the management plan should typically cover a period of about 10 years. This duration ensures a long-term perspective for the effective implementation of conservation strategies, monitoring initiatives, and sustainable management practices within the Vjosa River National Park.

(3) Budget

Two approaches are in general use:

- a) the plans do not include detailed resource and financial information for each year;
- b) the plans include information of this kind (Thomas, Middleton, 2003)

In accordance with Albanian legislation, National Parks are governed by a detailed plan that outlines the permissible activities within their boundaries. Any individual or organization wishing to engage in activities within the National Park, which may have associated expenses or generate income, is required to obtain a license from the competent authorities.

To ensure effective management and planning, it is essential for the authorities to include detailed financial information in the management plan. This includes estimating the potential costs and revenues associated with various activities, as well as considering the financial implications of infrastructure development, staff salaries, maintenance, and other operational expenses.

Vjosa National Park: An In-Depth Analysis of Its Legal Framework, Management and Protection Under Albanian Civil and Criminal Legislation

The main budget will be provided by the State, while other sources can be international projects, the income of the National Park (excursions, tourism fees, etc.), and donors (Ministry of Tourism and Environment of Albania, Patagonia, IUCN, 2022)

The VWRNP budget for the first three years is shown in the table below and is composed of different cost categories that take effect in different years:

- 1) Operational costs are incurred annually and should be covered by the national budget.
- 2) Investment costs are incurred selectively and should be covered by the national budget.
- 3) Support financing includes pre- and co-financing costs for funding projects.
- 4) Studies/plans/infrastructure can be financed by funding projects (Ministry of Tourism and Environment of Albania, Patagonia, IUCN, 2022).

		1st year	2nd year	3rd year
Operational Costs	Staff	10 644 480,00 Lekë	15 120 000,00 Lekë	20 813 520,00 Lekë
	Running costs	4 686 573,32 Lekë	5 526 732,00 Lekë	4 604 614,30 Lekë
	Maintenance of technical equipment	0,00 Lekë	891 010,80 Lekë	965 261,70 Lekë
	Maintenance of infrastructure	570 490,80 Lekë	834 519,60 Lekë	1 057 293,90 Lekë
	TOTAL OPERATIONAL COSTS	15 901 544,12 Lekë	22 372 262,40 Lekë	27 440 689,90 Lekë
Investment costs	Technical Equipment	28 222 439,19 Lekë	2 853 711,28 Lekë	1 826 513,52 Lekë
	External support	1 435 500,00 Lekë	2 200 000,00 Lekë	2 400 000,00 Lekë
	Infrastructure	3 889 710,00 Lekë	7 072 200,00 Lekë	0,00 Lekë
	TOTAL INVESTMENT COSTS	33 547 649,19 Lekë	12 125 911,28 Lekë	4 226 513,52 Lekë
TOTAL BUDGET VWRNP		49 449 193,31 Lekë	34 498 173,68 Lekë	31 667 203,42 Lekë
Support Financing		12 965 700,00 Lekë	14 144 400,00 Lekë	15 323 100,00 Lekë
Studies/Plans/Infrastructure (project based)		14 262 270,00 Lekë	236 918 700,00 Lekë	375 710 625,00 Lekë

Figure 2 VWRNP Budget for the First Three Years

From the information provided (Ministry of Tourism and Environment of Albania, Patagonia, IUCN, 2022), it appears that there is a trend of decreasing funding from the state for the Vjosa River National Park. However, there is a simultaneous increasing trend in support financing and investments in studies, plans, and infrastructure. This suggests that these specific areas are becoming self-financing due to continuous investments and revenue generation. As a result, the reliance on state funding is expected to decrease over time. The park's management may be focusing on attracting external support, securing funding through partnerships, or implementing revenue-generating activities within the park. These efforts aim to ensure the sustainability and financial independence of the park's operations, reducing the burden on state funding in the long run.

(4) Involvement of the people

Indeed it is now standard good practice to include people with an interest or a 'stake' in a protected area in the management planning process. These people include local communities, user groups, interested individuals, local

government officials, representatives of NGOs, commercial interests, many other groups and – of course – the staff of the protected area itself (Thomas, Middleton, 2003).

Benefits:

- 1) Increased sense of ‘ownership’.
- 2) Greater support for the protection of the area.
- 3) Greater public involvement in decision-making
- 4) Links planning for conservation with planning for development.
- 5) Provides a mechanism for communication (Thomas, Middleton, 2003)

5. A legal Overview of the Criminal, Civil and Administrative Measures for the Preservation of the Protected Area

The detrimental effects on the environment have garnered significant attention not only in Europe but across the globe. Recognizing the importance of environmental preservation, it is imperative to implement appropriate measures to protect and conserve the natural world.

5.1 Criminal Penalties

Such offences pose a threat to the environment and therefore call for an appropriate response. Such compliance can and should be strengthened by the availability of criminal penalties, which demonstrate a social disapproval of a qualitatively different nature compared to administrative penalties or a compensation mechanism under civil law (Directive 2008/99/EC).

The Albanian Criminal Code includes a dedicated section that addresses crimes against the environment. This section encompasses a range of offenses, from environmental and water pollution to acts such as killing or torturing animals. The provisions outlined in the code are carefully formulated and aligned with international directives and recommendations regarding environmental protection.

Under Article 201 and the subsequent articles of the Albanian Penal Code, crimes against the environment are specifically addressed. Within the scope of this paper, we will focus solely on the criminal offenses that hold significant importance in the context of environmental protection.

- 1) Crimes pertaining to environmental pollution
 - a) Article 201 – Air, Water and Land pollution
 - b) Article 201/a – Waste Management
 - c) Article 201/b – Transportation of Waste
 - d) Article 201/c – Dangerous activities
 - e) Article 201/ç - The transportation of nuclear materials and hazardous radioactive substances

This category of criminal offenses encompasses the most severe violations against the environment. It addresses acts that cause harm to water, air, and land, with the aggravating circumstance of the damaged area being a legally protected zone. Additionally, causing harm to living organisms and individuals, including fatalities, is considered an aggravating factor. These criminal offenses often carry significant penalties, typically including imprisonment. In cases involving aggravating circumstances, the punishment can extend up to 20 years of imprisonment. Such stringent penalties reflect the seriousness of the environmental damage caused and aim to deter individuals from committing these offenses.

- 2) Damage inflicted upon habitats, flora, and fauna

- a) Article 202 - Damage caused to protected species of wild flora and fauna
- b) Article 202/a - Trade in protected species of wild flora and fauna
- c) Article 202/b - Damage caused to habitats in protected environmental areas

In cases involving areas and species protected by law, engaging in activities or interventions requires obtaining a license from the relevant authorities. Failure to acquire the necessary license or exceeding the rights granted by the license can result in individuals facing significant criminal sanctions. The criminal sanctions imposed for unauthorized activities or exceeding license permissions serve as a deterrent to discourage individuals from acting unlawfully or engaging in activities that may harm protected areas or species. These sanctions may include substantial fines, imprisonment, or other legal consequences, which reflect the seriousness of the offense and the commitment to upholding environmental protection laws.

Additionally, the criminal provisions related to environmental offenses encompass a range of other violations, such as causing forest damage, engaging in arson, engaging in prohibited fishing, and more. It is worth noting that, apart from explicitly addressing the killing or mistreatment of animals as a criminal offense, the act of abandoning animals is also recognized as an offense when it has detrimental consequences for the environment and people. These provisions acknowledge the significance of protecting natural resources, ecosystems, and the well-being of both animals and humans.

5.2 Administrative Measures

As per Law No. 81, dated May 4, 2017, "On Protected Areas", the provisions regarding administrative measures have been comprehensively outlined and redefined.

The Forest Policy Inspectorate assumes the responsibility of conducting control activities in protected areas, irrespective of the ownership structure of the administration. Its primary objective is to enforce the provisions of the legislation and the relevant by-laws that govern the implementation of environmental protection measures. By exercising its control duties, the Forest Policy Inspectorate ensures that the necessary administrative measures are taken to address any violations or non-compliance with the established regulations. This includes monitoring and enforcing environmental protection laws, as well as implementing corrective actions to maintain the integrity and sustainability of protected areas.

In cases where a violation does not constitute a criminal offense, the Forest Policy Inspectorate is responsible for applying administrative measures. These measures are applied in the following situations:

- a) Pollution and damage to the protected area resulting from discharges exceeding the prescribed limits by activities taking place outside the area.
- b) Carrying out activities within the area without obtaining the required environmental permit.
- c) Failure to meet or comply with the requirements, principles, and conditions specified in the relevant environmental permit.
- d) Damage to protected areas caused by owners of private assets located within the area.
- e) Damage caused by beneficiaries of the protected area.

Additionally, the Forest Policy Inspectorate has the authority to suspend the activities of any entity found to be in violation of the aforementioned offenses. They can request the responsible ministry to revoke the environmental permit and permanently or temporarily close the entire activity or its specific parts. These actions are carried out in accordance with the existing legislation regarding environmental permits.

5.3 Civil Measures

Under Article 68 of Law No. 81, dated May 4, 2017, “On Protected Areas”, any legal or physical entity, whether public or private, that causes or poses a threat to damage an area or a portion of a protected area, as defined by this law, is held liable for the resulting damages. Furthermore, such entities are responsible for covering the costs associated with repairing the damage, rehabilitating the affected area, and restoring it to its previous state.

Civil penalties help with recovery from environmental harm by reimbursing the party harmed and restoring environmental features to the extent possible. Civil penalties look more to the future, focusing on how a harmful action can be stopped, even as the government is deciding on criminal action, and the means whereby the damage can be repaired. Civil litigation may be brought in addition to criminal litigation or may stand alone. In a civil case, the remedy is a civil fine involving money damages, which may be both compensatory and punitive, and other orders that emphasize stopping the damaging activity and repairing the damage (such as requiring an area illegally cleared of vegetation to be revegetated at the expense of the liable party) (Lausche, 2011) .

Specific provisions in protected areas legislation with respect to civil penalties, in addition to criminal penalties, may relate to the following:

- Cost of environmental restoration or recovery
- Community service orders
- Combination of remedies (with administrative or criminal remedies) (Lausche, 2011).

6. Conclusion and Recommendations

Building a strong legal base: This involves developing laws and regulations that clearly define the conditions, methods, and objectives of protecting the area. The legal framework should also establish competent bodies responsible for enforcing regulations and managing the protected area.

Clear division of duties: Assigning clear responsibilities to different entities involved in protected area management ensures that everyone understands their role and contributes effectively. This can include government agencies, local communities, NGOs, and other stakeholders.

Legal measures against violations: Implementing penalties and enforcement mechanisms for violations of protected area regulations helps deter illegal activities and ensures compliance with the rules. This can involve fines, imprisonment, or other legal actions against offenders.

Effective management plan: Developing a comprehensive management plan is essential for guiding the conservation efforts within the protected area. The plan should consider the unique characteristics of the area, taking into account its biodiversity, ecosystems, cultural values, and socio-economic factors. It should be flexible and adaptable to address changing conditions and emerging challenges.

Finance of the protected area: Funding for protected area management can come from various sources, including the state budget, investments, and international grants. Forecasts suggesting that state expenses will decrease over time due to investments and grants in protected areas can be plausible under certain circumstances. When protected areas are well-managed and effectively attract investments and grants, they can generate revenue and become more financially self-sustainable. This self-financing effect can contribute to reducing the burden on the state budget and also contribute on the state income.

References

Vjosa National Park: An In-Depth Analysis of Its Legal Framework, Management and Protection Under Albanian Civil and Criminal Legislation

- Bart A. J. Wickel and Stephanie Galaitsi (2017). “Assessment of hydro-ecological and socio-economic systems of the Vjosa River”, available online at: https://portavendore.al/wp-content/uploads/2020/12/raport-vleresimi_compressed.pdf.
- Barbara Lausche (2011). “Guidelines for protected areas legislation”, available online at: <https://portals.iucn.org/library/efiles/documents/eplp-081.pdf>.
- Lee Thomas and Julie Middleton (2003). “Guidelines for management planning of protected areas”, available online at: <https://portals.iucn.org/library/sites/library/files/documents/PAG-010.pdf>.
- Vjosa Wild River National Park Vision, Road Map and Feasibility, 2022, Based on IUCN-protected area standards, available online at: <https://turizmi.gov.al/wp-content/uploads/2023/01/01.-Raporti-i-Studimit-t%C3%AB-Fisibilitetit.pdf>.
- Përmet, Dive into The Nature’s Wonders, 2022, available online at: <https://permet.al/top-place?id=7>.
- Vjosa/Aoos Ecomuseum, 2013-2023, available online at: <https://www.ecomuseum.eu>.
- MEMOLA Project Mediterranean Mountainous Landscapes, 2014, available online at: <https://memolaproject.eu/vjosa/history>.
- Decision of the Council of Ministers of the Republic of Albania no. 155, dated 13.3.2023, “On the declaration of the natural ecosystem of the Vjosa River as “National Park”, Category II”.
- Directive 2008/99/EC of the European Parliament and of the Council.
- Law no. 81, dated 4.5.2017 “On Protected Areas”.
- Law No. 7895, dated 27.1.1995 Criminal Code of the Republic Of Albania.