



COMPLAINT FORM

Bern Convention Secretariat

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Signature:

1. Please state the reason of your complaint (refer also the Contracting Party/es involved and the Articles of the Convention which might be violated).

The Georgian Government violates Article 3, paragraph 1 and 2, Article 4, paragraphs 1, 2 and 3 of the Bern Convention by not protecting Rioni River and granting permits to build Namakhvani Hydropower Project. In February 2020 environmental consent for Lower Namakhvani HPP was issued, based on an EIA that didn't include biodiversity studies and evaluation of the impacts on sturgeon species. The project would completely change the hydrological, sedimentation and temperature regime of Rioni and destroy the **last spawning habitat of six sturgeon species in Georgia and SE Black Sea Basin**: beluga (*Huso huso*), European sturgeon (*Acipenser sturio*), stellate sturgeon (*A. stellatus*), Russian sturgeon (*A. guldenstaedtii*), ship sturgeon (*A. nudiventris*) as well as endemic Colchic sturgeon (*A. colchicus/guldenstaedtii colchicus/persicus colchicus*). All these are listed as Critically Endangered globally by the IUCN Red List and included in the National Red List of Georgia. Other significant protected natural habitats and habitats of species from Resolution No. 4 (1996) and Resolution No. 6 (1998) would be destroyed by flooding, new transmission lines, clear cuts, encroachment, disturbance and possible accidents due to construction in earthquake and landslide prone areas. The World Sturgeon Conservation Society (WSCS) strongly criticizes the project as "non-compliant and ecologically-risky".¹ The current complaint is a result of the lack of a national plan for the protection of water courses as required by the Bern Convention Bureau regarding complaint 2016/9². Namakhvani Project is not justified due to lack of cost-benefit analysis of the project and absence of a National Energy Strategy.

2. Which are the specific specie/s or habitat/s included in one of the Appendices of the Bern Convention potentially affected? (Please include here information about the geographical area and the population of the species concerned, if applicable)

Sturgeon species (100% of spawning habitats in Georgia): *Huso huso* (critically endangered - CR), *Acipenser sturio* (CR, IN MOD: Rioni), *A. stellatus* (CR). **Other fish species:** *Aspius aspius* (IN MOD: Rioni), *Rhodeus amarus* (IN MAJ),

¹ <https://www.wscs.info/wp-content/uploads/2021/06/Statement-re-Namakhvan-Hydropoweri.pdf>

² https://rm.coe.int/report-of-the-bureau-meeting-7-8-april-2020/16809e4c1c?fbclid=IwAR0QZMh58kU1TGPP9EofHSPAJOefpIIM8CaeBC_xvis_y7AbFdQ2fHCOD0

Eudontomyzon mariae (IN MAJ), *Barbus (plebejus) tauricus rionica* (VU, NE). **Mammals:** *Lutra lutra*, (>15% of population in Black Sea biogeographical region, IN MOD), *Lynx lynx* (stepping stone habitat between Emerald sites), *Ursus arctos* (stepping stone habitat between Emerald sites), several bat species (not assessed). **Birds:** *Gyps fulvus* (4-7 pairs affected, IN MOD), *Neophron percnopterus* (1 pair affected, EN, IN MOD), *Alcedo atthis* (IN MOD: Rioni), *Larus melanocephalus* (IN MOD: Rioni extension); birds breeding on Rioni River islands: *Sterna hirundo* (IN MOD), *Sterna albifrons* (IN MIN); Non-Resolution 6 migratory birds (IN MOD: Rioni Delta);

Habitats: Sparsely vegetated river gravel banks (C3.55, IN MOD), Riparian and gallery woodlands (G1.1, IN MAJ), Unvegetated river gravel banks (C3.62, IN MOD), Moist or wet tall-herb and fern fringes and meadows (C5.4, IN MAJ), Caucasian *Fagus* forests (G1.6H, SUF/CD), Mixed deciduous woodland of the Black and Caspian Seas (G1.A7, IN MIN), Euxinian ravine forests (G1.A47, IN MOD), Littoral sand and muddy sand (A2.2, IN MAJ), Coastal dune scrub (B1.6, IN MAJ), Basic and ultra-basic inland cliffs (H3.2, SR). About 200 ha of riparian habitats, 400 ha of natural forests and 100 ha of coastal habitats will be impacted.

* IUCN status and final conclusions after the 2017 and 2019 biogeographical seminars given where relevant

3. What might be the negative effects for the specie/s or habitat/s involved?

Namakhvani Project encompasses two HPPs on the Rioni River: Lower Namakhvani HPP (324 MW with reservoir area of 510 ha) and Upper Namakhvani HPP (86.8 MW with area of 100 ha). The preliminary construction works started in 2020 without the completion of a number of studies required by law. There are 4 run-of-river hydropower dams on Rioni and tributaries constructed during 1933 – 1976 that only partially destroyed sturgeons' habitats. Spawning of sturgeon was still possible downstream because all these relatively low dams did not entirely modify the hydrological flow regime of the river.

The **Namakhvani Project** with its planned high water storage type dams (101 m for Lower Namakhvani) **will modify the natural seasonal hydrological flow pattern of the Middle and Lower Rioni and the** magnitude and timing of water discharge will depend on peak energy demand, thus adversely affecting:

a) the effectiveness of reproduction of sturgeons - in the absence of seasonal flood peaks, which clean the hard substrate of the bottom of the river of fine sediments, sturgeons cannot spawn because their eggs cannot adhere to the substrate and will die; b) the available habitats in the downstream sections and natural hydro-ecological processes; c) the annual temperature cycle through deep water discharge from the reservoir; d) the disruption of the ecological flows of the river during the first phase of operation; e) the daily water level fluctuations (hydropeaking) which will affect both the habitats and the faunal elements inhabiting the river sections below the facility; f) the sediment transport into the lower river sections resulting in incision of the river into the landscape and the loss of its connection with its floodplain; g) the migration of the sturgeon and other fish species for reproduction; h) the food base for young sturgeon during the early life phases and for other species.

Additionally, a colony of griffon and Egyptian vultures nesting close to Tvishi village would be highly threatened by the construction of new transmission lines for the project (financed by EBRD) just above the cliffs where the birds breed and construction of Upper Namakhvani HPP below the cliffs.

Old-growth Forest habitats, inaccessible up to now, would also be destroyed, flooded by the two new reservoirs and logged for the new transmission lines. These are stepping stone habitats for large mammals.

River and riparian habitats underprotected in the Emerald Network (IN MOD, IN MAJ for Black Sea region) would also be seriously impacted by changed hydrological and sedimentation regime and flooding.

Changes on lower Rioni will also impact birds that would not be able to breed on or use during migration river islands and coastal habitats (including Rioni Delta) shrinking due to greatly reduced sediment transport.

Sparsely vegetated river gravel banks (C3.55) and Riparian and gallery woodlands (G1.1) will be lost due to construction of the Lower Namakhvani dam and associated infrastructure.

4. Do you know if potentially affected species or habitats also fall under the scope of other international Conventions, (for instance: RAMSAR, CMS, ACCOBAMS, Barcelona Convention, etc) or if the area has been identified as a NATURA 2000/Emerald network site?

Ignoring the conclusions of the 2017 and 2019 biogeographical seminars, the Georgian Government didn't propose the protection of Rioni as new Emerald site or **extension of Kolkheti (GE0000006)** and this would be meaningless if Namakhvani Project is constructed. No appropriate assessment on Emerald site Kolkheti (GE0000006) was carried out as well as impact of planned Upper Namakhvani HPP on Emerald site Prometheus cave (GE0000039) located in the same karst system.

The project will impact the Ramsar site Wetlands of Central Kolkheti³ (33710 ha) and new World Heritage site Colchic Rainforests and Wetlands. The decision by UNESCO requested to stop large development projects until proper assessment on impacts on the OUV has been done and urged Georgia to protect sturgeon habitats⁴.

The Namakhvani Project violates obligations deriving from the Bucharest Convention, the Convention on Migratory Species (many bird and fish species), as well as the EU Habitat and Birds Directives, and the Water Framework Directive which Georgia has agreed to implement. The project also violates the conclusions and recommendations drawn by the UN/FAO Central Asian and Caucasian Fisheries and Aquaculture Commission, to which Georgia is a signatory State (respective documents signed in Istanbul, 2011) and the "Pan-European Action Plan for Sturgeons" (Bern Convention, 2018), where it was determined that a special protection area should be created on Rioni.

5. Do you know if there are any pending procedures at the national or international level regarding the object of your complaint?

On April 8, 2020 Green Alternative filed a lawsuit in the City Court against the environmental permit of Lower Namakhvani⁵. Georgian Young Lawyers Association appeals the same ministerial order on behalf of local people from affected villages. The Social Justice Center appeals the construction permit issued without proper documentation. Most of the land for the Namakhvani Project has been acquired by the major shareholder ENKA Renewables LLC. Since October 2020 local people and supporters are blocking the roads to the site. In March 2021, 22000 people participated in the largest environmental protest in Georgia leading to temporary suspension of construction. Since May 2021 the Secretariat of the Energy Community Treaty is assisting the civil society and the government in a mediation over the dispute.⁶ There is ongoing process to hire a company to revise the EIA. In September 2021 ENKA announced the termination of the Build-Operate Agreement that had been signed with the Georgian State.⁷ None of the permits for the project are cancelled yet and the Georgian State is looking for options to continue construction.

6. Any other information (existence of an Environmental Impact Assessment (EIA), size of projects, maps of the area, etc)

An EIA report was prepared in 2019 without proper studies on sturgeons, downstream impacts, impact on protected areas (Kolkheti National Park and Katsoburi Managed Reserve), cumulative effect with other dams and transmission lines, appropriate assessment of impacts on Emerald sites (GE0000006, GE0000041, GE0000057, GE0000039), cost-benefit analysis (mandatory according to Georgian legislation - EIA Code) etc.⁸

³ <https://rsis Ramsar.org/ris/893>

⁴ <http://whc.unesco.org/archive/2021/whc-21-44com-18-en.pdf>

⁵ https://greenalt.org/disputes_complaints/mtsvane-alternativa-namakhvanis-hesebis-kaskadis-msheneblobasa-da-ekspluatatsiaze-garemosdatsviti-gadatskvetelebis-gaukmebas-itkhovs/

⁶ <https://www.energy-community.org/news/Energy-Community-News/2021/05/06.html>

⁷ <https://www.kap.org.tr/en/Bildirim/964595>

⁸ <https://namakhvani.enka.com/en/about-us/studies/>