



Republika e Kosovës • Republika Kosovo • Republic of Kosovo
Institucioni i Avokatit të Popullit • Institucija Ombudsmena • Ombudsperson Institution

Prishtinë, July 17, 2019

Mr. Fatmir Matoshi, Minister
Ministry of Environment and Spatial Planning
The Palace of Justice
10000 Prishtinë

REQUEST FOR INTERIM MEASURE
Related to
THE ISSUE OF OPERATION OF HYDROPOWER PLANTS IN THE COUNTRY
AND THEIR IMPACT IN THE ENVIRONMENT

Cases
Ex officio 365/2018
Ombudsperson Institution
And
Complaint No. 82/2019
Dobrivoje Stevanovic and 1200 other
Versus
Ministry of Environment and Spatial Planning

Dear Mr. Matoshi,

The Ombudsperson, based on Article 16 of Law no. 05 / L-019 on the Ombudsperson, has initiated *Ex officio* investigations regarding operation of hydropower plants in Deçan/ Dečan as well as has initiated investigation based on the complaint of Mr. Dobrivoje Stevanovic and 1200 others related to the issue of hydropower plants in Shtërpce/Štrpce. The investigations concern the lawfulness of operation of hydropower plants in Deçan/ Dečan and Shtërpce/Štrpce, and their impact on the environment.

Based on complainants' allegations and other information in the possession of the Ombudsperson, the issue of hydropower plants operation is associated with many uncertainties, whether from the lack of responsible institution's transparency concerning the legality of operation as well as due to shortcomings related to participation of public on decision making process.

Whilst a wide and inclusive debate on this issue is taking place in public, responsible institutions have never been appropriately clear related to the legality of operation of the hydropower plants, and their actions have continued to remain slow in terms of resolving the issue, while dissatisfaction and reaction of citizens as well as of civil society is on rise. Entire

efforts, up to now, of bodies to address the problem and citizens' dissatisfaction are being shown as ineffective means for solving the problem.

Having in mind that in the current case the issue concerns the impact on the environment and the water resources, the Ombudsperson, based on the Law No. 04/L-147 on Waters in Kosovo, the aim of which is protection of water resources from pollution, misuse and misappropriation, which explicitly stipulates that the Ministry of Environment and Spatial Planning is responsible for implementation of Laws and sub-legal acts from the field of water resources, including also other Laws from the field of living environment, deems that the Ministry is responsible body which should provide distinct explanations regarding the issue.

The Ombudsperson, based on Article 18, par. 5, of the Law No. 05/L-019 on Ombudsperson¹, deeming that the situation may have irremediable consequences into the environment, recommends the Ministry of Environment and Spatial Planning to suspend activities of the hydropower plant in Dečan/ Dečan and Shtërpce/Štrpce, until provision of explanation on the legality of operation of given hydropower plants as well as justifications regarding the powers between responsible authorities.

The Ombudsperson has come to this recommendation after long term monitoring of the situation and assessment that the crucial criterion for recommendation of such suspension has been fulfilled visibly in this case. The reason of the recommendation for suspension of activities of the given hydropower plant is a clear impact of deterioration of waters and the environment in the country; on the right to safe and healthy environment, the right guaranteed by Article 52 of the Constitution of Republic of Kosovo [*Responsibility for the Environment*], as well as with international instruments of human rights applicable in Republic of Kosovo.

The interim measure will last until Ombudsperson's assessment of the presence of sufficient explanations by MESP as well as other relevant bodies regarding the lawfulness of operation of the given hydropower plants as well as explanations of competencies between the responsible authorities.

In conformity with Article 132, paragraph 3, of the Constitution of Republic of Kosovo, with Article 18, paragraphs 18.4 and 18.6, as well as Article 25 of the Law No. 05/L-019 on Ombudsperson, you are kindly asked to provide us with the information regarding this issue, but not later than **August 17, 2019**.

Warmly submitted,

Hilmi Jashari
Ombudsperson

¹ Law on Ombudsperson, No. 05/L-019, Article 18, par. 5, "*If during the investigation, the Ombudsperson finds that the execution of an administrative decision may have irreversible consequences for the natural or legal person, he/she can recommend to competent authority to suspend execution of the decision until completion of investigations relating to this issue by the Ombudsperson*".

- CC: Mr. Kadri Veseli, President
The Assembly of Republic of Kosovo
- CC: Mr. Ramush Haradinaj, Prime Minister
Office of the Prime Minister
- CC: Mr. Valdrin Lluka, Minister
Ministry of Economic Development
- CC: Mr. Muharrem Nitaj, President
Committee for Agriculture, Forestry, Rural Development, Environment and Spatial
Planning
- CC: Mrs. Duda Balje, President of the Committee
Committee on Human Rights, Gender Equality, Missing Persons and Petitioners
- CC: Mr. Arsim Janova, acting Board President,
The Board of Energy Regulatory Office (ERO),
- CC. Mr. Bashkim Ramosaj, Mayor
Municipality of Deçan/ Dečan
- CC. Mr. Bratislav Nikolic, Mayor
Municipality of Shtërpce/Štrpce