

TECHNICAL ASSESSMENT REPORT

**PRESPA PARK COORDINATION COMMITTEE
IN TRANSBOUNDARY ECOSYSTEM MANAGEMENT**

[Consultant Report]

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**Novi Sad
12 December 2008**

The views expressed herein are those of the author and do not necessarily reflect the official position of the United Nations Development Programme.

A transfrontier region is a potential region, inherent in geography, history, ecology, ethnic groups, economic possibilities and so on, but disrupted by the sovereignty of governments ruling on side of the frontier.

DENIS DE ROUGEMONT
L'Avenir est Notre Affaire, Seuil publishers, Paris
1978

The basic principle of transfrontier is to create links and contractual relations in frontier areas so that joint solutions may be found to similar problems [...]
Regional identities must be sustained and the construction of Europe enriched by the dynamism and special qualities of local and regional communities situated on each side of a frontier, as they jointly try to develop a living partnership, true synergy and full solidarity reflecting what a Europe united in diversity should be.

HANDBOOK OF TRANSFRONTIER FOR LOCAL AND REGIONAL AUTHORITIES IN EUROPE
Council of Europe,
2000

Transboundary watershed problems are best resolved by those who live and work in the watershed. Further, success in resolving local problems will increase as certain conditions evolve: local participants gain experience in working together on problems and opportunities; a systemic, ecosystem framework is used in learning about problems and solutions; and trust among local participants is nurtured through shared work and discussions of shared values.

THE INTERNATIONAL WATERSHED INITIATIVE
Second Report to the Governments of Canada and the United States;
IJC—International Joint Commission Canada and United States,
2005

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ACRONYMS

The acronyms used in this Report have the meanings as indicated bellow.

BWT	Boundary Waters Treaty
DRPC	Danube River Protection Convention
EIA	Environmental Impact Assessment
EU	European Union
FASRB	Framework Agreement on the Sava River Basin
GEF	Global Environmental Facility
GEF PD	Global Environmental Facility Project Document
GLWQA	The Great Lakes Water Quality Agreement
IBF	<i>Internationaler Bodenseefischereiverband</i> [International Fishermen's Association of the Lake Constance]
IBK	International Bodensee Conference
IBKF	<i>Internationale Bevollmächtigtenkonferenz für die Bodenseefischerei</i> [International Conference of Deputies for Fishery in the Lake Constance]
ICPBS	International Commission for the Protection of the Black Sea
ICPDR	International Commission for the Protection of the Danube River
ICSRB	International Commission for the Sava River Basin
IGKB	International Commission for the Protection of the Lake Constance
IJC	Great Lakes International Joint Commission
IPPC	Integrated Pollution Prevention and Control
ITA	International Transboundary Advisor
KfW	<i>Kreditanstalt für Wiederaufbau</i>
MAP	Macedonian Alliance for Prespa
MedWet	Ramsar Convention Mediterranean Wetland Initiative
MFA	Ministry of Foreign Affairs
MoU	Memorandum of Understanding
NATO	North Atlantic Treaty Organization
PPCCOA	PPCC Operative Arrangements
OSCE	Organization on Security and Cooperation in Europe
PD	Project Document
PDF B	UNDP Project Document File B
PM(s)	Prime Minister(s)
PPCC	Prespa Protection Coordination Committee
PPNEA	Protection and Preservation of the Natural Environment in Albania
PTC	Process of Trilateral Consultation
RCLACCI	Rapid Comparative Legal Assessment of Cross-Cutting Issues
REC	Regional Environmental Centre for South Eastern Europe
ROP	Revised Rules of Procedure [ICPDR context]
SAA(s)	Stabilisation and Association Agreement(s)

SAP	Strategic Action Plan for the Sustainable Development of the Prespa Park
SEA	Strategic Environmental Assessment
SPP	Greek Society for the Protection of Prespa
TAR	Technical Assessment Report
ToR	Terms of Reference
PPCCToR&OA	Terms of Reference and Operational Arrangements of the PCC
UNDP	United Nations Development Program
UNDP	United Nations Development Program Project Document
UN ECE	United Nations Economic Commission for Europe
WWF	World Wild Fund

EXECUTIVE SUMMARY

Implementation of the UNDP-GEF Project "Integrated Ecosystem Management in the Prespa Lakes Basin of Albania, FYR of Macedonia and Greece" has begun in 2007, after several years of preparation, in a regional environment described as differences in capacity, commitment and national policy across borders, which are strong constraints, in addition to questions of national sovereignty and policies, barriers to free trade, unsustainable productive activities, political instability etc. However, the entire region hosts unique habitats and species, important from both a European and global conservation perspective, which make the ecosystem of Prespa Lakes being considered as one of the Europe's major transboundary "ecological bricks".

The Project aims to mainstream ecosystem management objectives and priorities into productive sector practices and policies. It is designed to strengthen capacity for restoring ecosystem health and conserving biodiversity first at national level in Albania and FYR of Macedonia Prespa by piloting ecosystem-oriented approaches to spatial planning, water use management, agriculture, forest and fishery management, and conservation and protected areas management. The third littoral State, Greece, which is the member of EU Community, is not a direct beneficiary of the GEF funding but actively participates through parallel financing.

The Project also aims to strengthen on-going transboundary co-operation in the resource managements and conservation, by empowering the existing transboundary institution Prespa Park Co-ordination Committee, which was formed pursuant to the Declaration on Protection and Sustainable Development of the Prespa Lakes and their Surroundings signed by the prime Ministers of the three littoral States, 2 February 2000.

"Assessment of the Role of the Prespa Park Co-ordination Committee" is a project task the purpose of which is to provide the review of existing practices and challenges in trans-boundary ecosystem management and water governance in the Prespa Lakes Basin. The emphases was expected to be placed on an assessment of the mostly informal operations of the Prespa Park Co-ordination Committee over the past six years and the recommendation of options for the appropriate legal and institutional arrangements for formal and effective transboundary ecosystem management, water governance and sustainable development in the Prespa Lakes Basin. Based on the findings of the assessment, the task comprises formulation of concrete recommendations and a detailed plan outlining next steps for the institutional maturation of the PPCC and its future role. The ToR consists of a number of more detailed requirements, which finally include presentation of the findings of the assessment at an identified stakeholder workshop for comments and feedback.

Following the accepted Assessment Methodology, a research into the all relevant issues was undertaken, including a 12-day mission in the three Prespa Lakes Basin States, with the aim of meeting representatives of various involved

authorities and bodies, as well as NGOs interested in the Prespa Lakes co-operative process, and a short travel to Vienna aimed at participation on the meeting in the ICPDR, organized for the representatives of the three States, PPCC Members and Members of the PPCC Secretariat.

As the result, the Technical Assessment Report (TAR) was prepared, consisting of eight Chapters and 4 Annexes (containing explanatory material relevant to management of protected area in the Prespa region and this assessment), Bibliography and List of Acronyms are added.

An Introduction is contained in the Chapter I, with a brief description of Nature of the Prespa Lakes Basin and history of management efforts, as well as the ToR and Assessment Methodology. The Chapter II contains a short review of the mission scope, contents the concise listing of findings—the results of talks. The Chapter III consists of a review of international and national policy and law aspects, relevant for the Prespa Lakes Basin. The review is aimed at highlighting the broader global and UN ECE framework requirements, and requirements of the Community *acquis*, and interdependence of national policy and law systems on those developments.

The Chapter IV contains a legal analysis of trilateral context of the Prespa Lakes Basin co-operation. The legal nature of the Prespa Park Declaration was examined, and notes on local level trilateral co-operation were given. The conclusions based on those findings indicate the policy character of Declaration, and lack of stronger commitment that would lead to acceptance of binding regular duties (firstly of the financial character) of the three States. In the same time, indication was made on significant positive consequences in trilateral co-operation based on the Declaration, in spite of lack of a firm legal ground.

The Chapter V deals with description and history of the Prespa Park Committee, its composition, responsibilities, operational aspects, and Secretariat, its work and most remarkable results, its legal nature (profile), relevant financial issues and finally arrives at several conclusions. It points out the legal character of Tirana International Working Meeting itself and conclusions adopted there, the legal effects of those conclusions (which basically are only authoritative recommendations) on the Prespa Lakes littoral States, and, in that context, the legal and real effects of the PPCC conclusions.

The Chapter VI contains brief reviews of the four successful cases of international legal regimes established in regards of shared water resources. Those are Danube River Protection Convention, the Great Lakes Water Quality Agreement, The Lake Constance treaties, and the Framework Agreement on the River Sava Basin. The criteria for choosing these four international cases were their functionality (including financial sustainability) and time duration. All of them have elements that could be elaborated and examined (in parallel with other relevant material) for the needs of the future tripartite Prespa Lakes Basin agreement.

The Chapter VII contains some considerations on the Draft Trilateral Agreement *i.e.* notes on its legal status, a brief review of its contents and several notes instead of conclusions. Detailed examination of the text was not done due to its complexity. The text should be used during official trilateral consultations, together with other relevant materials.

The Chapter VIII contains recommended activities, order of steps and time frame. Instead of recommending a ready made solution that would bring institutional and financial sustainability, the TAR suggests a process of official consultation (expert level work) of the three Prespa Lakes Basin States to be established that would lead to development of a text of trilateral agreement in regards of the Prespa Lakes Basin, and all legal and financial documents necessary for establishment and beginning of work of a Prespa Management Committee, agreed on in such an agreement. Additionally, several research and administrative activities are proposed to be undertaken with aim of providing various details in regards of national legal systems of the three States, expected to be needed for the consultation work, and supporting the Prespa process itself at the international stage. A graphic chart with detailed time frame, spanning a period of 36 months was attached.

I. INTRODUCTION

1. Brief on Nature of the Prespa Lakes Basin

The Prespa region, situated in the Balkan Peninsula and encompassing parts of Albania, FYR of Macedonia and Greece, is a high altitude basin that includes the interlinked Macro Prespa and Micro Prespa Lakes and their surrounding mountains. It is considered to be an ecosystem of global significance and has been identified as one of Europe's 24 major trans-boundary "ecological bricks". The entire Prespa region hosts unique biotopes that are important from both a European and global conservation perspective. The lakes and wetlands are important over wintering, breeding and feeding sites for numerous species of birds. The flora is composed of over 1,500 species, of which 19 are endemic. The aquatic ecosystems are also rich in endemic species and the avifauna is highly diverse, and includes the world's largest breeding colony of the globally vulnerable Dalmatian pelican and the endangered Pygmy cormorant. The lake area also hosts mammals, such as bear, wolf and lynx that are endangered in Europe. In addition, the lake region is considered to be of great cultural and historical importance.¹

The unique values of this ecosystem, however, are being progressively eroded because of either changes in or intensification of specific human activities including unsustainable patterns of exploitation of natural resources, and inappropriate land-use practices that result in progressive soil and water contamination, loss of forest cover, erosion and wildlife loss. Prolonged drought and tectonic activity over the past two decades have also contributed to a several meter decrease in the water level in the lakes. Since the Prespa Lakes region extends across national boundaries, it is also subject to different, uncoordinated and even conflicting management regimes and policies, which further exacerbate the threats to the ecosystem as a whole, and make unilateral and piecemeal response measures ineffective.²

2. History of Management Efforts

Thus, the development and implementation of a regional, integrated approach to the region's conservation and management is of paramount importance. The Governments of the three Prespa Lakes littoral States have recognized the importance of conserving the region's biodiversity through setting up a number of legal regimes establishing of the five protected areas³, *i.e.*:

- In Albania, the *Prespa National Park*⁴ was established in 1999, for rehabilitation and sustainable protection of critical terrestrial and aquatic ecosystems of Macro and Micro Prespa Lakes area;

¹ Taken over from: Terms of Reference Prespa Park Co-ordination Committee, REPORT OF THE SECOND EXTRAORDINARY MEETING OF THE PRESPA PARK CO-ORDINATION COMMITTEE, Annex II. Web site: <http://www.medwet.org/prespa/park/PPCCextraordinary2.pdf>. Last visited 28.10.2007.

² *Ibid.*

³ The data taken over from: REPORT OF THE SECOND EXTRAORDINARY MEETING OF THE PRESPA PARK CO-ORDINATION COMMITTEE, Annex I. Also can be found on the web site <http://www.medwet.org/prespa/basin/areas.html>.

⁴ National Park is the IUCN Category II protected area, managed mainly for ecosystem protection and recreation. It is a natural area of land and/or sea designated to:

a) Protect the ecological integrity of one or more ecosystems for present and future generations;

- In Greece, the *Prespa National Forest* (in accordance with national forestry legislation) was designated in 1974 for protection of Micro and Macro Prespa lakes and their catchment area. In 1975, the same area was declared a “landscape of exceptional beauty”⁵. Micro Prespa was declared a *Ramsar Site*⁶ in 1974 and, recently, Greece applied for the recognition of the Macro Prespa as a designated Ramsar site.

The Greek side of the *Prespa wetland system* is a special Protection Area (SPA), under the EEC Birds Directive⁷. The *entire Prespa Lakes and their catchment area* have been included in the Greek National List of the NATURA 2000 protected sites network, in accordance with EEC Directive on protection of fauna, flora and their habitats⁸ and the EEC Birds Directive.

- In FYR of Macedonia, the *Pelister National Park* was established in 1948, and *Galicica National Park* in 1958. Bird Sanctuary *Ezerani*⁹ was declared Ramsar Site in 1996, and Strict Nature Reserve¹⁰ and *Macro Prespa* was declared, in accordance with national legislation, a Natural Monument¹¹ in 1977.

More on the nature of the proclaimed regimes in the context of IUCN concept of Protected Area Management Categories, *i.e.* on the concept origin, on the management objectives, relevant issues, and description of the IUCN Categories relevant at the moment for the Prespa Lakes Basin, can be found in the ANNEX I to this Report. Those data are presented in this Report because of their significance for determination of scope of competence and tasks of national and international authorities and bodies responsible for compliance with accepted/adopted

b) Exclude exploitation or occupation inimical to the purposes of designation of the area; and
c) Provide a foundation for spiritual, scientific, educational, recreational and visitor opportunities, all of whom must be environmentally and culturally compatible. See at web site:

http://www2.wcmc.org.uk/protected_areas/data/sample/iucn_cat.htm. Last visited 28.10.2007.

⁵ Under the IUCN Category V protected landscape/seascape is protected area managed mainly for landscape/seascape conservation or recreation. It is area of land with coast or sea as appropriate, where the interaction of people and nature over time has produced an area of distinct character with significant aesthetic, ecological and/or cultural value, and often with high biological diversity. Safeguarding the integrity of this traditional interaction is vital to the protection, maintenance and evolution of such an area. *Id.*

⁶ According to Article 2, Paragraph 1 of the Ramsar Convention, each Contracting party has right to designate suitable wetlands within its territory for inclusion in a List of Wetlands of International Importance, maintained by the Ramsar Bureau. According to Paragraph 2, wetlands shall be selected for the List on account of their international significance in terms of ecology, botany, zoology, limnology or hydrology. In the first instance wetlands of international importance to waterfowl at any season should be included.

⁷ Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds.

⁸ Directive 92/43/EEC of 21 May 1992 on the conservation of natural Habitats and wild Fauna and Flora.

⁹ Bordering northern section of the Macro Prespa Lake, and aimed at protection of migratory waterfowl and other water bird species.

¹⁰ Strict nature reserve/wilderness protection area under the IUCN Category Ia, managed mainly for science or wilderness protection, is an area of land and/or sea possessing some outstanding or representative ecosystems, geological or physiological features and/or species, available primarily for scientific research and/or environmental monitoring.

¹¹ Natural monument under the IUCN Category III is a protected area managed mainly for conservation of special natural features. It is area containing specific natural or natural/cultural feature(s) of outstanding or unique value because of their inherent rarity, representativeness or aesthetic qualities or cultural significance.

international and national legislation in conformity which the protected areas are declared with.

Commitment to development of a tripartite co-operative approach to the management of the Prespa Lakes Basin the Prespa Lakes littoral States expressed through the Prime Ministers' Declaration on the Creation of the Trans-boundary Prespa Park and the Environmental Protection and Sustainable Development of the Prespa Lakes and their Surroundings, signed at Aghios Germanos on 2 February 2000. Pursuing such commitment, on the invitation of the Secretary General of the Ramsar Convention¹² delegations from the three Prespa Lakes Basin States, composed of representatives of environmental authorities and other public services, as well as NGOs and several international organizations, met at the International Working Meeting in Tirana on 16—17 October 2000 concluded the Prespa Coordination Committee for the Prespa Park (PPCC) to be established.¹³

The PPCC was created as a “provisional” body composed of members representing national environmental authorities, local communities and NGOs from the three countries with the voting right and one “ex officio” observer, representative of the MedWet, without voting right (10 members in total). According to the position taken by the participants of the Tirana meeting, this “provisional” body was designed to operate for the period 2000—2002. Its official establishment was seen to be carried out through a joint document (formal agreement) signed at the ministerial level, after evaluation of the work of the PPCC at the end of 2002.¹⁴

UNDP-GEF Project “Integrated Ecosystem Management in the Prespa Lakes Basin of Albania, FYR of Macedonia and Greece” was developed with intention to catalyze the adoption and implementation of ecosystem management interventions in the Prespa Lakes Basin shared between the three States, that would integrate ecological, economic and social goals with the aim of conserving globally significant biodiversity and conserving and reducing pollution of the transboundary lakes and their contributing waters.¹⁵ The Assessment of the PPCC in Transboundary Ecosystem Management, which this report is dealing with, is a Project task the realization of which falls at the beginning of the Project implementation.

3. Terms of Reference

This Report is the expected output based on the findings of research activities carried out in accordance with the ToR, attached in the ANNEX II to the Report.

4. Methodology

The methodology applied for fulfilling the tasks designed in the ToR, comprised:

- Detailed planning of all expected activities, including making of an analytical review of the project task and expected results;

¹² UN Convention on Wetlands of International Importance Especially as Waterfowl Habitat, signed at Ramsar, 2 February 1971.

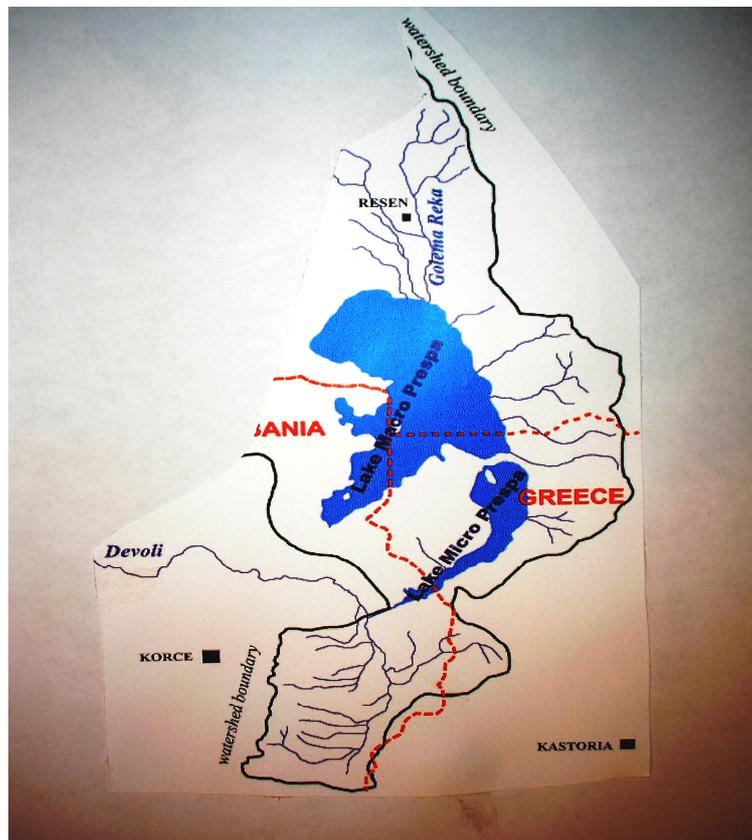
¹³ See Conclusions 1-5.

¹⁴ Appendix I to the Conclusions of the International Working Meeting. For more details on further developments in trilateral co-operation in regards of Prespa Lakes Basin and various aspects of the PPCC and its operations see *infra* Chapter V.

¹⁵ UNDP Full Size Project Document, Brief Description.

- Collection of relevant national documentation;
- Identification of applicable international policy and legal regimes;
- Analysis and systematization of collected material;
- A field mission in all three Prespa Lakes littoral States in order to meet representatives, members, staff and experts of authorities, bodies and organizations involved/interested in the Prespa process;
- A one-day travel to Vienna with the aim of participation in visit and talks with representatives of the ICPDR, together with the PPCC Members, Members of the PPCC Secretariat and representatives of environmental authorities of the three Prespa Lakes littoral States;
- Preparing plan (contents) of Technical Assessment Report (TAR);
- Preparing Draft of (this) TAR;
- Presentation of TAR at a workshop open to the widest circle of stakeholders;
- Preparing and delivery the Final TAR on the basis of Draft TAR and feedback of involved organizations and experts.

Detailed Assessment Methodology has been given in the ANNEX III to this Report.



The Prespa Lakes Basin*

* Source: O. Avramoski: ANALYSIS OF PUBLIC PARTICIPATION PRACTICES IN ECOSYSTEM APPROACHES TO ENVIRONMENTAL MANAHEMNT IN THE REGION OF OHRID AND PRESAPA LAKES, p. 72.

II. MISSIONS SCOPE, CONTENTS AND FINDINGS

According to the ToR, a mission was designed with the aim of collecting information on sources relevant for this project and on current views on the Prespa process that would indicate commitment in the three States to further development of the Prespa process and establishment of a trilateral sustainable institutional arrangement, based in international law, with a secretariat regularly funded by the budgets of all three Prespa Lakes littoral States. UNDP Home based FYR of Macedonia planned the mission, organized meetings and provided all needed logistic support. The mission was realized smoothly, without delays and almost fully in accordance with plan, in the period 15—26 October 2007. What only were missing from the list of activities were meetings with the representatives of MFAs of Greece and FYR of Macedonia. In a tight time schedule it was not possible to arrange such meetings, despite repeated attempts of the hosts. Additionally, a three-days mission to Vienna was organized and undertaken 5—7 November, with aim of participate at the meeting of the Governmental representatives, PPCC and NGOs with the ICPDR officials.

The mission in three countries comprised travels, meetings and discussions. The mission had began from Resen (FYR of Macedonia), continued in Aghios Germanos, Municipality of Prespa and Athens (Greece), Tirana, Korca and Municipality of Liqenes (Albania), Resen, Skopje and again Resen (FYR of Macedonia) where it was finished.

During the mission, numerous meeting were held with:

- UNDP and Project personnel;
- WWF Greece and Ramsar Med/Wet representatives and experts;
- Representatives, members, staff and experts of national environmental and water authorities;
- Representatives of the IPA Unit of the Ministry for Integration and MFA Albania;
- Regional authorities, bodies and organizations competent for various aspects of the Prespa Lakes Basin;
- Mayors of the three Prespa Lakes Municipalities (Liqenes, Prespa and Resen);
- Representatives of national NGOs involved in the Prespa Process (SPP, P.P.N.E.A);
- Representatives of local NGOs active in the Prespa area and their coalition in FYR of Macedonia;
- Representatives of business interests;
- PPCC Members and members of its Secretariat.

More details on the mission and activities that follow are contained in the Debriefing Note and List of Participants in Talks during the Mission, attached to this report in ANNEX IV.

Various information and documents collected during the mission were used for writing of this Report. The facts noted are presented elsewhere in the Report

and there is no need for reporting here in detail on each of talks. Yet, a brief list of specific details from the meetings and talks during the mission, concerning views on and observations of some aspects of on-going cooperative trilateral Prespa process and future set-up are worth to be given here. They indicate differences and similarities in views expressed during the talks. Follows a condensed and non-exhaustive review of opinions, observations, and proposals:

- Cooperation between three States in regards of Prespa is possible at the technical level. There is green light for funding programs by Greek Government, but there are difficulties with legal technicalities. So such funding had been provided through the NGOs. That solution is not negative, but better one should be found.
- In search for such solution, political issues should be isolated from environmental ones. The opinion was expressed that it is still premature for legally binding agreement between the three Prespa States, But, it was noted that there are no criteria of such maturity. In any case, no proposal should be put without previously provided political support. Possible legal options/arrangements should be explored;
- It is pointed out that entire trilateral co-operation is going through the national environmental authorities. But those authorities need a proper legal basis for work. The work on co-operation should be better organized, and based on an instrument legally stronger than the PMs Declaration;
- The Prespa process co-operation has by now been driven by NGOs, because of lack of commitment of the Governments and lack of leadership. All questions and dilemmas should be put at the table clearly. There is need for new and strengthened mandate. Now is time to put proposal(s) that could not be avoided;
- Continuation of the Prespa process should be carried on through renewal of political support. In case of consultations, the consultation process should be defined;
- A process of (technical) consultations could be initiated and lobbying in favour of such process would help;
- The basic problem in the Prespa region is political; social-economic problems come after that. Solution of political problems will bring economic and social revival into the region;
- Additionally, it was expressed expectation that political obstacles for full transboundary cooperation shall be lifted soon, what could provide spectacular results;
- National Parks have been included into the PPCC activities as observers. National Parks in FYR of Macedonia and Albania have good cooperation that is developing in a good direction. Such cooperation between FYR of Macedonia and Greece is conditioned by opening a cross border point and ease of visa regime.
- The on-going is preparation of drafting and signing a trilateral Protocol on Collaboration of the Municipalities from three States, adjacent to Prespa lakes (*i.e.* Liqenes, Prespa and Resen). This has been considered as having a (strong) symbolic political significance;

- The transboundary cooperation in the Prespa region is affected by the existing visa regime;
- There is need for opening a new border cross between Greece and FYR of Macedonia in Markova Noga;
- The Euro Region comprising Prespa area (*inter alia*, in FYR of Macedonia the Prespa area and Municipalities of Bitola, Prilep and Ohrid) has facing functional difficulties. The cause has been seen as coming from the fact that the Euro Region does not have its own institutional structure, but has been run through the national authorities;
- The EU integrations have been seen as very important for the Prespa region, and ways are looking for joint (transboundary local level) programs that could be funded by EU;
- A tripartite agreement on Prespa Park area, as the only proper solution, has been drafted and it should be considered at the informal meeting of three Ministers competent for environmental protection, which should decide on action to be taken. It was expressed opinion that Albania could facilitate such communication;
- There are no legal obstacles for conclusion of a trilateral Prespa Lakes Basin treaty. The obstacles were supposed to be political only;
- The Draft of Trilateral Prespa Agreement was initiated by the PPCC and worked out by the MedWet Office;
- A trilateral MoU could be signed between environmental Ministers, which the three Governments would confirm. Such instrument would be the ground for requesting international donors support;
- Another idea was mentioned, *i.e.* the UNDP to develop a text of draft trilateral agreement on the Prespa Lakes Basin;
- Further activities (*i.e.* technical consultations) on drafting the Prespa agreement and establishment of an international personality for co-ordination should be financed by the UNDP project;
- Agreement on process of technical consultations should be reached. Such process should be initiated as soon as possible. It was estimated that the entire process would last some two and a half years.

-
- In forthcoming activities regarding conclusion of a (new) Prespa treaty, facilitating of the process by prominent international organizations (*e.g.* EC, CoE, UNECE, OSCE and others) would be acceptable and beneficial;
 - Involvement of international organizations into further activities regarding Prespa process would be welcome;

- The members of the PPCC Secretariat, representing the P.P.N.E.A (AL) and Coalition of NGOs Resen, have been working without any compensation;
- The problem of PPCC is capacity of personnel. The members of Secretariat should be paid for their work.
- The Secretariat of the PPCC acting through the NGOs is no more workable solution. Governments of three States should provide funding regularly;

- The Ohrid Lake Secretariat was formed on the request of World Bank, after finalization of a project funded by World Bank. After completion of the UNDP project the Prespa Committee should be established with a strong legal position;
- The PPCC should continue its operations until new institution is set-up;
- For the Prespa Lakes Basin a permanent body should be established. The case of the Lake Constance should be studied;

- The idea of an international conference having the Prespa process in focus would be beneficial;
- The possibility for forming an International Prespa Trust Fund should be investigated;
- Environmental impact assessments and strategic environmental assessments are important for the Prespa Lakes Basin;
- Spatial planning and water management should be incorporated into the Prespa process;
- The role of Integrated Water Management of the Prespa Lakes Basin should be recognized and stressed;

- MFA of Albania would be happy to help in developing the treaty on Prespa Lakes Basin and express wish to be included into the consultation process on that subject;
- It is pity that Albanian Ministry of Integration was not involved in the Prespa process. The Ministry would like to be included in further activities, which shall be supported;
- MFA of the FYR of Macedonia must be included in the forthcoming activities regarding Prespa Lakes Basin;

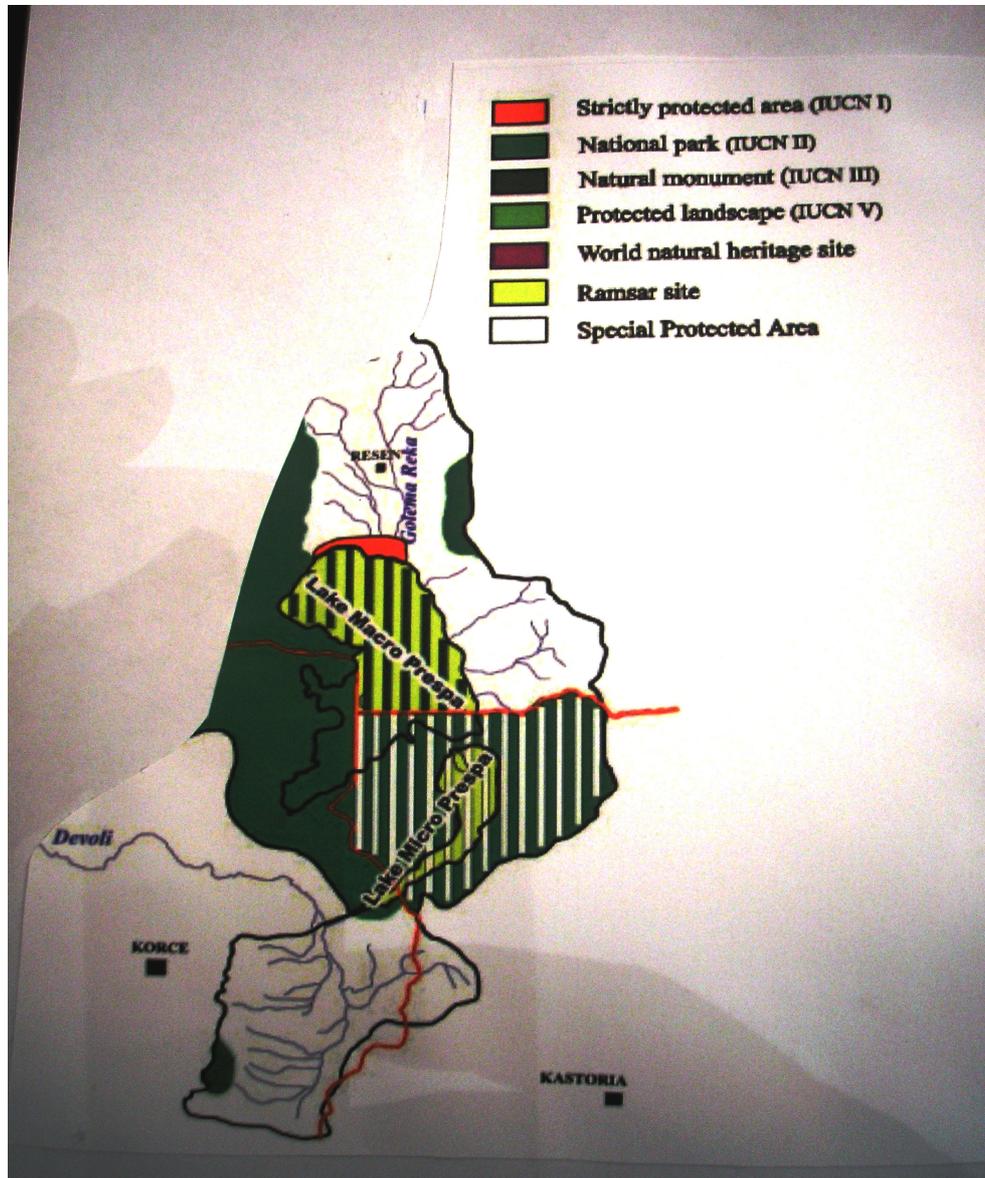
- Different stakeholders (NGOs, protected areas, business associations) need various kind of support in order to be able mutually to connect closer and participate in the Prespa Lakes management process;

Open talks during the mission on certain legally specific details in regards of composition of administrative structure of the future trilateral institutional Prespa Lakes Basin set-up have risen concerns from the NGO sector¹⁶ that all the cooperation process developed by now would collapse if representatives of NGOs, Municipalities and Protected Areas are not included as members of future management body (with decision-making power). As a paradigm for choosing appropriate solution, the Ohrid Lake Agreement was proposed, as well as current trend of forming stakeholder representative bodies for management of protected areas in Greece and FYROM.

Detailed discussion on such specific issues at that stage of the assessment was terminated, with the notes that nobody has ready-available solution for the

¹⁶ Namely, concerns were expressed on supposition that a solution is going to be proposed comprising only States' representatives in the future Prespa coordinative body (with decision-making power) without having representatives of NGOs and other stakeholders in that decision-making body, but only as positioned in the decision-making advisory body/bodies,

Prespa Lakes Basin management and that nobody can bring solution to any region from somewhere outside The solution should not be a set-in-advance-option and must be arrived at through the process which will result in the feeling of ownership of all participating parties.



The Prespa Lakes Basin Protected Areas **

** Source: O. Avramoski: ANALYSIS OF PUBLIC PARTICIPATION PRACTICES IN ECOSYSTEM APPROACHES TO ENVIRONMENTAL MANAHEMNT IN THE REGION OF OHRID AND PRESAPA LAKES, p. 81.

III. THE PRESPA LAKES BASIN IN INTERNATIONAL AND NATIONAL POLICY AND LAW CONTEXT

1. Introductory Notes

Instruments of international law and policy relevant to various aspects of water resources and environment could be classified in different ways. For example, concerning their territorial scope they could be global and regional, multilateral and bilateral, as river/lake basin or sub-basin related etc. They could be classified as legally binding (e.g. international treaties, like conventions, agreements, protocols etc), “soft-law” (representing non-binding, evolving law, law in development), or policy instruments (expressing commitments of certain subjects to adopt certain decisions and measures etc.) There is no need for further elaboration of this, more or less theoretical issues.

It is important to note that nowadays a huge variety of international law and policy instruments relates to the same natural phenomenon, focusing often on one or several of its aspects. Compliance (transposition, implementation, enforcement) with international duties taken over through signing a binding legal instruments is as a rule split between different national authorities, being competent for certain issues only (and often having different and conflicting views). So, an integrative (ideally it would be a holistic) approach, that would comprise such management dimensions as preservation, protection and use of natural resources in an area, as well as economic and social development (what would be comprised by the concept of sustainable development) is a real challenge for national authorities competent for a shared natural unit (for instance river/lake basin). Therefore the issue of good governance is under rising attention whenever transboundary cooperation is at stake.

2. Global and European Instruments

The Prespa Lakes Basin is not an exemption in that sense. The table attached bellow shows a list of binding international instruments applicable at the moment, *inter alia* on the Prespa Lakes Basin too, with data indicating the status of the three Prespa Lakes Basin States. It is possible to note that there are several global multilateral conventions developed under the aegis of UN or its agencies and several regional multilateral conventions developed in Europe by CoE and UNECE. Indication on status of the Prespa Lakes Basin States is in the same time indication on the commitment of the States to sign and ratify the listed international treaties. Commitment to implement of those treaties is another and separate issue. Compliance of the State with those treaties should be seen today but as much as in future in the context of the EU integration processes. The reason for this is the fact that European Community is the Party of a number of them, making them a part of the Community *Acquis*.

It is evident that the list is not exhaustive. It could be broadened. However, it is not possible to make an exhaustive and comprehensive review of binding international instruments in the framework of this Assessment. What is more important is clear pointing out the problem of transposition of all those instruments into the national law systems and their enforcement. Implementation of listed global and regional instruments is of the same legal

nature for all three countries of the Prespa Lakes Basin. They are equal Parties to those conventions, and share responsibility with other contracting parties for achievement of the goals established by those instruments.

It should be noted that the three littoral States of the Prespa Lakes are not the parties to all the listed international treaties. The most interesting thing is the case of the UN Convention on the Law on Non-Navigational Uses of International Watercourses (New York, 1997) that was signed by the all three States and yet not ratified. Further, FYR of Macedonia is not the Party of the Convention on the protection and Use of Transboundary Watercourses and International Lakes (Helsinki, 1992), Albania and FYR of Macedonia still did not ratify the Protocol on Strategic Environmental Assessment (Kiev, 2003), and Greece did not ratify PRTR Protocol (Kiev, 2003). Lack of ratification of those international treaties the EC is the Party of is a signal that there is not yet political will of the States to be bound by those international treaties. In spite of that fact, all three littoral States (the Greece being an EU Member State, and other two being the SEE States participating in the process of stabilisation and association with the EU) are in position to implement those international treaties whether through their duties as Parties of them or through duty to transpose, implement and enforce Community *acquires* part of which are in compliance with those international treaties.

**List of International Law Agreements Relevant for the Prespa Lakes Basin
Status of Signatories and Ratification¹⁷**

Title	Albania		Greece		FYR of Macedonia	
	Signed	Ratified	Signed	Ratified	Signed	Ratified
GLOBAL INSTRUMENTS						
UN Convention on Wetlands of International Importance, especially as Waterfowl Habitat (Ramsar, 1971)		X 1994		X 1975		X 1991
UN Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) (Washington, D.C., 1973)		X 2003		X 1992		X 1999
UN Convention on Migratory Species and Wild Animals (Bonn, 1979)		X 2000		X		X 1999
UN Convention on Biological Diversity (Rio de Janeiro, 1992)		X 1994		X 1994		X 1994
Cartagena Protocol on Biosafety to the Convention on Biological Diversity (Montreal, 2000)		X 2005		X 2004		X 2006
UN Convention on the Law on Non-Navigational Uses of International Watercourses	X 1997		X 1997		X 1997	

¹⁷ The data shown in this Table were collected from: UNDP, ENVIRONMENTAL POLICY IN SOUTH-EASTERN EUROPE, and the web sites of listed legal instruments

(New York, 1997)						
UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage (Paris, 1972)		X 1989		X 1981		X 1974
COUNCIL OF EUROPE (CoE)						
Convention on the Conservation of European Wildlife and Natural Habitats (Bern, 1979)		X 1998		X 1983		X 1999
UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE (UNECE)						
Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 1991)		X 1991		X 1998		X 1999
Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Helsinki, 1992)		X 1994		X 1996		
Convention on Access to Information, Public Participation in Decision-making Process and Access to Justice in Environmental Matters (Aarhus, 1998)		X 2001		X 2006		X 1999
Protocol on Strategic Environmental Assessment (Kiev, 2003)		X 2005	X 2003		X 2003	
Protocol on Pollutant Release and Transfer Registers (Kiev, 2003)			X 2003		X 2003	

3. Community *Acquis*

In regards of Community *acquis*, the situation is significantly different. Specific legal instruments (Directives, Regulations and Decisions) adopted in EU are making the part of the Community *acquis*. A non-exhaustive list of the most important EC legal instruments relevant to the subject matter of this Report is attached bellow.

It is important to note that the Prespa Park Process, that has began in 2000 as rooted in certain global legal frameworks (Ramsar Convention and MedWet Initiative) was parallel to the processes of stabilization and association (SAA) in Albania and FYR of Macedonia. With development of the SAA, the Prespa Lakes Basin has become subject to the specific legal regimes developed in EU, much broader and stronger (than policy commitment contained in the Prespa lakes declaration) and relying on the consent of the States to be bound by them (largely through adopting SAAs with EC).

Greece as an EU Member State participates with other Member States in development of Community *acquis* and shares Community *acquis* as a part of its national law system (the EU Directives being transposed into the national legislative instruments) with other EU Member States. That means that Greece

has duty of enforcement of legislation containing transposed requirements of EU, and duty of reporting on enforcement to the European Commission. Naturally, this is not an abstract duty, but obligation comprising all the instruments listed below. As an indication on the level and pace of Greece compliance (or commitment to comply in accepted time frame) with the Community *acquis* can serve the following case. The Commission of the European Communities, as a powerful watchdog of the constitutive EU treaties, submitted in 2007 its first report on the first stage in the implementation of the Water Framework Directive 2000/60/EC. Analysis of transposition of the Community *acquis* into the national legal system of Greece (EU 15 country) has revealed that the transposition had been only partially completed, and a "non-conformity" case was opened in 2005 and application to the Court has been submitted.¹⁸ Greece adopted a Presidential Decree¹⁹ aimed at the fulfilment of duty of transposition, but the assessment still has to be done.²⁰ Today, in the time of finalization of this Report there is a competent authority in place in Greece, the river basin districts are designated and Greek part of the Prespa Lakes Basin is a part of the Water District Western Macedonia.

In case of Albania and FYR of Macedonia, the situation is different. The both countries are on their ways of accession to EU. Among other things the accession process comprises transposition of entire Community *acquis* into their national law systems. In this case, all the EU Directives relevant to water river/lake basin and ecosystem management are expected to be transposed into national legal systems, the new legislation implemented and enforced. Therefore the structural changes of their law systems are in place. The old legislation inherited from former socialist times and adopted during times of evolving democracy must be harmonized with the EU requirements and new legislation adopted, in a planned (and time-consuming) process.

Among other things, the both States adopted new laws relating to waters aimed at transposition of the EU *acquis*.²¹ Assessment of the level and quality of transposition of the EU requirements in these (and other relevant laws) is subject to a specific activity of the authorities of both States and EC. It is not possible in this Report to give any such kind of assessment. What can be pointed out is the duty of the EC periodically to assess progress in association process of both countries and initiate specific activities aimed at transposition of the *acquis*, and its implementation and enforcement in the frameworks of national legal systems.

¹⁸ C-426/06..

¹⁹ On 8 March 2007.

²⁰ Commission STAFF WORKING DOCUMENT accompanying document to the COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL "Towards Sustainable Water management in the European Union", Brussels, 22.03.2007, SEC(2007) 362, p. 10.

²¹ For example, Albania adopted the LAW No. 9 103, date 10.7.2863 ON THE PROTECTION OF TWMSBOUNDARY LAKES, and FYR of Macedonia Water Law, ("Official Gazette of the Republic of Macedonia" No. 4/2008).

These integrations processes were addressed by the recent Environmental Ministerial Conference Environment for Europe²² Namely, the success of regional environmental cooperation was seen as based on being deepened and extended to include *inter alia*:

- Regional cooperation in the framework of Stabilization and Association Process;
- Implementation of UN ECE multilateral treaties;
- Biodiversity conservation and ecological network;
- Protection and sustainable development of mountain areas;
- Watershed management such as Sava River Basin Commission;
- Environmental management and investments at the local level;
- Cooperation with other sectors such as agriculture and tourism;
- Stronger and more dynamic coordination of donor assistance;
- Transfer of experiences between the countries in the region and from the neighbouring EU Member States.²³

In such circumstances the new trilateral legal and the Prespa Lakes Basin institutional set-up for the Prespa Lakes Basin should be developed. All those details relating to compliance of the three States with their internationally accepted duties, as well as details (including time-frame) in regards of transposition of EU requirements and implementation (enforcement) of new legislation, are important for adequate and proper designation of scope of competence of future Prespa Lakes Basin institution and as much as possible exact definition of its role in transboundary cooperation in regards of integrated ecosystem management of the Prespa Lakes Basin.

Added should be that a detailed review of national authorities competent for implementation of relevant international treaties and transposition of the Community acquis, with their specific responsibilities in regards thereof, and mutual official relations, should be clearly known to official drafters of the text of trilateral Prespa Management Agreement.²⁴ Representatives of those authorities should be invited to participate in development of relevant parts of the Agreement.

²² Held in Belgrade, September 2007.

²³ UNDP, ENVIRONMENTAL POLICY IN SOUTH-EASTERN EUROPE, Podgorica, 2007

²⁴ It is the reason that a Rapid Comparative Legal Assessment of Cross Cutting Issues was proposed to be undertaken at the very beginning of the process of trilateral consultations. –See *infra*, p. 77. Such approach was the basis for preparation a UNDP study entitled DESCRIPTION AND ASSESSMENT OF THE MACEDONIAN LEGAL, REGULATORY, AND INSTITUTIONAL FRAMEWORK, by Andreja Stojkovski in 2004. The structure of investigation and findings is exactly to what seems now being necessary at disposal of participants of the tripartite consultation process, if, of course such idea is accepted. The findings relating to FYR of Macedonia seem now outdated and the findings should be reviewed and up-dated. Additionally the similar structure study should be prepared for both Albania and Greece, and a joint comparative report should be prepared. Such study, covering comparatively legal issues of all three countries, would fill the existing gap of legal analysis, notable in many instances.

THE LIST OF RELEVANT COMMUNITY ACQUIS INSTRUMENTS
Directive 79/409/EEC of 2 April 1979 on the Conservation of Wild Birds
Council Directive 80/68/EEC of 17 December on the protection of groundwater against pollution caused by certain dangerous substances
Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture
Council Directive of 21 May 1991 concerning urban waste water treatment (91/271/EEC) amended by the Directive 98/15/EC - (UWWT Directive)
Council Directive of 15 July 1991 concerning the placing of plant protection products on the market (91/414/EEC)
Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources (Nitrate Directive)
Directive 92/43/EEC of 21 May 1992 on the Conservation of Natural Habitat and of Wild Fauna and Flora
Council Directive 96/61/EC of 24 September 1996 Concerning Integrated Pollution Prevention and Control
Council Directive 96/82/EC of 9 December 1996 on the major-accidents involving dangerous substances (Seveso Directive)
Council Regulation (EC) 3897 of 9 December 1996 on the Protection of Species of Wild Fauna and Flora by Regulating Trade Therein
Council Directive 97/11/EC of 3 March 1997 Amending Directive 85/337/EEC on the Assessment of the Effects of Certain Public and private Projects on the Environment
Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market
Directive 2000/60/EC of the Parliament and of the Council of 23 October 2000 establishing a Framework for the Community Action in the Field of Water Policy
Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the Assessment of the Effects of certain Plans and Programs on the Environment
Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 Providing for Public participation in respect of the Drawing up of certain Plans and Programs and Amending with regard to Public Participation and Access to Justice in Environmental Matters
Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on Public Access to Environmental Information and Repealing Council Directive 90/313/EEC
Commission Decision of 17 August 2005 on the establishment of a register of sites to form the intercalibration network in accordance with Directive 2000/60/EC of the European Parliament and of the Council (C(2005) 3140) (2005/646/EC)
Directive 2006/7/EC of the European Parliament and of the Council of 15 February 2006 concerning the management of bathing water quality and repealing Directive 76/160/EEC (Bathing Water Directive)
Directive 2006/11/EC of the European Parliament and of the Council of 15 February 2006 on pollution caused by certain dangerous substances discharged into aquatic environment of the Community (repeals Directive 76/464/EEC and partially 91/692/EEC i 2000/60/EC)
Directive 2006/44/EC of the European Parliament and of the Council of 6 September 2006 on the quality of fresh waters needing protection or improvement in order to support fish life
Directive 2006/118/EC of the European Parliament and the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration
Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information System in the European Community (INSPIRE)

4. Mediterranean Wetland Initiative (MedWet)

Mediterranean Wetland Initiative was founded in 1991 to encourage international collaboration among Mediterranean countries, specialized centres and international NGOs in protecting wetlands. It is governed by the Conference

of the Contracting Parties of the Ramsar Convention, which meets once a three years to review the work carried out by and approve a programme of work and budget for the next triennium. The MedWet Committee is composed of 25 Mediterranean countries, Palestinian Authority, The European Commission, intergovernmental organisations and international conventions and non-governmental organizations and five wetland centres. The Committee meets once a one and a half year to review progress in the work undertaken and advise the Ramsar Convention bodies on issues related to the Mediterranean wetlands and the work of MedWet.

The MedWet is a forum where its members meet as equals to discuss, identify key issues and take positive action to protect wetlands, for man and biodiversity. It is a source of information and knowledge. MedWet helps Mediterranean countries to evaluate economic, social and biodiversity values of wetlands, provide technical tools and ensure good management of wetlands. In 2002 MedWet became formally recognized initiative under the Ramsar Convention. On the 8th Meeting of the Conference of the Contracting Parties to the Ramsar Convention²⁵ the “Guidance to the Development of Regional Initiatives in the Framework of the Ramsar Convention” was adopted. The overall aim of the regional initiatives has been defined in this Guidelines as promotion of the Ramsar Convention in general and implementation of the Ramsar Strategic Plan in particular, through regional and sub-regional co-operation on wetland-related issues of common concern.

Further, regional and sub-regional initiatives were envisaged as being based on a bottom-up approach, entailing from the beginning not only participation of administrative authorities, but also other relevant stakeholders. Such initiative was also seen as basing its operations upon strong scientific and technical backing and on the network of collaboration established upon clearly defined terms of reference and seeking collaboration with other intergovernmental or international partners. In this document, a regional initiative was directed to require both political and financial support from the Contracting Parties of the Ramsar Convention, and other partners in the region. Financial support from the Ramsar Convention’s core budget was envisaged to last in principle not more than three years, and after that period, financial support should be phased out, with expectation that such regional initiative is able to generate its own resources and become financially self-sufficient.²⁶

Analyses of legal implications of above concisely cited rules contained in the Ramsar Guidelines would fall far beyond the scope of this TAR, and moreover there is no specific need for that. However, noted must be that the legal side of proposed regional and sub-regional initiatives (*i.e.* legal and institutional aspects of such co-operation) remained in the Guidelines completely out of perception. Between political commitments, which are naturally unavoidable in interstate co-operation, and sustainable funding of a transboundary institutional arrangements and activities, without which there would be no co-operation at

²⁵ Held in Valencia, Spain, 18—26 November 2002.

²⁶ Ramsar Contracting Parties 8th Meeting (COP8), Resolution VIII, Annex I, p. 3.

all, a reliable legal framework should be adopted, without which the gap between certain political will and desired sustainable results cannot be bridged over. The case of Prespa Lakes Initiative clearly proves this.

5. Other Relevant International Initiatives

Besides the MedWet Initiative, other European initiatives aimed ultimately at halting biodiversity loss should be mentioned here, as relevant to the Prespa Lakes Basin. All three Prespa Lakes Basin States have been participating in those initiatives and on-going activities, expressing their commitment to achieve goals jointly designated with other participating countries.

The Pan-European Ecological Network (PEEN) is “a non-binding conceptual framework which aims to enhance ecological connectivity across Europe, by promoting synergies between nature policies, land-use planning and rural and urban development at all scales”.²⁷ Following was the Resolution on Biodiversity adopted at Kiev by the environment ministers in 2003, which committed them to identifying the core areas, corridors and buffer zones of the PEEN, by 2006 and put such areas and zones under favourable management conditions by 2008. The core areas have been formally designated as protected areas (e.g. Ramsar sites, World Heritage sites, Biosphere reserves, Natura 2000 sites, etc). A Guideline was developed for designation and development of the Pan-European Network^{28, 29}.

The Natura 2000 is a network consisting of Special Protection Areas under the Birds Directive and Special Conservation Areas under the Habitat Directive. An European Commission Communication calls for Member States of the EU to “reinforce the coherence and connectivity of the Natura 2000 network. It also highlights the need to restore biodiversity and ecosystem services in non-stop protected rural areas of the EU. Compliance with those objectives is the key to the implementation of the PEEN within the EU”.³⁰

The CoE Emerald network initiative (1999) has been seen as a very successful for the EU-12 countries in preparing their contribution to the Natura 2000 network before accession. The initiative has been developed under the Bern Convention, aimed to extend a common approach to the designation and management of protected areas, equivalent to Natura 2000, to non-EU countries in Europe and countries in Northern Africa.³¹

²⁷ CoE: 3rd International symposium of the Pan-European Ecological Network – Fragmentation of Habitats and Ecological Corridors – Proceedings; Riga, October 2002; Environmental Encounters No. 54, Council of Europe, Strasbourg, 2000.

²⁸ General Guidelines for the Development of the Pan-European Ecological Network; Nature and Environment Series, No. 107, Council of Europe, Strasbourg, 2000.

²⁹ EEA: EUROPE'S ENVIRONMENT—THE FOURTH ASSESSMENT, Copenhagen, 2007, pp. 186—187.

³⁰ *Op. cit.* pp.190—192.

³¹ *Op. cit.* pp.190—192.

IV. TRILATERAL CONTEXT

1. Prespa Park Declaration

1.1 Event

The celebration of the World Wetland Day, 2 February 2000, on the occasion of 29th anniversary of the signing of the Ramsar Convention, was the event when the Prime Ministers of the three States Contracting Parties to the Convention, *i.e.* of Albania, Greece and FYR of Macedonia, had met in Aghios Germanos, Greece, to sign the Declaration on creation of the Prespa Park³². The Prespa, an area which was said as being “beyond its pure environmental importance [...] a meeting point between three countries and a crossroads of cultural exchanges”³³, was for a moment in world focus, the place where indication of “necessity to create a ‘planetary patriotism’” was expressed, with full awareness that survival of natural environment should be a subject of elaboration of the highest national authorities³⁴.

The event, which was considered a part of “the all-round process of reconstruction of South-Eastern Europe [...]” offering “the right opportunity to integrate our environmental concerns in such sectors as economic development and infrastructure”³⁵, marked the beginning of a trilateral process requiring “political commitment, significant investment and a lot of work in research, innovative development projects and training.”³⁶ With signing the Declaration, the PMs committed themselves to “join forces across the borders of their sovereign nations to establish a protected area that should provide great benefits for the local people and at the same time should contribute to conserving biodiversity of the planet”.³⁷

1.2 Content

The Declaration consists of six Paragraphs, expressing agreement, recognition, awareness, decision to declare and commitment for enhancing cooperation, of the Prime Ministers of the three Prespa Lakes littoral States.

The PMs agreed that the Prespa Lakes and their surrounding catchments have significant international importance due to uniqueness of their:

- Geomorphology;
- Ecological wealth; and
- Biodiversity.

³² Declaration on the Creation of the Prespa Park and the Environmental Protection and Sustainable Development of the Prespa Lakes and their Surroundings.

³³ Address at World Wetland Day ceremonies by H.E. Mr Costas Simitis, PM of Greece. See web site: http://www.ramsar.org/wwd/0/wwd2000_rpt_prespa2.htm. Site last visited 04.12.2006.

³⁴ Address at World Wetland Day ceremonies by H.E. Mr Ljupco Georgievski, PM of FYR of Macedonia. *Id.*

³⁵ Address at World Wetland Day ceremonies by H.E. Mr Ilir Meta, PM of Albania. *Id.*

³⁶ Mr Delmar Blasco, Secretary General of the Ramsar Convention.

³⁷ *Id.*

Besides, the Prespa Lakes and their surroundings:

- Provide habitat for various and rare species of flora and fauna;
- Offer refuge for the migratory bird populations;
- Constitute a much needed nesting place for many species of birds threatened with extinction.³⁸

The Declaration recognized that conservation and protection of the ecosystem of such importance, not only renders a service to Nature, but also:

- Creates opportunities for the economic development of adjacent areas in littoral countries;
- Proves compatibility of traditional activities and knowledge with conservation of nature.³⁹

The Declaration expressed awareness of large dependences of conservation of Nature and sustainable development on respecting of governments and people of international legal instruments aimed at protection of natural environment. In that regard, international collaboration has been seen as complementing national efforts.⁴⁰

The Declaration recognized the value and importance of work of NGOs, apparently pointing out the work of the Greek Society for the Protection of Prespa as an outstanding example of a pioneer approach to wetland management, which was honoured in 1999 with the Ramsar Convention Award. In the same context the benefit of public awareness for achieving the goals of the nature protection and sustainable development was underlined.⁴¹

Having in mind the contents of the first four Paragraphs, PMs decided to declare, in the context of the WWF Living Planet Campaign, the “Prespa Park” as the first transboundary area in South-eastern Europe, which shall consist of respective areas around the Prespa Lakes in the three countries declared a Ramsar Protected Site.⁴²

In the final part of Declaration, the commitment to enhanced co-operation with regard to environmental matters between competent authorities of the three countries was declared. This commitment was expressed with the words “joint actions would be considered [...]”. The content of envisaged considerations has been designed as to:

³⁸ Prespa Park Declaration, first Paragraph.

³⁹ *Op. cit*, Second Paragraph.

⁴⁰ *Op. cit*, Third Paragraph.

⁴¹ *Op. cit*, Fourth Paragraph.

⁴² *Op. cit*, Fifth Paragraph

- “Maintain and protect unique ecological values of the “Prespa Park”;
- Prevent and/or reverse the causes of its habitat degradation;
- Explore appropriate management methods for the sustainable use of the Prespa Lakes water; and
- Spare no efforts so that the “Prespa Pak” become and remain a model of its kind as well as an additional reference to the peaceful collaboration among our countries”.⁴³

1.3 Notes on Legal Nature

From the formal legal standpoint, the Declaration is a trilateral document:

- Signed by the PMs (neither on behalf of the three States nor on behalf of the Governments of the three States)⁴⁴;
- Not ratified in any form by respective national authorities;
- Having no legislative status neither in international law nor in the three States.

In that sense, the Declaration is a (more political than) policy document, agreed on a very high authoritative level. That fact might explain the remarkable positive impact on development and results of trilateral co-operation in the following years.

From the material legal standpoint, several details deserve more analytical attention here. One such detail is commitment of the PMs that, in the text of Declaration, comprises only “consideration” of joint actions. No commitment to take over obligations, or undertaking of certain actions/activities was agreed on. The same is true for adoption of national legislation⁴⁵, which would transpose this political document into the legal obligation of the States, or for regular funding from the State budgets of enhanced activities of transboundary co-operation.

The “Prespa Park” is only a symbolic “transboundary park”⁴⁶. There is no such legal concept as “Transboundary Park” in international law or in national law systems of the three littoral States. An attempt to give some legal content to the notion of “Prespa Park” was made in Declaration through determination that area would comprise “Ramsar Protected Sites”. Connected to this, two further notes should be made. First, such determination of geographical scope of the “Prespa Park” seems insufficient to cover all existing protected areas in the three Prespa littoral States⁴⁷. Second, such determination is far too narrow in

⁴³ *Op. cit.*, Sixth Paragraph.

⁴⁴ *Cf.*, for example, the title of the Ohrid Lake treaty, *i.e.*: AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF MACEDONIA AND THE COUNCIL OF MINISTERS OF THE REPUBLIC OF ALBANIA FOR THE PROTECTION AND SUSTAINABLE DEVELOPMENT OF LAKE OHRID AND ITS WATERSHED (Skopje, 17.06.2004).

⁴⁵ For an example of particularly strong national commitment (not directly relating to the Prespa process only) *see infra* pp. 75—76.

⁴⁶ UNDP-GEF Project Document “Integrated Ecosystem management in the Prespa Lakes Basin of Albania, FYR of Macedonia and Greece”. –See Brief Description.

⁴⁷ *See supra*, pp. 11—12.

comparison with the Prespa Lakes Basin, which obviously is a natural entirety having such precious features worth to be preserved and protected, as described in the Declaration⁴⁸. The Prespa Lakes Basin approach to management of this transboundary area was missing from the perception here⁴⁹, and that fact should be taken care of and the approach should be corrected in development of future Prespa Lakes institutional set-up.

No specific institutional arrangement for implementation of the Declaration in any form was envisaged. Only commitment to enhanced co-operation between respective competent (environmental) authorities was declared. Legally speaking, that means that the Declaration could not serve as the legal ground for establishing of a co-ordinative body for its implementation.

Finally, worth noting is that no indication of commitment to any systemic form of support to transboundary co-operation between various groups of stakeholders in the Prespa Lakes Basin can be found in Declaration.

All those details contribute to understanding why a document of such legal profile/nature as the Declaration could not have direct legal consequences. This can explain the later formal involvement in the Prespa process of the three Governments at the far lower level than expected on the basis of the very clear political commitment and support to transboundary co-operation of the PMs.

Finally, from the legal standpoint, the Declaration was not drafted, signed and ratified in accordance with the rules of international law applicable to the treaties between States (*i.e.* instruments of international law intended to be bounding on the states, on the basis of States' consent to be bound by them) as it is set in the Vienna Convention on the Law of Treaties (1969).⁵⁰ The procedure in which the Declaration on the Protection and Sustainable Development of the Prespa Lakes and their Surroundings has been drafted and lack of consent/commitment of the littoral States to be bound by that instrument, makes the Prespa Park Declaration a purely political, and not a legal document.

These facts in regards of legal nature of the Declaration were noted and commented from time to time in different occasions, but without significant consequences.⁵¹

⁴⁸ See Paragraph 1.

⁴⁹ The expression used in the Declaration "the Prespa Park Lakes and their surroundings" is not precise enough to be considered as relating to the Prespa Lakes Basin.

⁵⁰ The Convention was opened for signing 23.05.1969 and entered into force 27.01.1980. Albania is the Party to the Convention from 2001, Greece from 1974 and FYR of Macedonia from 1999.

⁵¹ See, for example: Report on the Second Regular Meeting of the PPCC, Summary Minutes, pp 2 and 12; Report on the Fifth Regular Meeting of the PPCC, Summary Minutes, p. 9 and Conclusion 4, at p. 23, etc.

2. Local Level Co-operation

2.1 Co-operation between Local Municipalities

Building up on the earlier efforts⁵², in the climate originated from the political will expressed in the Declaration of PMs⁵³, the on-going are efforts on finalization of the Protocol on Collaboration which would be signed in 2007 by the Mayors of the Municipalities of Liqenes (Albania), Prespa (Greece) and Resen (FYR of Macedonia). Wishing to establish cross border co-operation that would improve the living conditions of their citizens and preserve the area of Prespa, the Mayors decided to set common goals of collaboration development of cross border region.

The text of Draft Protocol available designed these common goals as:

- Protection of unique environmental of Prespa;
- Protection from natural disasters (e.g. floods and fires);
- Protection of natural heritage;
- Development of local human resources;
- Direct road connection of the three municipalities for the tourist and economic unity of the Prespa area;
- Requiring from respective Governments to create and make functional of border stations and custom stations in the Prespa region between three countries; as well as
- Requiring creation of a free trade and transaction zone in the Prespa area.

2.2 Other Examples of Trilateral Cooperation

Besides these attempts of formalization of trilateral co-operation in the Prespa Lakes Basin, there are examples of transboundary trilateral communications the aims of which are attempts to coordinate certain activities or implementation of measures. Such are:

- Regular annual meetings of fishermen stakeholders (for setting of fish catching seasons);
- Meetings of veterinary authorities and fire fighting services;
- A meeting of the authorities competent for spatial planning (under the PPCC aegis);

⁵² The mayors of the Municipality of Prespa (Greece), Commune Liqenas (Albania) and Municipality of Resen (FYR of Macedonia) had met on a Working Meeting held in the town of Liqenas 19 July 2003, aimed at establishment of close co-operation between the three municipalities and their joint support to the Prespa Park process and implementation of forthcoming UNDP-GEF project "Integrated Ecosystem Management in the Prespa Lakes Basin". This activity was supported financially by Hellenic Aid (International Development Co-operation Agency of the Greek Ministry of Foreign Affairs) and SPP/WWF Greece. Established connections led to drafting a trilateral Memorandum of Understanding in 2006, which additionally contained joint position of three Mayors on the necessity of opening the new cross border points between three countries.

⁵³ Supportive to trilateral co-operation in the Prespa Lakes region, comprised environmental authorities at all levels, in spite of the open political issues between Greece and FYR of Macedonia, and civil society and business sector (to the certain level) too.

- Contacts between management of protected areas (*i.e.* national parks);
- Cooperation between NGOs etc.

All these sector / stakeholder examples have been supported through the cooperative process opened by PMs' Prespa Lakes Declaration, which in return has been supported by them.

In this context, the broader framework of the Euro Region co-operation (that seems to be at a much lower level of intensity) should be mentioned too.

3. Concluding notes

The PMs' Prespa Park Declaration is a political/policy and not a legally binding instrument. It contains the PMs' agreement on certain commitment expressed in a rather weak form⁵⁴. In spite of the fact that the PMs' Prespa Park Declaration is a policy, and not a legal instrument, it was a necessary recognizable basis for opening the process of trilateral cooperation, with significant positive consequences. That process has by now included national environmental authorities, competent regional authorities and public bodies interested for trilateral cooperation in the Prespa Lakes Basin, all local authorities of the Prespa region, NGOs of national and local importance in the three countries, as well as various groups of stakeholders.

The process of cooperation of all those subjects co-ordinated through the PPCC⁵⁵ as an "interim" transboundary body, enabled development and reaching a kind of consensual support to the Strategic Action Plan (SAP) for Sustainable Development of the Prespa Park⁵⁶. That document, which is of utmost importance for the Prespa region at this level of trilateral co-operation, served as the basic input for definition of the GEF PDG Block B, and ultimately for the beginning of the now on-going Project "Integrated Ecosystem Management of the Prespa Lakes Basin". Without such good co-operation climate and wide commitment to better future of the Prespa region it could hardly be imagined such strong presence and development support of international community.

However, "consensual support" to the SAP means here, in the principle, support of all stakeholder groups involved in its development. Formal adoption of the Governments of the three States has never happened. Legally speaking, no one public authority in the Prespa Lakes Basin States has felt duty to receive the result (SAP) of the project the realization of which was coordinated by the PPCC and which was funded generously by the Greek Government. In other words, no one public authority in the three littoral countries was officially

⁵⁴ Additionally, the Declaration, according to the UNDP-GEF Project Document, was the result of a "very top-down" initiative in adoption of which the local stakeholders around the lakes basin initially participated very little. –See p. 37 of the Full Size Project Document.

⁵⁵ For more details on the role and legal character of the PPCC and its achievements, *see infra*, pp. 40—43.

⁵⁶ Greek Government funded the project the result of which the SAP was the planned output.

designated as beneficiary of the project, and had no obligation to take any move directed towards its adoption/approval and practical implementation in the territories of the littoral States.

V. PRESPA PARK CO-ORDINATION COMMITTEE (PPCC)

1. Description/History

As it was mentioned earlier⁵⁷, on an International Working Meeting held in Tirana⁵⁸, pursuing the commitment to peaceful and friendly co-operation between the three littoral Prespa Lakes States, expressed in the PMs' Declaration on the Prespa Park,⁵⁹ the position was taken that “now the challenge is to give concrete form” to this commitment. As a first step, and as a provisional arrangement, proposal was put the three States to establish a provisional Co-ordination Committee for the Prespa Park. Several conclusions in that regard were adopted, comprising a summary of the decisions and recommendations agreed upon by consensus.⁶⁰

Among others, a decision/recommendation was adopted stating that a co-ordination committee for the Prespa Park should be established, and the three Governments were required to nominate the members of such committee as soon as possible. The structure, mandate, responsibilities and operational guidelines of the Committee have been agreed on as described in the Appendix I to the Conclusions. Also it was concluded that the Committee should be established “with the view to the signing of a formal agreement at ministerial level at a later stage”.⁶¹

Initially, this arrangement was designed for the period 2000—2002. At the end of 2002, it was envisaged the three States to evaluate the work of the Committee and agree on the necessary changes in its structure, form and operation, and on longer-term provisions for tripartite collaboration concerning the Prespa Park. The Committee was requested to start operating as soon its members are appointed. Its official establishment was seen to be carried out through a joint document signed at ministerial level.⁶²

2. Composition

The composition of the ten-member Prespa Park Co-ordination Committee⁶³ was designed so to comprise:

- One representative of the environmental authority⁶⁴ of each of the three littoral States;

⁵⁷ See *supra*, INTRODUCTION.

⁵⁸ October 16—17, 2000. The meeting was held under the aegis of the Ramsar Convention and hosted by the National Environmental Agency of Albania. The invitation for the Meeting was sent by the Secretary General of Ramsar Convention, and Meeting was attended by the representatives of interested national environmental and other public services from the three States, national NGOs and international organizations (*i.e.* REC, UNDP and WWF).

⁵⁹ *Op. cit.*, Appendix I, Paragraph 1.

⁶⁰ See at http://www.ramsar.org/mtg/mtg_prespa_mtg1.htm.

⁶¹ See International Working Meeting held in Tirana 16—17 October 2000, Conclusions, 5.

⁶² *Op. cit.*, Paragraph 2.

⁶³ Henceforth: PPCC.

⁶⁴ In spite of lack of explicit formulation, it is clear that central national environmental authorities are meant here.

- One representative from the local communities in the Prespa region from each of the three States, designated by respective [central;-S.B.] environmental authorities;
- One representative of environmental NGOs from each of the three States, with significant local activities in the Prespa area, designated by respective [central;-S.B.] environmental authorities;
- One international observer from the Bureau of Ramsar Convention.

3. Responsibilities

Additionally to its crucial political, administrative and institutional role, the PPCC was envisaged as having also a significant role in technical issues. Its main responsibility, guiding “the course of future measures and activities so as to realize the objectives of the Prespa Park”⁶⁵, was structured in the following way:

- Preparation of an inventory of all activities and projects in the Prespa region;
- Monitor and co-ordinate development and implementation of the Strategic Action Plan for the Sustainable Development of the Prespa Park⁶⁶;
- Monitor and co-ordinate implementation of specific actions/projects, based on the SAP;
- Identify and propose to the relevant governments and other interested parties next steps and necessary actions according to the SAP, including institutional and legislative measures to reinforce the collaboration of the three Prespa region States;
- Evaluate the results of on-going actions according to the objectives of the SAP, and disseminate result widely;
- Inform the governmental authorities on achievements of the Prespa Park objectives, with the aim of obtaining political consensus and support at the national level for the implementation of the necessary actions, as well as of identifying and proposing possible funding sources;
- Ensure that information concerning development plans and other planned actions, policies and programs with a possible effect on the Prespa Park is available promptly to all three States;
- Contribute to the mobilization of resources of all three States and international community, to mitigate negative effects in case of unexpected events, such as floods, forest fires and other natural and anthropogenic catastrophes.⁶⁷

At its First Regular Meeting, the PPCC adopted a document entitled Operating Arrangement⁶⁸, which contains a number of rules relevant for work of the PPCC, *inter alia* the following ones:

⁶⁵ As set in the last Paragraph of the Prespa Declaration. – International Working Meeting held in Tirana, Conclusions Appendix I, Paragraphs 6 and 7.

⁶⁶ Henceforth: SAP.

⁶⁷ International Working Meeting held in Tirana Conclusions, Appendix I, Paragraph 8.

⁶⁸ This document [Henceforth: PPCCOA], which was in its nature the first PPCC Terms of Reference, has been adopted in the form of ANNEX II to the PPCC Conclusions, attached to the PPCC Report of the First Regular Meeting, held in Skopje, 30—31 January 2001.

- Right of the PPCC to modify Operative Arrangements if and when necessary;⁶⁹
- In absence of State [*i.e.* Ministry responsible for environmental issues;-S.B.] representative, the meeting shall be chaired by his alternative, or by one of the other members of the countries delegation;⁷⁰
- All PPCC members [no matter whose representatives they are;-S.B.], although being appointed officially by the responsible governmental authority, shall be considered equal and have the right to express their views and to vote independently. The official MedWet observer [considered an *ex officio* member] does not have right to vote;⁷¹
- Each PPCC member have right to designate an alternate person, authorized to replace him/her in case of inability to attend with full membership rights.⁷²

4. Operational Aspects Rules

The rules have been set in regards of the PPCC meetings, as follows:

- The PPCC shall meet on the regular basis, twice a year;
- Intermediate meetings at a short notice may also be held if need requires so;
- The place of regular meetings rotate among three countries, in alphabetical order, starting with Albania;
- Preferably, the meetings should be held in the Prespa region;
- The meeting shall be chaired by the State in which the meeting is held;
- The chair continues discharging his duties until the next meeting;
- The PPCC works in English, but may decide on translation of the key documents into the three national languages.⁷³

PPCCOA contains in its Part A additional details on PPCC operational aspects, *inter alia* the following ones:

- The regular meetings shall be held in Spring and in the Autumn;⁷⁴
- Extraordinary PPCC meetings can be held either at the request of the Chairperson or at least at request of four members of the PPCC, to deal with urgent and unexpected developments;⁷⁵
- Agenda and working documents for each PPCC meeting shall be prepared by the Secretariat and agreed by the Chairperson;⁷⁶
- A Quorum for the PPCC meetings quorum was determined as presence of at least 7 of 9 regular members. But, in of absence the two PPCC members from the same country, there would be no quorum;⁷⁷

⁶⁹ PPCCOA Introductory Paragraph 3.

⁷⁰ *Op. cit.*, Paragraph 1.

⁷¹ *Op. cit.*, Paragraph 2.

⁷² *Op. cit.*, Paragraph 3.

⁷³ International Working Meeting held in Tirana Conclusions, Appendix I, Paragraphs 12—15.

⁷⁴ PPCCOA, Paragraph 5.

⁷⁵ *Op. cit.*, Paragraph 6.

⁷⁶ *Op. cit.*, Paragraph 9.

⁷⁷ *Op. cit.*, Paragraph 10.

- The PPCC quorum for decision taking was determined as 2/3 majority of the votes, if there is no possibility to take a decision unanimously;⁷⁸

5. Secretariat

The Appendix I to the Tirana International Working Meeting Conclusions provided for a small PPCC Secretariat, consisting of technical persons from all three States, whose aim was “operation“ of the PPCC. The Greek Society for the Protection of Prespa was assigned to provide logistic support of the PPCC Secretariat.⁷⁹

The PPCCOA contains in its Part B several additional rules in regards of the PPCC Secretariat, *inter alia* the following ones:

- The PPCC shall have right to decide on the number and composition of the Secretariat staff, that should comprise at least one from each country;⁸⁰
- At this stage, the Secretariat shall consists of three persons, belonging to the NGOs having members in the PPCC;⁸¹
- Requested qualifications of the Secretariat are designed in the following way:
 - Educational and professional background appropriate to their tasks;
 - Fluency in English;
 - Reasonable computer skills;
 - Ability to spend at least 50% of his/her working time to work for the Secretariat;⁸²
- The seat of the Secretariat was determined to be at the premises of the Greece SPP at Aghios Germanos;⁸³
- The Secretariat shall be responsible for preparation of annual and issue-related work plans of the PPCC, which have to be approved by the PPCC;⁸⁴
- Besides preparation of the PPCC plans, the Secretariat shall be working on all day—to—day issues related to the Prespa Park, as they arise, as well as in realization of specific tasks defined in its ToR adopted by the PPCC;⁸⁵
- The PPCC shall guide the work of the Secretariat through its decisions, and the PPCC Chairperson shall supervise the PPCC;⁸⁶
- The duty of the Secretariat is to submit to the PPCC a brief report on its activities since the previous meeting.⁸⁷

⁷⁸ *Op. cit.*, Paragraph 11.

⁷⁹ Paragraph 16.

⁸⁰ Paragraph 17.

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

⁸⁴ Paragraph 18.

⁸⁵ Paragraph 19.

⁸⁶ Paragraph 20.

⁸⁷ *Id.*

At its Second Regular Meeting⁸⁸, the PPCC adopted the Terms of Reference and Operational Arrangements⁸⁹ of the PPCC Secretariat⁹⁰, additionally to the

earlier rules adopted at Tirana and Skopje meetings. Defined now as a “technical organ established to serve the [PP;-S.B.] CC”⁹¹, Secretariat has also been declared here “a subsidiary organ” of the PPCC, whose “primary task is to initiate, support, and facilitate the joint activities in the framework of the trilateral Prespa Park process”.⁹² Also, the Secretariat has been conferred now with responsibility for ensuring “the implementation of approved work plans and for the preparation of relevant progress reports and assessments to be submitted to the [PP;-S.B.] CC for assessment and approval”.⁹³ A number of new specific tasks were designated to the Secretariat, *inter alia* the following ones:

- Preparation or provision of assistance with regard to trilateral political and technical meetings and scientific symposia, held in the framework of the Prespa Park;⁹⁴
- Preparation and provision of assistance with regard to consultations on policy and other relevant matters between stakeholders and with regard to consultations at the policy-preparing and technical level of the framework of working groups, expert groups, and especially promotion of the dialogue on the problems and perspectives of the region at the local level (national and trilateral);⁹⁵
- Collection, dissemination and assessment of information, including on follow-up of joint projects and compilation, evaluation and promotion of scientific research;⁹⁶
- Contacting and holding meetings with donors and preparation of project documents.⁹⁷

In the PPCCToR&OA Part B Operational Arrangements, additional rules in regards of the Secretariat were adopted, *inter alia* as follow:

- Possibility for increase the Secretariat staff was introduced;⁹⁸
- Operation of the Secretariat was defined in the following way:
 - Secretariat operates as a collective organ;
 - Any decisions, positions and proposals, taken in its mandate shall be adopted by consensus;

⁸⁸ Held in Psarades, 19—20 November 2001.

⁸⁹ Henceforth: PPCCToR&OA

⁹⁰ See Conclusion 9 and Annex IV of the PPCC Report of the Second Regular Meeting of the PPCC.

⁹¹ PPCC ToR&OA, Introductory Paragraph 1.

⁹² *Op. cit.*, A. Terms of Reference, Paragraph 1.

⁹³ *Op. cit.*, Paragraph 1.

⁹⁴ *Op. cit.*, Sub-paragraph 4.1

⁹⁵ *Op. cit.*, Sub-paragraph 4.2

⁹⁶ *Op. cit.*, Sub-paragraphs 4.3—4.5.

⁹⁷ *Op. cit.*, Sub-paragraph 4.6.

⁹⁸ Paragraph 2.

- As a general rule, the workload and responsibilities shall be equally shared among members;
- Sharing information between the Secretariat members was set as an obligation to be ensured by internal arrangements;
- Each of the Secretariat members shall have duty to carry out in his/her country the tasks set in the Paragraph 4 of the Secretariat ToR,⁹⁹

Additionally, an *ad hoc* ToR for the PPCC Secretariat was specifically developed and adopted in the framework of the UNDP-GEF PDF Block B.¹⁰⁰

6. Work and the Most Remarkable Results

There is no need for detailed elaboration and analysis of seven-year work of the PPCC and its results. It will be enough to say that the PPCC, operating in line with (or, it might be said, in limitations of) the PMs' Prespa Park Declaration commitments, made the Prespa trilateral co-operation process clearly visible as a particularly positive example of transboundary cooperation developing in the SEE. The Prespa process is visible today not only at the national stages of three States (which initiated the process in a top-down manner) but also at regional and, what is particularly important, at the local stages. Moreover, the work of the PPCC served as a catalyzing impulse for more productive activity of civil society, scientific and business communities in all three countries and the Prespa region itself.

However, three truly remarkable results of the PPCC achieved in the long-term course of playing its (initially designed as a shot-term and "provisional") role, must not be overlooked, and should be appreciated. Those are:

- Development of the Strategic Action Plan for the Sustainable Development of the Prespa Park (SAP);¹⁰¹
- Participation as a Steering Committee in implementation of the UNDP-GEF PDF B phase and contribution by providing comments and recommendations to the development of the Full Size GEF Project;
- Drafting the text of Tripartite Agreement on the Protection and Sustainable Development of the Prespa Park Area.

⁹⁹ *Id.*

¹⁰⁰ See the Report of the Second Extraordinary Meeting of the PPCC, Annex II. In this framework, the PPCC Secretariat has its clearly defined role in development of expected main outputs of the project, *i.e.* UNDP-GEF Project Brief and full Project Document "Integrated Ecosystem Management in the Prespa lakes basin of Albania, FYR of Macedonia and Greece".

¹⁰¹ The SAP, was prepared from January 2001 till May 2002 under the responsibility of the Greek Society for The Protection of Prespa (SPP), with collaboration of World Wildlife Fund (WWF) Greece, Protection and Preservation of Natural Environment in Albania (P.P.N.E.A) and Macedonian Alliance for Prespa (MAP). The project was funded by the Greek Ministry of Environment, Physical Planning and Public Works. It was the first joint project of the three neighbouring countries and the SAP was a product of close co-operation of the NGOs actively participating in the Prespa Park process and several independent experts. –See STRATEGIS ACTION PLAN [...], Executive Summary, p. 1. The SAP consists of the four Chapters (A—D), containing presentation of aims and goals of SAP and description of the Prespa Lakes catchment area, analysis of the area, complete appraisal and evaluation of the area and a synthesis of all records, and finally proposals for specific programs and management measures for reinforcement of the transboundary co-operation and for each of the three countries.

Notwithstanding the legal deficiencies in the PPCC status, and status of its decisions, that will be discussed below, it is clear that various aspects of analytical work done by now and the documents completed as the results of such work make a reliable professional, multidisciplinary and multistakeholder basis that should be up-graded in the next development phase, in the forthcoming years. The role of the PPCC in providing that basis can be described as a pillar and crucial one.

All efforts to support the high level commitment for establishment of the transboundary Prespa Park, provided generously by the prominent members of international community (at both global and European level), national governments, regional and local authorities of the Prespa Lakes littoral States, civil society, scientific and business communities—all those efforts passed through the analytical prism of the PPCC, making it being a coordinative focus, or may be more accurate to say, serving as an interface between international community and national, regional and local authorities, science, business community and civil society.

It does not seem wrong to acknowledge that without such a role of the PPCC, the results achieved in trilateral cooperation in the Prespa region would not be remarkable as they are, and prosperous for further achievement of sustainable trilateral cooperation patterns. Significance of the PPCC itself (as a transboundary coordinative body) and its “decisions” (being in the form of recommendations only) has been widely recognized by the members of international community.¹⁰²

Several details on the PPC work should be added here.

After the International Working Meeting in Tirana, 16—17 October 2000, the PPCC was established and by now it has held 11 regular and two extraordinary meetings. Basic details are contained in the table below. Details are easily available at the PPCC web site.¹⁰³

List of the PPCC Meetings

No	Kind	Place	Time
I	Regular	Skopje	30—31. 01.2001
I	Extraordinary	Thessalonica	29.06.2001
II	Regular	Psarades	19—20.11.2001
II	Extraordinary	Aghios Germanos	29.03.2002
III	Regular	Korcha	17—18.05.2002
IV	Regular	Oteshevo	07—08.02.2003
V	Regular	Lemos	13—15.10.2003
VI	Regular	Korcha	31.05—01.06.2004

¹⁰² For more details, see *infra*, p. 45.

¹⁰³ <http://www.medwet.org/prespa/>

VII	Regular	Oteshevo	06—07.03.2005
VIII	Regular	Lemos	21—22.11.2005
IX	Regular	Korcha	20—21.11.2006
X	Regular	Pretor	17.06.2007
XI	Regular	Agios Germanos	21—22.11.2008

As it was mentioned elsewhere, in performing its multifarious role, the PPCC has developed connections with almost all groups of stakeholders, trying to inform them as much as possible of all on-going activities, through the specific PR activity of its Secretariat, as well as searching for possibilities and fostering their participation in various activities in the Prespa process frameworks.¹⁰⁴

7. Legal profile

Analysis of the legal status of the PPCC shows that no legal act was adopted ever, which could be considered as a constitutive instrument (a clear decision or statute) of the PPCC. Consequently, legally it is not clear who was the founder of the PPCC, who was supposed to control the work/activities/operations of the PPCC and assess its success in achieving projected goals (or fulfilling its mission). In the same row is the issue to whom the PPCC must report? And finally, who would have legal duty to receive the PPCC decisions / conclusions / recommendations, and react on such input? In other words, such analysis shows that the PPCC does not have legal personality. That fact seems was known from the beginning of the Prespa process, and was commented a number of times on the PPCC Meetings¹⁰⁵.

Lack of clear legally reliable constitutive ground was the cause that the PPCC itself adopted certain decisions (in the form of conclusions) that are normally in the scope of founders of legal personalities. As an illustration, here could be mentioned the PPCC decisions:

- On equality and voting of the PPCC Members;¹⁰⁶
- Giving right to the PPCC Members to appoint their alternates;¹⁰⁷
- On prolongation its own term of office after 2002;¹⁰⁸
- Rules on quorum for validity of its sessions and for decision/conclusions taking.¹⁰⁹

¹⁰⁴ For more details on the Prespa Lakes Basin stakeholders, see *infra*, pp. 43—44.

¹⁰⁵ See *supra*, note No. 51.

¹⁰⁶ See *supra*, note No. 71.

¹⁰⁷ See *supra*, note No. 72.

¹⁰⁸ At its Fourth Regular Meeting, the PPCC decided to extend its own term of office (“interim operation”) until the end of 2003, or until the three Governments define a more permanent structure, form and operation of the PPCC “whichever come first”. The Chairman was requested to inform on this Conclusion the environmental authorities of the three States, by letter. – Conclusion No. 8. No information is available how the environmental authorities reacted on this PPCC Conclusion.

¹⁰⁹ See *supra*, notes No. 77—78.

Similar are decisions regarding the PPCC Secretariat, e.g.:

- Definition of the PPCC Secretariat as “subsidiary organ” of the PPC legally is not clear and could lead to the confusion in the sense that original (and by its nature non-transferable) responsibilities of the PPCC itself were conferred now to its “technical organ” (logically supposing actually to be nothing more than an administrative support setting of the PPCC);¹¹⁰
- Definition of “primary task” of the Secretariat as the PPCC “subsidiary organ”¹¹¹ gives impression that a kind of parallel structure of responsibility was imposed by the PPCC own decisions. Namely, the Secretariat is now conferred with such tasks as initiation, support and facilitation of joint activities in the framework of the trilateral Prespa process.¹¹² Also, the Secretariat has been now conferred with responsibility for preparation or provision of assistance pertaining to trilateral political and technical meetings and scientific symposia, for consultations on policy matters, promotion of dialog on the problems and perspectives of the region at local and trilateral level.¹¹³

Such decisions no doubt must be seen as a pragmatic response on the lack of clear legal basis in situation when forthcoming substantive support of international community required regular and timely activities. In other hand, certain bilateral political issues, being seen as unavoidable obstacle for proper legal setting for the trilateral Prespa Lakes Basin co-operation, has been underlying force pushing for search for quick and pragmatic solutions.

However, such legal uncertainties nowadays could be seen as the cause of in many cases weak and slow response of the national authorities, and lack of expected financial support to the PPCC and its operations. If this attempt of highlighting of existing legal background of the PPCC is acceptable, it should serve, together with other findings mentioned elsewhere in this Report, as a basic input in designing future institutional set-up that would be fully in accordance with international law.

8. Specific Features of Stakeholders

Planned activities of the PPCC during past years enabled identification of various groups of stakeholders in the Prespa Lakes Basin and pretty clear articulation of their interest. The structure and profile of the stakeholders, similarly to other lake basins comprises:

- Public authorities of all levels, *i.e.* central (competent for environmental protection issues, but for other issues, too, e.g. water management, agriculture, tourism, veterinary, spatial planning, nature and man-made

¹¹⁰ See *supra*, notes No. 92—93.

¹¹¹ Without having defined the meaning of the term “subsidiary”.

¹¹² See *supra*, p. 39.

¹¹³ See *supra*, note No. 94.

- disasters prevention, etc.), regional (including here de-concentrated units of central governmental authorities) and local (municipal) authorities;
- Public organizations conferred (by the States authorities) with carrying on public duties in management of protected areas;
 - Scientific NGOs of national importance, whose specific interest is focused on the Prespa Lakes Basin, *i.e.* environmental or nature conservation issues;
 - Local NGOs and their coalitions dealing not exclusively with environmental protection or nature conservation issues, but interested for participation in the Prespa Lakes co-operation process;
 - Business/producers associations (*e.g.* beans, apple and fishery organizations, or non-formal groups).

All of them, having various interests, often conflicting to each other, are interested in further successful development of tripartite interstate cooperation. European experience shows that their horizontal connection (in *e.g.* transboundary alliances, coalitions or federations) is important in articulation of their joint (in this case the Prespa Lakes Basin wide) interest and representing it at the transboundary Prespa Lakes Basin management level. Development of such communication (that should by every effort be supported) is visible in ongoing political communication between the three Prespa Lakes Municipalities, but also between non-formal groups of fishermen, and more formal meeting of public authorities competent for fire-fighting, spatial planning or veterinary affairs.

Voice of all of them and possible other stakeholders, not mentioned here, should be represented as directly as possible in the tripartite institutional structure, and taken into account in decision-making process, in the way fully in accordance with the requirements of Aarhus Convention and respective EU requirements. Such kind of right of all the stakeholder groups must be set in the future trilateral agreement, as well as corresponding duty of the Parties to the Agreement to provide realization of such rights of stakeholders.

9. Financial Issues

Already on the Tirana International Working Meeting the Greek Ministry of Environment, Physical Planning and Public Works, kindly offered financial support for covering running expenses of the PPCC Secretariat and PPCC meetings in the forthcoming two-year period, on the basis of agreed budget.¹¹⁴

Being aware of the crucial importance of financial issues for sustainability of the entire process of the development and implementation of the idea of the Prespa Park, the PPCC adopted a rule in attempt to regulate this issue. Namely in the PPCCOA it provided for its striving “to secure funding for its meetings through various sources”, that may include travel and subsistence of the delegations, rental of meeting place, stationary and photocopying and reasonable hospitality expenses.¹¹⁵

¹¹⁴ Conclusions, Appendix I, Paragraph 17.

¹¹⁵ Paragraph 13.

The similar provision was adopted for the Secretariat aimed at its striving “to secure funding for its operation through various sources” and allowing its costs to include a “modest remuneration of its members, as well as travel and operational expenses”. It is the duty of the Secretariat to prepare detailed budget for such costs and submit it to the PPCC for approval, as a part of the work plan.

Without going in detailed analysis of sources for funding the PPCC and its activities during past years, there is no need for that because of plenty of data available in the documents posted at the PPCC web site¹¹⁶, here should be mentioned that, from year-to-year the Prespa process has being supported and funded (in money or in kind) by international community (KfW, UNDP, GEF, WWF, Ramsar Bureau, MedWet Initiative), National NGOs (SPP, P.P.N.E.A, MAP), as well is the Governments of all the three Prespa Lakes littoral States, Greece being the most active one) and local municipalities. Much of everything else, willingness of such profile of organizations to participate financially (although sometimes only symbolically) this shows the vitality and soundness of the Prespa Park idea.

Putting aside evident legal problems¹¹⁷, it could be concluded that the great and wide commitment of international community, national, regional and local authorities, NGOs, scientific and business communities is evident, and desire a sustainable trilateral management pattern to be established in the Prespa Lakes Basin, based on integrated ecosystem and lake basin management is visible.

However, such wide and strong political and professional commitment and support to the Prespa process provided a model of co-operation that could be denominated as voluntary one only. Substantially, the model is not legally binding in terms of regular (or sustainable) funding by the three littoral States. Financial support to established model has been in great deal provided in the frameworks of programmes of implementation of the Ramsar Convention, adopted by the Contracting Parties of the Ramsar Convention, and subsequently apparently kindly supported by the Greece Government.

Voluntary funding in this case means that it could be terminated (through phase-out process or without it) once when the motives underlying such support are exhausted and goals achieved. For instance, such situation could be based on the assessment that the level of promotion of regional-sub-regional co-operation has been achieved, and that the time has come the interested States should take over responsibility for further funding and developments. In such light seen, the Prespa process as whole and the PPCC were financed voluntarily, perfectly in compliance with Ramsar Convention (and its implementation documents) and PMS' Prespa Declaration.

¹¹⁶ <http://www.medwet.org/prespa/>. Last visited 13.11.2007.

¹¹⁷ The PPCC representatives of environmental authorities of all three States, expressed on the PPCC sessions awareness of that problem pointing out that regular financial support to the PPCC could be provided only once when the proper legal setting is in place. – See the Reports of Seventh, Eight and Ninth Regular Meetings of the PPCC, respective Summary Minutes.

For arriving at an institutionally and financially safe (and sustainable) platform, the three Prespa Lakes littoral States should adopt such an international legally binding instrument that would contain not only bare commitments of certain authorities to co-operation, but detailed binding rules providing for such commitments to be realized in practice. In other words, the States should be bound for providing certain funds regularly, for certain purposes in certain procedures.

The way of providing funds might be considered sustainable if it is an international obligation of the States. Could an international financial obligation accepted in a framework of an international instrument signed by the Minister of Environment be considered an international obligation of State, and under which conditions, is another issue. (This would require additional investigation of national legal systems and internal budgetary rules). But, it seems unnecessary complicated and uncertain way for achieving an arrangement in regards of (today relatively conventional goal) transboundary water resources sustainable management. International practice is indicative enough in terms of reliable models. The model of sustainable financing of the International Sava River Basin Commission is one of the newest and clearest in the SEE region.

Finally, no one financial model will be enough good if it is not negotiated in a formal procedure, between official representatives of the States, and developed as their common solution and not a solution gifted to the States or to the region by whoever else. Yet international community can immensely support the process and help the States in their search for a most acceptable financial solution.

10. Assessment of the PPCC Operations and Evaluation of its Capacity

As it was mentioned in the previous paragraph and elsewhere in this Report, in spite of legal deficiencies in its legal nature, the PPCC achieved several really remarkable results, including identification of all stakeholder groups and facilitation of initial contacts and establishment of their transboundary collaboration. Such successful development may be explained by dedicated work of professionals situated in various institutions in all the three countries, willing to see results of their efforts in terms of achieving prospect of sustainable transboundary management of the Prespa Lakes Basin. Besides, highly authoritative political support to (a kind of multi-stakeholder, preferably informal, *i.e.* not binding for the States) huge and complex activities contributed at large to success of the PPCC's operations. Further, international community has recognized the natural values of the Prespa Lakes region and conceptual and practical quality of the trilateral cooperation, what was the basis for lasting financial support of work of the PPCC and its operations. In the same time, no satisfactory funding support was provided by the littoral States to the PPCC and its operations (except the financial support provided by the Greek Government, through the Greek NGO sector). Moreover, it was clearly pointed out by the representatives of the authorities of the three States, that only on the basis of

concluded a trilateral agreement, regular financial support to the PPCC and its operations can be provided by the States.¹¹⁸

Such situation gives enough bases for the conclusion that the idea of the PPCC as a trilateral institution responsible for transboundary (multi-stakeholder) cooperation in the Prespa Lakes Basin has its full justification. Its role as an interface for meeting and addressing various interests (that was broadly recognized) is perhaps the most valuable achievement. However, lack of strong, clear and comprehensive commitment of the littoral States to such kind of transboundary cooperation (that should be much broader than the expressed will that “joint actions would be considered”), subsequent legal deficiencies in the PPCC’s legal nature, as well as lack of the States’ commitment to enter into negotiations on the basis of (informally drafted and proposed text of the) Draft Trilateral Agreement, clearly define operation limits of the PPCC. Additionally, it seems clear that without permanent international support for its regular activities and operations, the PPCC in the existing circumstances does not have sustainable perspective. This assessment is one of the basic standpoints in designing recommendations for overcoming the identified limits and providing sustainable conditions for playing such role in future trilateral cooperation that might not enjoy such strong international donor support as it has been as of now.

11. Assessment of the PPCC Secretariat

As it was described earlier, the PPCC Secretariat has been designed as consisting of the three technical persons, belonging to the NGOs from all three countries. The Greek Society for the Protection of Prespa has been assigned to provide logistic support to the PPCC Secretariat. The aim of the Secretariat was “operation” of the PPCC. Later, the Secretariat was defined as a “technical” and “subsidiary” organ, whose “primary task” become *per definition* similar to PPCC ToR. It has its seat in the Agios Germanos, at the premises of the SPP.

The Members of the Secretariat were supposed to be paid for their work by their NGOs. Such construction led to the situation that the Members of the Secretariat from Albania and FYR of Macedonia were not paid, and their contribution to the Prespa Park Initiative was completely voluntary.

A technical body of an international coordinative arrangement of any kind, cannot take over tasks and responsibilities of the coordinative arrangement. The situation of unclear relations between the PPCC and its Secretariat, similar to unclear relations of the PPCC and littoral States, is due to the lack of a constitution of the PPCC. Such relations, including duty to report and duty to make decisions based on the reports, are the elements or features of legal personality of an international body established under international law.

Provisional and unclear rules adopted in different occasions by the PPCC were not satisfactory for providing safe environment for decision making and communication with national authorities. Such situation influenced the work of

¹¹⁸ See *infra*, ref. No. 117.

the PPCC at its sessions (the minutes show repeated discussions on the same organisations issues).

Due to the fact that the PPCC and accordingly, its Secretariat, should continue work (activities, operation) until the new institutional set-up is in place, it should be considered how the UNDP-GEF Project could help better functioning of existing structure. It seems reasonable to propose financial support to be provided for work of Albanian and FYR of Macedonian Members of the Secretariat (and expenses for respective Members of the PPCC).

12. Some Conclusions

Legal aspects of the PPCC, its work and decisions should be kept in mind when choosing the most appropriate instrument for regulation of future trilateral relations, and suitable solutions for the most vital elements of such instrument. In other words, the reasons leading to the need of this assessments and search for a sound legal solution must be clear in making the basis for further work.

First

A note should be made on the fact that the basic document the actual trilateral cooperation has been carried on, *i.e.* the PMs' Prespa Declaration, does not address directly institutional issues. Namely, the environmental authorities of the three States at the Tirana International Working Meeting and thereafter, which were indicated in the Declaration as collaborative authorities, agreed to establish the PPCC, as a provisional (short-term or interim) body, and in that way basically to carry on their mutual co-operation through the PPCC and its activities. In that sense, the establishment of the PPCC seems an innovation falling out of the commitment limits, expressed in the Declaration. The question is whether such "enhanced" commitment has any significance from the legal standpoint?

For answering that question, the status of the Tirana International Working Meeting should be briefly examined. Namely, in the above cited available documents¹¹⁹ it was stated that "official delegations of the Governments of Albania, Greece and FYR of Macedonia..." met in Tirana. No additional indications were found that would confirm that delegations from the three States were official governmental level delegations. The most likely, the delegations were formed by the ministries competent for environment as not so formal ones. This issue is important for accurate assessment of legal status of the meeting and consequently for assessment of legal significance and validity of decisions taken on such meeting (in terms of their effects and obligation of national authorities for their implementation and enforcement).

If the above finding is right, it could lead to the conclusions that such informal meeting cannot be forum for the formal, legally binding decisions. In best case, conclusions agreed upon could be accepted by addressees only as (more or less) authoritative recommendations. But, the fact should be accepted that conclusions / recommendations adopted at such informal forum fall properly in

¹¹⁹ See *supra*, notes No. 59—61.

the scope of commitments expressed by the PMs in the Prespa Park Declaration, *i.e.* commitment for “consideration” of relevant issues by national environmental authorities (without clearly defined duty of national authorities for feedback to the proponent’s recommendations, decisions, proposals).

Second

Conclusions adopted at an informal forum in regards of establishment of a trilateral institution, *i.e.* PPCC, consequently did not have formal legally binding effect on the Prespa Lakes littoral States. In that sense the PPCC might be considered as a kind of a “soft-law” or political body. The same is true for decisions/ recommendations of the PPCC. The fact that the highest environmental authorities of the three States have participated in the tripartite co-operation process contributed only to the authority of activities carried on under the co-ordination of the PPCC, but did not change the fact that legally binding nature in the entire process was missing from the beginning. So, it seems that answer on the above formulated question is clear: Participation of the representatives of environmental Ministries in the activities of the PPCC and adoption of its conclusions did not contribute to the legal soundness of the PPCC itself and outputs of its activities.

Third

From the very beginning of trilateral co-operation concerning Prespa Park the idea was launched and agreed upon that later a trilateral agreement should be signed at the ministerial level.¹²⁰ According to available information, the choice was not based on previously made assessment of relevant legal possibilities and comparison between feasible options. Actually, no rationale for choice of such legal instrument (a trilateral agreement that would be signed by the Ministers responsible for environment of three States) was provided neither in the documents available from the Tirana International Working Meeting nor in the documents reflecting work of the PPCC, produced later. Therefore, it is not clear what the legal arguments were used in favour of the opinion that such an agreement would be suitable instrument for securing sustainability of future Prespa institutional arrangement.

In any case, a clear rationale must be the basis for choosing any of various legal possibilities. The basic reason for this should be attempt to avoid and prevent uncertainties of specific legal impacts on future processes of co-operation, rooted in legal nature of various instruments feasible for setting trilateral relations. The feasible options should be studied in advance and their strengths and weaknesses assessed and compared, and adequate choice made in an official negotiation process.

Forth

The results achieved in a bit less than eight-year lasting trilateral co-operation on developing and consolidation of the transboundary Prespa Park, without established a sound legal ground for such activities, are remarkable and must be appreciated. Involvement in the cooperative process of central, regional and

¹²⁰ See *supra*, note No. 62.

local authorities of all three States, of the most significant environmental national NGOs (*i.e.* Greek SPP, Albanian P.P.N.E.A. and FYR of Macedonia MAP), as well as numerous local NGOs, local business associations and other stakeholders, has shown the huge development potential of the Prespa Lakes Basin and broad commitment for preservation and protection of natural and cultural values and their use in a sustainable way.

Such positive climate in the region, and its ability to design a complex development vision in the form of a multi-sectoral Strategic Action Plan, was noticed by international community which has been generously supporting the Prespa process from the beginning. Moreover, equally important as conventional financial support is the commitment of international community, provided through the UNDP project “Integrated Ecosystem Management in the Prespa Lakes Basin of Albania, FYR of Macedonia and Greece”, to support financially and otherwise work on establishment a formal trilateral institution under international law, that would be based on certain political and financial obligations of all three Governments of the Prespa Lakes littoral States, which are expected to fund full-time Secretariat of such institution by the year four of the Project implementation.¹²¹

Fifth

As an informal body (without having legal personality under international law) the PPCC satisfied initially, through its activities and operations, the great for transboundary trilateral cooperation in the region of the Prespa Lakes. The Prespa Lakes Basin may easily become a European Region and in the EU perspective should be managed in accordance with principles developed for river basin management and sustainable ecosystem management. Such potential, originally based on exceptional natural values and huge biodiversity, was the fertile soil for successful activities of such a body as PPCC supported by the high level authorities of all three littoral States.

However, legal uncertainties in establishing the PPCC and unsatisfactory commitment of the littoral States to trilateral cooperation have formed the limits for the PPCC activities and operations and for up-grading cooperation on the visible and remarkable results achieved during first eight years of the Prespa park initiative. Further development of cooperation can be expected only through a series of steps that should be taken under the aegis of international community and that would lead to the (new) States commitment to trilateral cooperation, rooted firmly in the EU legal frameworks and international law³ on treaties.

Sixth

Deficiencies in the legal nature of the PPCC in conjunction with a rather weak commitment for trilateral cooperation of the littoral States and lack of consent of the littoral States to be bound by a treaty indicate the nature of the steps that should be taken towards establishment of a sustainable institutional management solution. The steps that should be undertaken should lead to a

¹²¹ UNDP Full size Project Document. See p. 60.

new, clear commitment of the littoral States to enter into trilateral formal consultations on drafting a trilateral treaty on cooperation for sustainable management of the Prespa Lakes Basin, and subsequent negotiation, signing and ratification of that treaty in accordance with the rules of international law on treaties. The aim of consultations and negotiations would be providing for all necessary conditions under international law for sustainable management of the Prespa lakes Basin (based on the ecosystem approach and lake basin approach is they are adopted in the framework of the Community *acquis*).

Seventh

In addition to analyses and findings presented elsewhere in this Report, and together with notes on the Draft trilateral agreement contained in the Chapter VII of this report, the above conclusions make the basis for designing recommendations contained in the Chapter VIII.

VI. SOME SUCCESSFUL CASES

This Chapter contains a brief review of several successful cases of regulation of mutual relations between riparian, littoral of river or lake basin countries. Success is considered here as functionality (including financial sustainability) and time duration. The review concentrates on the most relevant aspects of mutual interstate relations, highlighting underlying principles and rules of international law with the aim of offering different options for tripartite relations in the Prespa Lakes Basin.

1. The Danube River Protection Convention (DRPC)

The Danube River, flowing from the Black Forest in Germany predominantly south-east reaches the Black Sea after 2.700 km. The Danube River Basin has been shared between 19 countries in whose territories it covers 801,463 km² in total. The Convention on Cooperation for the Protection and Sustainable Use of the Danube River (the Danube River Protection Convention¹²²) was signed 29 June 2004 at Sofia. Today, 14 Basin countries and European Community are Contracting Parties to the DRPC each having more than 2,000 km² of the Basin surface.¹²³

1.1 Territorial Scope

The territorial scope of the DRPC is catchment of the Danube River, which is hydrological river basin as far as it is shared by the Contracting Parties.¹²⁴ The goals and principles of cooperation comprise inter alia:

- Striving at achieving the goals of sustainable and equitable water management, including the conservation, improvement and rational use of surface and underground waters in catchment area, as far as possible;
- Making all efforts to control hazards originating from accidents involving substances hazardous to water, floods and ice hazards of the Danube River;¹²⁵
- Taking all appropriate legal, administrative and technical measures to at least:
 - Maintain and improve current environmental and water quality conditions of the Danube River and of waters in its catchment area;
 - Prevent and reduce adverse impacts and changes occurring or likely to be caused;¹²⁶
- Setting priorities as appropriate, strengthen, harmonize and coordinate measures taken and planned to be taken at national and international levels throughout the Danube Basin, aiming at:

¹²² Henceforth: DRPC.

¹²³ Those Danube River Basin countries are Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Germany, Hungary, Moldova, Romania, Serbia, Slovak Republic, Slovenia and Ukraine. – See, ICPDR: ACTIVE FOR THE DANUBE RIVER BASIN; Vienna, 2004

¹²⁴ See, DRPC, Article 1 (b).

¹²⁵ *Op. cit.*, Article 2 (1).

¹²⁶ *Op. cit.*, article 2 (2).

- Sustainable development; and
- Environmental protection of the Danube River.

This objective is particularly directed to ensure:

- The sustainable use of water resources for municipal, industrial and agricultural purposes;
 - Conservation and restoration of ecosystems; and
 - Other requirements connected to public health;¹²⁷
- Developing water management cooperation so to be based on the criteria of a stable, environmentally sound development, which are at the same time directed to:
 - Maintain the quality of life;
 - Maintain continuing access to natural resources;
 - Avoid lasting environmental damage and protect ecosystem; and - exercise preventive approach.¹²⁸

1.2 Subject Matter

The DRPC is applicable in particular to the planned activities and on-going measures that cause or are likely to cause transboundary impact, which are listed as follows:

- Discharge of waste waters, the input of nutrients and hazardous substances, both from point and non-point sources;
- Construction of water works, in particular river training and run-off and storage level control of watercourses, flood control, as well as the effect of facilities situated in or aside watercourse on its hydraulic regime;
- Other planned activities and measures for the purposes of water use, such as power utilization, water transfer and withdrawal;
- Operation of hydroelectric constructions; measures to prevent environmental impact including deterioration in hydrological conditions, erosion, abrasion, inundation and sediment flow, measures to protect ecosystem;
- Handling of substances hazardous to water and the precautionary prevention of accidents;¹²⁹
- Fishery and inland navigation, as far as problems of water protection against pollution caused by these activities are concerned.¹³⁰

¹²⁷ *Op. cit.*, Article 2 (3).

¹²⁸ *Op. cit.*, Article 2 (5).

¹²⁹ *Op. cit.*, Article 3 (2).

¹³⁰ *Op. cit.*, Article 3 (3).

1.3 Forms of Cooperation

The regular forms of cooperation under the DRPC are set as:

- Consultative and joint activities in the framework of the International Commission for the Danube Protection¹³¹;
- Exchange of information on bi- and multilateral agreements, legal regulations and on measures in the field of water management, exchange of legal documents and directives and of other publications, and other forms for the exchange of information and experiences.¹³²

1.4 Institutional Setting

Institutional setting of the DRPC consists of Conference of the Parties and ICPDR with its Permanent Secretariat and working groups, the basic legal features of which follow bellow.

1.4.1 Conference of the Contracting Parties

The Contracting Parties to the DRPC shall obligation to meet at the Conference upon recommendation of the ICPDR.¹³³ The purpose of their meeting is in particular:

- Review of the policy issues in regards of DRPC implementation. The basis for such review shall be a report of the ICPDR;
- Adoption of appropriate recommendations and decisions.¹³⁴

The Contracting Party whose head of delegation acts as President of the ICPDR shall play the part of the Chairperson of such meeting.¹³⁵ The Conference of the Parties shall have quorum for passing recommendations and decisions if, after regular invitation, delegations of at least $\frac{3}{4}$ of all Contracting Parties are present. The Conference shall duty to make every effort to reach agreement by consensus. If consensus is no attainable, the Chairperson shall declare that all efforts were exhausted, and after such declaration, recommendation or decision shall be adopted by a $\frac{4}{5}$ majority of the Contracting Parties present and voting.¹³⁶

The decision of the Conference of the Contracting Parities shall become binding on the first day of eleventh month following the date of its adoption that voted for it, under condition that they have not in that period notified the Executive Secretary in writing that they are unable to accept decision. But, if such notification was made, it may be withdrawn at any time, and shall become effective upon receipt by the Executive Secretary. Such a decision shall become binding on any other Contracting Party which have notified the Executive Secretary in writing that it is able to accept decision, from the moment

¹³¹ Henceforth: ICPDR.

¹³² *Op. cit.*, Article 4.

¹³³ *Op. cit.*, Article 22 (1).

¹³⁴ *Op. cit.*, Article 22 (2).

¹³⁵ *Op. cit.*, Article 22 (3).

¹³⁶ *Op. cit.*, Article 22 (4).

of the receipt of that notification or on the first day of the eleventh month following the date of the adoption of the decision, whichever is later.¹³⁷

Recommendation or decision of the Conference of the Contracting Parties that would have financial implications must be adopted by consensus.¹³⁸

1.4.2 International Commission for the Protection of the Danube River (ICPDR)

The ICPDR was established as an international body with the view of implementing the provisions of the DRPC and achieving its objectives. The ICPDR has such legal capacity as may be necessary for the exercise its functions and the fulfilment of its purposes in accordance with the law applicable at the headquarters of its Secretariat. It is a forum in the framework of which the Contracting Parties cooperate. In implementing of obligations of the Contracting parties, set by DRPC, ICPDR have duty to elaborate proposals and recommendations addressed to the Contracting Parties.¹³⁹

In addition to affairs explicitly entrusted to it, the ICPDR is competent to deal with other affairs too, entrusted to it by the Contracting Parties.¹⁴⁰ Implementation of decisions taken by the ICPDR is supported *inter alia* by the obligation of the Contracting Parties for reporting to the ICPDR¹⁴¹, which comprises:

- Reports and documents determined by the DRPC or requested by the ICPDR;
- Information on existence, conclusion, amendment or withdrawal of international treaties pertaining to the protection and management of waters in the Danube River Basin;
- Information on their respective national legislation applicable to the waters of the Danube River Basin;
- Communication, after the ICPDR has taken its decision, on the way, in timeframe and the financial expenses for implementation of action-directed decisions at the domestic level (recommendations, programs, measures);
- Designation of competent institutions to be addressed for co-operation in the framework of the ICPDR or by other Contracting Parties;
- Communication on planned activities, which could cause transboundary impacts.¹⁴²

The ICPDR can propose to the Contracting Parties amending of the DRPC.¹⁴³ It has right to take decisions on co-operation with international and national organizations or bodies with the aim of enhancing co-operation and avoiding

¹³⁷ *Op. cit.*, Article 22 (5).

¹³⁸ *Op. cit.*, Article 22 (6).

¹³⁹ *Op. cit.*, Article 18 (1) and Article 10. of the ICPDR Statute.

¹⁴⁰ *Op. cit.*, Article 18 (3).

¹⁴¹ *Op. cit.*, Article 18 (4).

¹⁴² *Op. cit.*, Article 10.

¹⁴³ *Op. cit.*, Article 18 (5).

duplication.¹⁴⁴ The structure, procedures and competences of the ICPDR are stipulated by the Statute of the ICPDR, which is attached in the ANNEX IV to the DRPC¹⁴⁵.

The ICPDR consists of delegations of the Contracting Parties. Each Contracting Party can nominate five members of its delegation at utmost, including the head of delegation and his deputy.¹⁴⁶ Each delegation may take the necessary number of experts, whose names should be communicated to the ICPDR Secretariat.¹⁴⁷ The Chair of the ICPDR is held by the Contracting Parties in turn by English alphabetical order for one year. The delegation looking after the Chair nominates one of its members to become the President of the ICPDR.¹⁴⁸ It is the rule that the President, during his Presidency does not take the floor on behalf of his delegation. Further details on Presidency have been regulated by the ICPDR Rules of Procedure, including the representation of the ICPDR.¹⁴⁹

The ICPDR convenes an ordinary meeting at least once a year on invitation of the President, at place determined by him. Extraordinary meetings shall be convened by the President on request of at least three delegations.¹⁵⁰ The President proposes the agenda items that may include reports of the ICPDR Standing Working Group and its expert groups. Each delegation has the right to propose agenda items. The ICPDR decides on the order of sequence for the agenda items, by the majority of votes.¹⁵¹

Each delegation has one vote.¹⁵² Specific rule on votes of European Community has been specifically set.¹⁵³ The ICPDR constitutes quorum with the presence of delegations of 2/3 of the Contracting Parties at least.¹⁵⁴ Written procedure is allowed under conditions determined by the Rules of Procedure.¹⁵⁵

Initially, the ICPDR had established a Standing Working Group and several Expert Groups that could be standing and ad hoc.¹⁵⁶ Such Expert Groups were: EG for Legal and Strategic Issues, EG for River Basin Management, EG for Ecology, EG for Emissions, Monitoring, Laboratory and Information, EG for Accident Prevention and Control, EG for Flood Protection, EG for Cartography and GIS, EG for Economic Analysis, and the Danube—Black Sea Joint Technical Working Group. Now, the IPDR has seven Expert Groups—the EG on River Basin Management, The Pressures and Measures EG, The Monitoring and Assessment EG, the EG for Flood Protection, and *ad hoc* EGs: on

¹⁴⁴ *Op. cit.*, Article 18 (6).

¹⁴⁵ In accordance with Article 18 (2) of DRPC.

¹⁴⁶ ICPDR Statute, Article 1 (1).

¹⁴⁷ *Op. cit.*, Article 1 (2).

¹⁴⁸ *Op. cit.*, Article 2 (1).

¹⁴⁹ *Op. cit.*, Article 2 (2) and (3). See also the ICPDR Statute Article 10 (2).

¹⁵⁰ ICPDR Statute, Article 3 (1) and (2).

¹⁵¹ *Op. cit.*, Article 3 (4).

¹⁵² *Op. cit.*, Article 4 (1).

¹⁵³ *Op. cit.*, Article 4 (2).

¹⁵⁴ *Op. cit.*, Article 4 (3).

¹⁵⁵ *Op. cit.*, Article 4 (4).

¹⁵⁶ *Op. cit.*, Article 6 (1).

Information Management and GIS, on Public Participation, and Strategic EG. Additionally there is the Danube-Black Sea Joint Technical Working Group.¹⁵⁷

The members of Experts Groups consist of delegates and experts nominated by the delegations to the ICPDR. Earlier, the Standing Working Group was attended by the delegates from all Contracting Parties. The ICPDR nominated its Chairman and determine the utmost number of members. The ICPDR also determines the number of experts in Experts Groups.¹⁵⁸

The Permanent Secretariat with the headquarters in Vienna has been established by the Statute of the ICPDR.¹⁵⁹ It is a duty and right of the ICPDR to appoint and Executive Secretary and make provisions for the appointment of such other personnel as may be necessary, and to determine duties of the Executive Secretary position and the terms and conditions for it.¹⁶⁰ The Executive Secretary performs functions that are necessary for administration of the DRPC and for work of the ICPDR, as well as other duties entrusted to him the ICPDR in accordance with Rules of Procedure and Financial Regulations.¹⁶¹

When making its assessments, evaluation of results gained and analysis of special issues the ICPDR may entrust particularly qualified persons, scientific institutions or other facilities.¹⁶² The ICPDR has a duty to submit to the Contracting parties and annual report on its activities and other reports as required, which particularly must include the results of monitoring and assessment.¹⁶³

1.5 Expenditures

The ICPDR adopts annual or biennial budget of proposed expenditures, and considers budget estimates for the fiscal period following thereafter.¹⁶⁴ The total amount of budget, including any supplementary budget adopted by the ICPDR shall be provided by the contributions of Contracting Parties, in equal parts, unless unanimously decided by the ICPDR. Exception is made for European Community, which shall contribute no more 2,5% of administrative costs to the budget.¹⁶⁵

It is duty of each contracting Party to pay expenses related to the participation in the ICPDR of its representatives, experts and advisers, as well as the costs of current monitoring and assessment activities, carried out in its territory.¹⁶⁶

¹⁵⁷ ICPDR: THE DANUBE BASIN ANALYSIS (WFD Roof Report 2004) PART A—BASIN WIDE OVERVIEW, Summary; Vienna, 2005. See also http://www.icpdr.org/icpdr-pages/expert_groups.htm. Web page visited 11.12.2008.

¹⁵⁸ ICPDR Statute, Article 6 (2) and (3).

¹⁵⁹ *Op. cit.*, Article 7 (1) and (2).

¹⁶⁰ *Op. cit.*, Article 7 (3).

¹⁶¹ *Op. cit.*, Article 7 (4).

¹⁶² *Op. cit.*, Article 8.

¹⁶³ *Op. cit.*, Article 9.

¹⁶⁴ *Op. cit.*, Article 11 (2).

¹⁶⁵ *Op. cit.*, Article 11 (2)—(4).

¹⁶⁶ *Op. cit.*, Article 11 (5) and (6).

1.6 Other Instruments of the ICPDR Legal Regime

Besides the DRPC (and its four Annexes, the Annex IV containing the Statute of the ICPDR) the most important legal instruments defining the legal personality of the ICPDR and legal regime under which it operates are the following:

- Agreement between the ICPDR and Republic of Austria regarding Headquarters of the ICPDR (2000);
- Financial Rules (1998);
- Decision on Legal Status of Participation and Observership under DRPC (1998);
- Detailed Guiding Criteria for granting Observer Status (1998);
- Revised Main Functions and Job Descriptions of the Permanent Secretariat of the ICPDR (2001);
- Revised Staff Regulations of the ICPDR (2001);
- Memorandum of Understanding between the International Commission for the Protection of the Black Sea (ICPBS) and the ICPDR on Common Strategic Goals (2001);
- Revised Rules of Procedure of the ICPDR (ROP) (2002).

2. The Great Lakes Water Quality Agreement (GLWQA)

2.1 Brief Introduction

The Great Lakes Water Quality Agreement¹⁶⁷ was signed by the Governments of the United States of America and Government of Canada¹⁶⁸ 15 April 1972, renewed in Ottawa 22 November 1978 and supplemented by a Protocol in 1983. It reaffirmed in a spirit of friendship and cooperation the rights and obligations of both countries under the Boundary Waters Treaty, signed in Washington D.C. 11 January 1909^{169, 170} and was developed on the conclusion that the best means to preserve the aquatic ecosystem and achieve improved water quality throughout the Great Lakes System is adopting common objectives, developing and implementing co-operative programs and other measures, and assigning special responsibilities and function to the International Joint Commission.¹⁷¹

The purpose of the GLWQA has been defined as restoration and maintenance of chemical, physical, and biological integrity of the waters of the Great Lakes

¹⁶⁷ Henceforth: GLWQA.

¹⁶⁸ Parties to the Agreement, according to the Article I (n).

¹⁶⁹ The Boundary Waters Treaty (henceforth: BWT) was signed by plenipotentiaries of the President of the United States of America, Elihu Root, Secretary of State of the USA and His Britannic Majesty, the Right Honourable James Bryce, O.M., his Ambassador Extraordinary and Plenipotentiary at Washington; who, after having communicated to one another their full powers, found in good and due form, have agreed upon the text of the articles of the Treaty. The Treaty was ratified by the President of the USA, by and with the advice and consent of the Senate, and by His Britannic Majesty. The ratifications were exchanged 11 January 1909.

¹⁷⁰ Preamble, Paragraph 5.

¹⁷¹ Preamble, Paragraph 9.

Basin Ecosystem.¹⁷² Besides provisions on specific objectives¹⁷³, the GLWQA contains provisions on standards, other regulatory requirements and research¹⁷⁴, programs and other measures¹⁷⁵, powers, responsibilities and functions of International Joint Commission¹⁷⁶, joint institutions and Regional Office¹⁷⁷; submission and exchange of information¹⁷⁸, consultation and review¹⁷⁹; implementation of the GLWQA¹⁸⁰; existing right and obligations, amendments, entry into force and termination and supersession¹⁸¹. To the GLWQA 17 Annexes are attached regulating in detail various aspects of transboundary co-operation aimed at achievement of adopted goals. Here is worth mentioning that Annex 11 regulates in great detail surveillance and monitoring activities, that would be undertaken, ecosystem health indicators for the Great Lakes that would be developed and Annex 13 details in regards of pollution from non-point sources (among other things preservation of wetlands). Attached to the GLWQA is the Terms of Reference for the joint institutions and the Great Lakes Regional Office.¹⁸²

2.2 Institutional Setting

2.2.1 International Joint Commission (IJC)

The International Joint Commission¹⁸³ have been established and maintained by the High Contracting Parties to the Boundary Water Treaty, on the ground of its Article VII. The IJC is composed of six commissioners, three on the part of the USA, appointed by the President of the USA, and three on the part of the United Kingdom, appointed by His Majesty, on the recommendation of the Governor in Council of the Dominion of Canada.

¹⁷² Article II, Paragraph 1. Definition of the Great lakes Basin Ecosystem comprise the interacting components of air, land, water and living organisms, including humans, within the drainage basin of the St. Lawrence River at or upstream from the point at which this river becomes the international boundary between Canada and the United States of America. – Article I (g).

¹⁷³ Article IV.

¹⁷⁴ Article V.

¹⁷⁵ Article VI. Specified are programs and other measures which the Parties, *i.e.* Canada and USA, shall continue to develop and implement in co-operation with “State and Provincial Governments” (later being the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Wisconsin, and the Commonwealth of Pennsylvania and the Government of the Province of Ontario; Article I (s)). These programs and other measures comprise *inter alia* pollution from municipal sources, pollution from industrial sources, inventory of pollution abatement requirements, eutrophication, pollution from agriculture, forestry, and other land use activities, surveillance and monitoring, remedial action plans and lake wide management plans.

¹⁷⁶ Article VII.

¹⁷⁷ Article VIII.

¹⁷⁸ Article IX.

¹⁷⁹ Article X.

¹⁸⁰ Article XI.

¹⁸¹ Art. XII—XV.

¹⁸² The International Joint Commission United States of America and Canada Office Consolidation of the GLWQA (comprising the GLWQA 1978, Phosphorus Load reduction Supplement signed 16 October 1983, and amended by Protocol signed 18 November 1987), made in September 1989, can be found at <http://www.ijc.org/re/agree/quality.html>. Site last visited 31.10. 2007.

¹⁸³ Henceforth: IJC.

The IJC has two national sections—one of Canada and one of USA. The commissioners of the sections appoint one of their members as chairman.¹⁸⁴ The permanent offices of the IJC are at Washington D.C and Ottawa.¹⁸⁵ Both sections of the IJC have their secretaries, which act as joint secretaries at all meetings and hearings of the IJC.¹⁸⁶

The purpose of the IJC is assistance in the implementation of the GLWQA.¹⁸⁷ Its responsibilities are set by Article IX of the BWT and additionally by Article VII of the GLWQA¹⁸⁸. There is no need for reviewing of its responsibilities in great detail here. Yet some details, particularly concerning decision making rules, should be presented, as they are set in the Rules of Procedure¹⁸⁹. Majority of the IJC is empowered to render decision concerning certain water use. The rules are set for case of evenly divided IJC.¹⁹⁰

The IJC have duty to submit its “no less frequently than biennially” full reports to the Contracting Parties as well as to the State and Provincial Governments, concerning progress toward the achievements of the general and specific objectives, including the matters related to Annexes. The report must include an assessment of the effectiveness of the programs and other measures undertaken pursuant to the GLWQA and advice and recommendations.¹⁹¹ The IJC may in its discretion publish any report, statement or other document, prepared by it in discharge of its functions.¹⁹²

The IJC may decide that its meetings shall be open to the public. In that case it shall give an advance notice to this effect as it considers appropriate in the circumstances.¹⁹³

The IJC carry out its responsibilities utilizing principally the services of:

- Water Quality Board; and
- Science Advisory Board.

The IJC have duty to ensure liaison and coordination between the institutions established under GLWQA and other institutions “which may address concerns relevant to the Great Lakes Basin Ecosystem [...]”.¹⁹⁴

The above mentioned Boards are designated to assist the IJC in exercising of its powers and responsibilities. The IJC appoints the members of both Boards,

¹⁸⁴ Rules of Procedure, 2 (1). <http://www.ijc.org/re/agree/water.html>. Site last visited 31.10.2007.

¹⁸⁵ *Op. cit.*, 3.

¹⁸⁶ *Op. cit.*, 4 (1).

¹⁸⁷ GLWQA Article VII, Paragraph 1.

¹⁸⁸ *See*, Paragraph 1 (a)—(g).

¹⁸⁹ Adopted on February 2, 1912, and subsequently amended.

¹⁹⁰ *See*, BWT, Article VIII, Paragraph 7 and Art. IX and X.

¹⁹¹ *Op. cit.*, Paragraph 3.

¹⁹² *Op. cit.*, Paragraph 4.

¹⁹³ BWT, Paragraph 5 (1)

¹⁹⁴ *Op. cit.*, Paragraph 6.

after consultations with the appropriate government or governments concerned.¹⁹⁵

The functions of the Boards are set in the ToR attached to the GLWQA.¹⁹⁶

2.2.2 Great Lakes Water Quality Board

The Great Lakes Water Quality Board is the principal advisor of the IJC. It is composed by equal number of members of the Contracting Parties [Canada and USA; --Note: S.B.] including representatives from the Contracting Parties and each of the State and Provincial Governments.¹⁹⁷

The Board, at the direction of the IJC, shall make recommendations on the development and implementation of programs to achieve the purpose of the GLWQA, assemble and evaluate relevant information, identify deficiencies in the scope and funding, examine the appropriateness of programs and advise the IJC on the progress and effectiveness of programs. It is under the competence of the Board to undertake liaison and coordination between the institutions established under the GLWQA and other institutions and jurisdictions which may address concerns relevant to the Great Lakes Basin Ecosystem. The aim is to ensure a comprehensive and co-ordinated approach to planning and to the resolution of problems. The Board has duty to report to the IJC periodically.¹⁹⁸

2.2.3 The Great Lakes Science Advisory Board

The Great Lakes Science Advisory Board provides scientific advice on research to the IJC and to the Water Quality Board. The Science Advisory Board consists of managers of Great Lakes research programs and recognized experts on the Great Lakes water quality problems and related fields.¹⁹⁹

This Board is responsible for developing recommendations on all matters related to research and development of scientific knowledge pertinent to the identification, evaluation and resolution of current and anticipated problems related to the Great Lakes water quality. To effect these responsibilities, the Board has duty to review scientific information in order to examine impact and adequacy of research and the reliability of research results, and ensure dissemination of the results, to identify research requirements, and to identify specific research programs for which international cooperation is desirable. Its duty is to advise jurisdictions of relevant research needs too.

The Board has right to seek analyses, assessments and recommendations from other scientific professional academic, governmental or intergovernmental sources, relevant to Great Lakes Basin Ecosystem research. The Board has duty to report to the IJC and to the Water Quality Board periodically, or on

¹⁹⁵ GLWQA, Article VIII, Paragraph 4.

¹⁹⁶ *Id.*

¹⁹⁷ GLWQA, Article VIII, Paragraph 1 (a).

¹⁹⁸ GLWQA. Attachment "Terms of Reference for Joint Institutions and the Great Lakes Regional Office".

¹⁹⁹ *Op. cit.*, Article VIII, Paragraph 1 (b)

request, on all matters of a scientific or research nature relating to the operation and effectiveness of the. GLWQA.²⁰⁰

2.2.4 The Great Lakes Regional Office of the IJC

Administrative support and technical assistance to the IJC and two Boards and their sub-organizations, as well as providing public information service for the programs, including public hearings, undertaken by the IJC and Boards, provides the Great Lakes Regional Office of the IJC.²⁰¹ The Office is located in Windsor, Ontario.

The Office is headed by a Director appointed by the IJC, in consultation with the Parties and with the Co-Chairmen of the Boards. The position of Director is alternate between the citizen of Canada and the USA. The term of its office is subject to determination of the Parties. The Director is responsible for the management of Regional Office and its staff. The Co-Chairmen of the Boards determine the activities which the Office will carry out for the Boards in consultation with the Director of the Office. The Director is responsible to them for activities carried out on behalf of, or in support of such Board, by the Office or individual staff members. The Director is responsible for preparing an annual budget to carry out the functions of the Boards and the Regional Office for submission jointly by two Boards to the IJC for approval and procurement of resources.²⁰²

2.3 Funding

Obligations undertaken on the ground of the GLWQA are subject to appropriation of funds in accordance with constitutional procedures of Canada and USA.²⁰³ The Parties to the GLWQA committed themselves to seek:

- The appropriation of funds required to implement the GLWQA, including the funds:
 - needed to develop and implement the programs and other measures provided for in Article VI of the GLWQA;²⁰⁴ and
 - funds required by IJC to carry out its responsibilities effectively;
- The enactment of any additional legislation that may be necessary in order to implement the programs and other measures provided for in Article VI of the GLWQA; and
- The cooperation of the State and Provincial Governments in all matters relating to the GLWQA.²⁰⁵

²⁰⁰ *Op. cit.*, Attachment “Terms of Reference for Joint Institutions and the Great Lakes Regional Office”.

²⁰¹ *Op. cit.*, Article VIII, Paragraph 3.

²⁰² *Op. cit.*, Attachment “Terms of Reference for Joint Institutions and the Great Lakes Regional Office”.

²⁰³ Article XI, Paragraph 1.

²⁰⁴ See *supra*, note No. 173.

²⁰⁵ GLWQA, Article XI-Implementation.

The IJC has a duty to prepare and submit an annual budget of anticipated expenses to be incurred in carrying out its responsibilities under GLWQA, to the Parties for approval. Each Party has no obligation to pay a larger amount than the other toward this budget.²⁰⁶

3. The Lake Constance

3.1 Introductory Notes

The Lake Constance is the second largest lake in Alpine foreland (536 km²) that is shared between Germany, Austria and Switzerland. Increasing human impact on the Lake and its catchment area has caused drastic ecological changes and consequently reactions by inhabitants and their representatives. Transboundary cooperation has a long tradition in the Lake Constance region. Nowadays there are more than 10 large and approximately 200 small transboundary associations working in the region.²⁰⁷

The Upper Lake Constance is under in Europe a unique legal regime. Namely, the national boundaries between littoral States have never been defined. The water area from the shoreline to 25 m water depth is considered national territory of the littoral States. The major part of the Upper Lake is considered a “condominium”, common property.²⁰⁸ In the smaller Lower Lake the frontiers are clearly defined between Switzerland and Germany. Historical events led to this situation in which no one national administration felt responsible for the Lake or setting legislation for use of its resources.²⁰⁹ But, such situation also led to conclusion of a number of treaties, regulating various issues²¹⁰ and establishment of several international commissions dealing with such issues in the transboundary context. A brief review follows.

3.2 International Conference of Deputies for Fishery in the Lake Constance (IBKF)

An international agreement was reached in 1841, on the protection of juvenile salmon in the Rhine region, between France, the State of Baden and several Swiss cantons. First attempt to regulate fishing in the Lake were made in 1869, but political reasons caused that negotiations were long and complicated. In 1881 delegates from administrations of riparian States agreed that “countries should work out their own national regulations in a similar manner”.²¹¹

²⁰⁶ GLWQA, Article VIII, Para. 4.

²⁰⁷ See, Schröder, *Transboundary Water Management in Lake Constance: from Tradition to Co-operation*

²⁰⁸ The term “condominium” denominates joint sovereignty over a territory by two or more states, but also is used for the territory subject to joint sovereignty.—OXFORD DICTIONARY OF LAW; New York, 2002.

²⁰⁹ See, Schröder, *op. cit.*

²¹⁰ Unsustainable use of the Lake has its ecological, social and economic aspects, threatening the landscape and waterscape. The issues subject to transboundary co-operation span from wild life and habitats, tourism and recreation, shoreline construction, agriculture and drinking water, to fisheries, forestry, water management, catchment management, services and industry and energy consumption.

²¹¹ *Id.*

Those cooperative efforts ultimately led to conclusion of “Agreement of Bregenz”²¹², in 1893, aimed at sustainable development of fishery in the Lake, by protecting and increasing valuable fish species. With that goal the International Conference of Deputies for Fishery in the Lake Constance (IBKF) was established.²¹³ The IBKF decisions adopted by consensus, are not binding by international law, but they have been implemented in the frameworks of national legal systems. The IBKF deals additionally with restriction of fishing licenses and definition of closed seasons. During 1950s fishery was affected by eutrophication, and results of research into that problem of this Commission provided the basis for foundation of the International Commission for the Protection of Lake Constance—IGKB. During 1960, the IBKF continued to deal with its original purpose, e.g. with over-fishing, mesh-size and improved fish hatchery, and since 1979, the IBKF has been successful in the protection and support of threatened fish species.²¹⁴

3.3 International Fishermen’s Association of the Lake Constance (IBF)²¹⁵

In 1909 this organization was founded as an international community of interests for the fishermen of Lake Constance. Actually, this Association established the wastewater commission in 1950, which become the committee of the IBKF and dealing with problems of water eutrophication prepared the ground for establishment of the IGKB 1959.

3.4 International Commission for the Protection of the Lake Constance (IGKB)

The IGKB was founded in 1959 by the three bordering States, Austria, Germany and Switzerland, in order to preserve the Lake ecosystem from further degradation. The Agreement on the Protection of the Lake Constance from Pollution was signed in November 1960. The duties of the IGKB comprise:

- Observation of the Lake;
- Confirmation of causes of its pollution;
- Recommendation for coordinated preventive measures;
- Discussion the planned measures.²¹⁶

The Commission is composed of delegates from the three member Governments, and a limited number of high officers of those Governments. The Commission is an advisory agency, and cannot decide on rules and actions connected with environmental protection, but, by the agreement, the regional governments are obliged to transpose the recommendations of the IGKB into the legal systems of the regions. A technical and scientific board of experts serves as official consultants to the Commission, with task to elaborate research program and prepare reports on the research supported by the

²¹² Agreement on the use of similar regulations for the fishing industries on the Lake Constance.

²¹³ *Internationale Bevollmächtigtenkonferenz für die Bodenseefischerei—IBKF.*

²¹⁴ Schröder, *op. cit.*

²¹⁵ *Internationaler Bodenseefischereiverband—IBF.*

²¹⁶ See, Hammerl, M; Gottenhoehner, U.: Lake Constance Bodensee—Experiences and Lessons Learned, p. 14

Commission. The board of experts has three working groups dealing with the topics “Lake”, “Catchment Area” and “Accident Defense”. Their reports have been published as “green reports”.²¹⁷

The stakeholders are involved in this work in the frameworks of possibilities guaranteed by national legislation. Financing of the Commission is provided by the littoral federal States and cantons, according to their size, population and share of the lake shore. Baden-Württemberg has the highest quote (57%). EU funds special projects through interregional cooperation.²¹⁸

3.5 The International Bodensee Conference (IBK)

The International Bodensee Conference was established in 1972 as an inter-governmental organization of the riparian federal States and cantons. Nowadays, there are ten members:

- The Swiss Cantons of St. Gallen, Thurgau, Schaffhausen, Appenzell Innerrhoden, Appenzell Ausserrhoden and Zürich;
- The German States of Baden-Württemberg and Bayern;
- The Austrian State of Vorarlberg; and
- The Principality of Liechtenstein.²¹⁹

This Commission takes all decisions by consensus. The common activities are financed by the members. The share of each member is fixed according to the extent of the territory. The Conference has its Permanent Committee and seven commissions. Every year a conference with the prime ministers of the member States take places in one of the member States.²²⁰ Communication of the Conference with the IGKB is secured through it’s one-member representation in the permanent committee of the IBK. Co-operation between the Conference and other international Lake Constance commissions and institutions is not regular.²²¹

It is important to note here the fact that the federal constitutional structure of all three States riparian to the lake Constance means responsibility of the federal units for regional cooperation (including through adoption of appropriate legislation and conclusion of international treaties).

IBK has an office in Constance, for PR. The Stakeholders are also involved through a public forum, “*Parlamentarier-Kommission*”, which exchange information with the Conference.

²¹⁷ *Id.*

²¹⁸ *Id.*

²¹⁹ *Id.*

²²⁰ In 1999 the Environmental Commission published a report summarising the existing problems, including legal and administrative framework, and necessary activities and measures to be taken, especially concerning transboundary co-operation between administrations. The title of this report was MEASURES IN THE FIELDS OF AGRICULTURE AND WATER PROTECTION IN THE LAKE CONSTANCE REGION.—*Id.*

²²¹ *Id.*

3.6 International Commission for Boating on the Lake Bodensee (ISKB)²²²

This Commission was established by Austria, Germany and Switzerland in 1973 and its responsibility is limited to delivering recommendations related to the boating on the Lake to the Federal States and Cantons, only. There is no direct involvement of stakeholders in its work. The ISKB does not have its own budget. All costs of meetings are covered by the host State on the rotation basis.²²³

4. The Framework Agreement on the Sava River Basin (FASRB)

4.1 General Notes

The Sava River Basin is a sub-basin of the Danube River Basin. Once being a national river, the Sava River and its basin has become an international river shared between States originated in the territory of former Yugoslavia during 1990s.

Recognizing that the Sava River Basin and the related natural resources and environment are natural assets of immense value to all the riparian countries, for the economic and social well-being and living standards of their people, and acknowledging the great political, economic and social changes that have taken place in the region, which necessitate these efforts to reassess, redefine and establish the future framework of their cooperation,²²⁴ the four States arisen after dissolution of the Socialistic Federal Republic of Yugoslavia, signed the Framework Agreement on the Sava River Basin on 3 December 2002 at Kranjska Gora (Slovenia). The FSARB was the first regional agreement signed between these countries after Dayton-Paris Peace Agreement.²²⁵

The FASRB is the newest international treaty having (holistically) for its subject matter one river basin and all aspects of water management, including navigational and non-navigational uses of water. Due to decomposition of the community of States Serbia and Montenegro, Montenegro stood aside of the FASRB and the part of the Sava River basin in the territory of Montenegro out of the territorial legal scope of the FASRB. It is for expectation that Montenegro shall become the party to the FASRB soon.

²²² *Internationale Schifffahrtskommission für den Bodensee—ISKB.*

²²³ *Id.*

²²⁴ Letter of Intent Concerning the International Sava Basin Commission Initiative signed at Sarajevo 29 November 2001 by the MFA Ministers of Croatia, Serbia and Montenegro, and Slovenia, and Minister for Civil Affairs and Communications of Bosnia and Herzegovina.

²²⁵ The General Framework Agreement for Peace in Bosnia and Herzegovina was signed at Paris, 14 December 1995, by the Republic of Bosnia and Herzegovina, Republic of Croatia and Federal Republic of Yugoslavia, in Witness of EU, France, Germany, Russian Federation, UK and USA. Negotiations at Dayton, Ohio, USA, and signing a number of annexes to the General Framework Agreement took place 21 November 1995.

4.2 Scope of Cooperation

The objective of the FASRB is determined as cooperation of the Parties in order to achieve:

- Establishment of an international regime of navigation on the Sava River and its navigable tributaries;
- Establishment of sustainable water management;
- Undertaking the measures to prevent or limit hazards, and reduce and eliminate adverse consequences, including those from:
 - Floods;
 - Ice hazards;
 - Droughts; and
 - Incidents involving substances hazardous to water.²²⁶

For the purpose of carrying out those goals, the Parties took over obligation to cooperate:

- In the process of creation of joint plans; and
- Development programs of the Sava River Basin; and
- In harmonization of their legislation with the EU legislation.²²⁷

The Parties declared that their cooperation aimed at attainment of the FASRB goals, shall be based on the general principles as follows:

- General Obligation to Co-operate, comprising:
 - Sovereign Equality;
 - Territorial Integrity;
 - Mutual Benefit;
 - Good Faith;
 - Conformity with the EU Water Framework Directive,²²⁸
- Exchange of Data and Information, comprising, on regular basis exchange information on:
 - The water regime of the Sava River Basin;
 - The regime of navigation;
 - [Their;-S.B.] legislation;
 - organizational structure [of their competent authorities;-S.B.]
 - [Their;-S.B.] administrative and technical practices;²²⁹
- Cooperation with International Organizations, comprising:
 - ICPDR;

²²⁶ FASRB, Article 2. 1.

²²⁷ *Op. cit.*, Article 2.2.

²²⁸ *Op. cit.*, Article 3.

²²⁹ *Op. cit.*, Article 4.

- The Danube Commission [for navigation regime. Note: S.B];
 - UN ECE;
 - Institutions of the EU.²³⁰
- Cooperation with national organizations, comprising:
 - Nominated authorities and bodies competent for compliance with the FASRB;
 - Informing the Chairman of the International Sava River Basin Commission on such nominations;²³¹
- Implementation of international water law principles, comprising:
 - Reasonable and equitable sharing of beneficial uses of the Sava River basin watercourses;
 - Determination of such sharing to be subject to implementation of relevant factors according to international law;²³²
- Regulation by separate treaty (a Protocol to the FASRB) issues connected to transboundary impacts, comprising issuance of water law rights instruments (licenses, permits and confirmations) for installations and activities that may have a transboundary impact on the water regime;²³³
 - Undertaking of all appropriate measures to prevent causing significant harm to other Parties.²³⁴

The FASRB Parties agreed to co-operate on management of waters in a sustainable manner, which includes integrated management of surface and underground water resources in the Sava River Basin, in the manner that would provide:

- Water in sufficient quantity and of appropriate quality for preservation, protection and improvement of aquatic ecosystems (including flora, fauna and eco-systems of natural ponds and wetlands);
- Waters in sufficient quantity and of appropriate quality for navigation and other kinds of use/utilization;
- Protection against detrimental effects from water (flooding, excessive groundwater, erosion and ice hazards);
- Resolution of conflict of interests caused by different uses and utilizations;
- and
- Effective control of water regime.²³⁵

²³⁰ *Op. cit.*, Article 5.

²³¹ *Op. cit.*, Article 6. 1. and 2.

²³² *Op. cit.*, Article 7. 1. and 2.

²³³ *Op. cit.*, Article 8.

²³⁴ *Op. cit.*, Article 9.

²³⁵ *Op. cit.*, Article 11.

The FASRB Parties agreed to develop joint or integrated Plan on the management of the water resources of the Sava River basin and to co-operate on preparatory activities that would be adopted by them on the proposal of the

ICSRB. These activities shall be co-ordinated with the activities of the ICPDR.²³⁶

4.3 Mechanism of Cooperation

4.3.1 Meeting of the Parties

The Meeting of the Parties is an institutional setting responsible for keeping under continuous review the implementation of the FASRB, on the basis of the reports of the ISRBC, through:

- Reviewing the work and operations of the ICSRB and taking decisions based on recommendations;
- Consideration and adoption of proposals for signing the Protocols and Amendments to the FASRB;
- Consideration and undertaking of any additional action that may be necessary for the achievements of the FASRB purposes.²³⁷

The Parties meet once in two years²³⁸ and take decisions by consensus²³⁹.

4.3.2 International Sava River Basin Commission (ICSRB)

For implementation of the FASRB, an international commission, the International Sava River Basin Commission (ICSRB) has been established, with international legal capacity necessary for exercise of its functions.²⁴⁰ The ICSRB consists from two representatives of each party, one member and one deputy member.²⁴¹ The ICSRB may establish its permanent and *ad hoc* expert groups.²⁴² The rules in regards of Chairmanship of the ICSRB and the sessions of the ICSRB are contained in the ICSRB Statute,²⁴³ and in great details in the Rules of Procedure.

The functions of the ICSRB are designated as making:

- Decisions aimed at providing conditions for safe navigation²⁴⁴;

²³⁶ *Op. cit.*, Article 12.

²³⁷ *Op. cit.*, Article 14. 2.

²³⁸ *Op. cit.*, Article 14. 1.

²³⁹ *Op. cit.*, Article 14. 3.

²⁴⁰ *Op. cit.*, Article 15.

²⁴¹ ICSRB Statute, Article 1. 1.

²⁴² ICSRB Statute, Article 1. 2.

²⁴³ See, Art. 2. and 3.

²⁴⁴ It is worth noting that, in accordance with the Protocol on the Navigation Regime to the FASRB (signed at Kranjska Gora, 3 December 2002 and later ratified by all the FASRB Parties) navigation on the watercourses the FASRB applies on shall be carried in accordance with the Rules of Navigation that shall be determined by the ICSRB and the competent authorities of the Parties. However, the Rules determined by the Parties must be in accordance with the decision of the ICSRB.

- Decisions on the financing construction of navigable waterways and their maintenance;
- Decisions on its own work, budget and the procedures;
- Recommendations on all other issues regarding realization of the FASRB.²⁴⁵

Decisions listed under the first three bullets above shall be binding upon all the Parties. In case of decisions of the two first bullets, the members of ICSRB may withdraw their votes within 30 days after the date when decision was adopted by the ICSRB, or inform the ICSRB that such decision is subject to the approval of the relevant authority his/her State.²⁴⁶ The formulation of this provision allows conclusion that the ICSRB decisions on “its own work, budget and procedures” are binding on the Parties without any additional approval procedure.

More detailed the tasks and competences of the ICSRB are elaborated in the ICSRB Statute, including empowering the ICSRB to adopt additional legal instruments needed for discharging its functions, such as:

- Rules of procedure;
- Financial Rules;
- Decisions on Main Functions and Structure of the Secretariat and job Description of the officials and Support Staff; and
- Staff Regulations of the Secretariat.²⁴⁷

Each Party has one vote.²⁴⁸ Decision and recommendations shall be adopted by the unanimous vote.²⁴⁹ The ICSRB may use written decision-making procedure in urgent case, in accordance with the Rules of Procedure.²⁵⁰

The Sava Commission has been financed by equal regular annual contributions of the Parties and from other sources.²⁵¹ The budget ICSRB adopts its annual or biennial budget and budget estimates for the fiscal period following thereafter.²⁵² The Parties bear expenses related to participation of their representatives, experts and advisers in the ICSRB,²⁵³ as well as the costs of regular monitoring and assessment activities, carried out in their territories.²⁵⁴

The ICSRB has been given right to establish its Secretariat.²⁵⁵ It is established with the seat in Zagreb. The Secretariat has been managed (“run”) by a Secretary, who is responsible to the ICSRB and who has three deputies.²⁵⁶ The

²⁴⁵ *Op. cit.*, Article 16. 1.

²⁴⁶ *Op. cit.*, Article 16. 2.

²⁴⁷ ICSRB Statute, Article 4.

²⁴⁸ ICSRB Statute, Article 5. 1.

²⁴⁹ ICSRB Statute, Article 5. 3.

²⁵⁰ ICSRB Statute, Article 5. 2.

²⁵¹ *Op. cit.*, Article 17 and The ICSRB Statute (adopted in the form Annex I of the FASRB), Article 6. 1.

²⁵² ICSRB Statute, Article 6. 2.

²⁵³ *Op. cit.*, Article 6. 3.

²⁵⁴ *Op. cit.*, Article 6. 3.

²⁵⁵ FASRB, Article 18. 1.

²⁵⁶ FASRB, Article 18. 2 and 3.

ICSRB Secretariat has been designed to perform administrative and executive services for the ICSRB,²⁵⁷ and it consists of officials (Secretary, his Deputies and Advisors²⁵⁸) and support staff.²⁵⁹ Appointment of the officials is the right of the ICSRB, following a competitive selection procedure and requirements set in the rules and regulations by the ICSRB. The Secretary is competent for appointing the support staff, also in accordance with the ICSRB rules and regulations.²⁶⁰ The officials must be nationals of the parties.²⁶¹

²⁵⁷ ICSRB Statute, Article 7 1.

²⁵⁸ Which are international civil servants. –See, Staff Regulation of the Secretariat, Article 4.

²⁵⁹ ICSRB Statute, Article 7. 2 and 3.

²⁶⁰ ICSRB Statute, Article 7. 4.

²⁶¹ ICSRB Statute, Article 7. 5.

VII. DRAFT TRILATERAL AGREEMENT

1. Notes on Legal Status of Draft

Pursuing the choice made at the very beginning of the Prespa process²⁶² that a trilateral agreement should be drafted, and signed by the environmental Ministers of the three States, a document entitled “Draft²⁶³ Tripartite Agreement on the Protection and Sustainable Development of the Prespa Park Area” was, according to available information, designed by the MedWet, and distributed among interested authorities and stakeholders²⁶⁴. No rationale is attached to the text available.

For a proper assessment of the legal status of this document, as an output of preceding activity aimed at achieving sustainable result in future trilateral cooperation, it would be important to have clear answers on e.g. following questions:

- Was the decision regarding drafting taken by legally eligible subject(s)?
- How decisions on certain options in the Draft Agreement were taken (*i.e.* what was underlying and supporting rationale for choosing certain option)?
- Was a ToR for making draft, reflecting principles and basic policy framework of future trilateral cooperation, adopted? By whom?
- Did national authorities commit themselves to accept the output of such drafting process for their future joint trilateral action?
- Was such action jointly agreed on?

Analysis of above listed issues, accompanied with additional details, would highlight legal validity of the document, which can help to understand reasons why it was not efficient in development of new set-up for trilateral cooperation.

2. Contents of Draft

The Draft contains provisions on:

- Objective of the Agreement;
- Basic obligations of the Parties;
- Environmental standards and criteria;
- Sustainable water management;
- Exchange of data and information;
- Transboundary environmental impact;
- Cooperation with international organizations and donors;

²⁶² See *supra*, note No. 62.

²⁶³ The most probable, it is clear that this document cannot be entitled as a “draft”, because of exclusive right of the State authorities involved officially to determine such kind of status of a document. Yet, this note is important for future work that shall be aimed exclusively to development of “texts” of certain legal instruments only, in a time limited formal procedure that would lead to giving certain legally clear status by the competent national authorities, to the texts agreed on.

²⁶⁴ No details on time when the document was finalized are available at the moment.

- Mechanism of cooperation, including a “high-level segment” and Prespa Park Management Committee with a working group;
- Dispute settlement;
- Amendments;
- Entry into force;
- Relation with other treaties;
- Duration and withdrawal.

3. Instead of Conclusion

The Draft Trilateral Agreement was not negotiated by the littoral Prespa Lakes States. It can rather be considered as an informal initiative (probably it might be said the NGO one) for conclusion of a binding trilateral treaty in accordance with international law (*i.e.* Vienna Convention). Deficiencies in drafting procedure (absence and lack of participation of the States’ representatives empowered to participate in the drafting/negotiation process) obviously led to a situation similar that explained in regards of the SAP—no one public authority in the littoral States felt ownership over the final product (the Draft text of the Trilateral Agreement) and consequently duty to undertake any formal move after receiving the text of the Draft. Noted should be (again) that commitment for drafting the Trilateral Agreement in such a way was reached/expressed by the environmental ministers, not by the littoral States of the Prespa Lakes.

Detailed specific analysis of text of the proposed legal norms would be demanding and time-consuming task, with no clear vision what the result of such analysis would be in its legal meaning and who (which forum) would use it. Experts from all three States involved in commenting the text of Draft by now have given valuable contributions to improvement of the text. The text is subject to further considerations among various experts, including specialists from MFAs legal affairs departments, and authorities of all three States.

But, it seems obvious that such work would not mean wasting time only if it is framed in an official procedure, agreed on in advance by the States involved, as well as with agreed important legal aspects of such work, participants to be included and outputs expected.²⁶⁵

In that sense, no further analysis of the text of Draft shall be continued in this Report. The Draft should be used during the process of official trilateral consultations with all other appropriate material as it might be considered necessary by participants.

²⁶⁵ For more details on this issue, see *infra* in Chapter VIII Recommendations.

VIII. RECOMMENDED ACTIVITIES, ORDER OF STEPS AND TIME FRAME

1. Introductory notes

In accordance with the ToR, this Technical Assessment Report is expected to offer concrete recommendations on the most appropriate institutional arrangements / set up for transboundary ecosystem management and water governance in the Prespa Lakes Basin, in view of the PPCC playing this role, its current capacity to do so and next steps for its institutional maturation. Such recommendations should be based on previously made reviews in regards of current national legislation of the three Prespa Lakes littoral States, *i.e.* Albania, Greece and FYR of Macedonia and their commitments to implement broader legal and policy requirements set at global, UNECE and EU frameworks, as well as assessments done on institutional set up of the PPCC and its existing and future financial sustainability, and review and assessment of a text of current draft of tripartite treaty on the Prespa Park Area.

Having completed the necessary reviews and assessments, as it has been presented in the chapters above, it was possible to formulate a set of recommendations. Instead of a broad formal rationale for the chosen approach, several explanatory notes, reflecting the basic findings, hopefully should sufficiently indicate why the applied approach has been chosen in formulation of the recommendations.

2. Some Explanatory Notes

Experience has shown that in regulating interstate relations regarding their shared water resources or transboundary ecosystem management, it would be not possible to take over (import) any other transboundary institutional water set-up as a ready-made legislation model, and implement it successfully in another transboundary legislative unit. This is valid for the Prespa Lakes Basin too.

Each transboundary waters case is a case *per se*. However, rich and diversified enough international law theory and practice can offer plenty of ideas that could inspire drafters (participants in official consultations and negotiators) in their search for best and feasible solutions. In other words, the future Prespa Lakes Basin institutional arrangement should be good enough if it is specifically tailored for the Prespa Lakes Basin only.

Interstate regulation of their relations concerning shared water resources or transboundary ecosystem management, depend on commitment of the interested states to co-operate, negotiate and to reach an international (bilateral or multilateral) agreement. Such co-operation is subject to certain principles that should be applied in accordance with international law, *e.g.*:

- Sovereign equality; and
- Territorial integrity of states;
- Mutual benefit;

- Reciprocity;
- Good faith, etc.

In the UN ECE region, such co-operation is primarily expected to be implemented through the elaboration of agreements between countries bordering the same waters that should be based on the principles of:

- General obligation to cooperate;
- Reasonable and equitable use of waters;
- Obligation not cause significant harm;
- Regular exchange of information;
- Notification concerning planned measures with possible adverse effects, etc.

Such co-operation, based on those and other recognized international law principles should lead to development of harmonized policies, programs and strategies covering relevant catchment area or part thereof, aimed at the prevention, control and reduction of transboundary impact and at the protection of the environment of transboundary waters or the environment influenced by such waters, etc.

Necessity for transboundary co-operation in regards of shared waters is strongly supported by multilateral global and UN ECE treaties and rooted in the EU policy, particularly regarding waters in transboundary catchment areas. Having in view the facts that Greece is the Member of the EU and that Albania and FYR of Macedonia declared their commitment to participate in the European integration processes with the aim to become Members of the EU too, it is reasonably to expect that next phase in co-operation regarding the Prespa Lakes Basin shall be based and up-graded on the remarkable results achieved during last eight years.

The momentum should be used that international community is strongly committed to support a process of joint trilateral search for the most suitable tripartite arrangement for the Prespa Lakes Basin that would bring institutional and financial stability and sustainability of relations between three States aimed at achievement of integration of ecological, economic and social goals in the Prespa Lakes region. In that way, the initial commitment expressed in the Declaration of the Prespa Lakes, would be sustained through the desire that "Prespa Park become and remain a model of its kind as well as an additional reference to the peaceful collaboration" among three countries.

3. Commitment of the States

Additionally to the ("soft-law") commitment expressed in the Prespa Park Declaration (2000), a new commitment of the three Prespa Lakes littoral States to co-operate in the elsewhere above described framework of international law applicable to the Prespa Lakes Basin, should be shown in the implementation frameworks of the UNDP-GEF project "Integrated Ecosystem Management in the Prespa Lakes Basin of Albania, FYR of Macedonia and Greece". As an example of particularly strong form of national commitment to transboundary

waters co-operation, here should be quoted the provision of Article 20.2 of the Albanian Law No. 9103, date 10.7.2003 on the Protection of Transboundary Lakes:

The management plans should comply with the international conventions on the lake protection and management, as well as be in compliance with the agreements signed with the neighbouring countries.

In searching for a “more permanent and mature” institutional arrangement that would be sustainable in a long-term perspective in performing complex duties relating to the management of the Prespa Lakes Basin (and in that way further up-grading the concept of Transboundary Prespa Park), a set of “pragmatic and ambitious” recommendations for consideration has been formulated bellow.

4. Recommendations

The Recommendations bellow, structured in the way as they are, shall provide not only bare answers to the ToR requirements. If accepted and fully implemented they could provide a chance for development of a feeling of regional ownership over designed solution(s). The best theoretical solution shall not be successfully applied in practice if it is not embraced by interested people and felt as their own.

4.1 Trilateral Consultative Process

A process of formal trilateral consultations should be established with the aim of:

- Development of legal and institutional basis for the transboundary integrated water and ecosystem management in the Prespa Lakes Basin, in conformity with international law;
- Drafting the text of a trilateral treaty concerning the Prespa Lakes Basin;
- Drafting texts of all legal instruments necessary for establishment and beginning of work of a trilateral Prespa Lakes Basin institution, responsible for implementation of the said treaty, and having law personality under international law;
- Developing and proposing the model of financial sustainability of such trilateral institution.

The Process of Trilateral Consultations (PTC) in the context of this Report means (expert multi-sector) joint effort of three official States’ delegations (joined in one Working Group) on investigation and assessment of all issues relevant for and formulation of the rules applicable to the Prespa Lakes Basin.

Political differences between the Prespa Lakes Basin States shall not be dealt with during the PTC.

“Establishment of the PTC” has in the context above the meaning of:

- Addressing of the UNDP to the three Prespa Lakes Basin States through diplomatic channels with formal proposal for their commitment to enter

into the Process of Trilateral Consultations on the Prespa Lakes Basin treaty;

- Drafting the text of a Letter of Intent containing all elements of such commitment (in the meaning, goals to be achieved, principles the consultations and treaty should be based on, the way how to run the PTC, activities, time frame for all activities, etc);
- Addressing of the UNDP to respective international organizations (as proposed below) for support for the PTC.

This approach would lead towards making the draft of the Trilateral Agreement, which would contain satisfactory solutions for all the States involved.

After finalization of a text of the trilateral treaty, it would be officially delivered to the three States as an output of joint efforts of their national experts.

Besides its regular tasks, as designated in the PPCCToR&OA, the PPCC shall play the role of POC to the project “Integrated Ecosystem Management in the Prespa Lakes Basin of Albania, FYR of Macedonia and Greece”, as designed in the UNDP Full Size Project Document, until the establishment of new trilateral institutional set-up in the Prespa Lake Basin, as a result of implementation of that project. Financial support for the Albanian and FYR of Macedonian members of the PPCC Secretariat should be provided by the UNDP-GEF Project with aim to sustain such role of the PPCC.

PTC should be open for participation of all national stakeholders (in the sense of being able to submit their opinions to national delegations). Representatives of international community should be given chance to address directly to delegations. General public should be informed from time to time on the progress.

4.2. Rapid Comparative Legal Assessment of Cross-Cutting Issues

Soon after beginning of PTC, a rapid assessment of national legal and institutional context for development / supporting an advanced good water governance model for the Prespa Lakes Basin—the Rapid Comparative Legal Assessment of Cross-Cutting Issues (RCLACCI) in all three littoral States should be undertaken with the aim the results to be at disposal to participants of the PTC. This should comprise legal options, possibilities and obstacles, for inter-sectoral (in the meaning inter-departmental, inter-ministerial), multilevel (in the meaning of central, regional and municipal) networking.

Possibilities for further strengthening national NGO networks and different stakeholder group networks (e.g. fishermen, agriculture, tourist etc.) interested in the Prespa Lakes Basin activities should be investigated as well as possibility for their networking at the transboundary trilateral level.

4.3 Performing Pilot SEA in the Prespa Lakes Basin

For certain chosen public plans in each of the Prespa Lakes Basin States one Strategic Environmental Assessment should be performed in the framework of this Project, on the pilot basis, with the aim of demonstrating significance and

power of that environmental protection management instruments and on three practical examples identify accurately possible role of future Prespa Lakes Management Committee (*i.e.* transboundary dimension of SEA).

Similar activity might be undertaken for Environmental Impact Assessments (EIA).

In all cases, full public involvement in accordance with the Aarhus Convention would be demonstrated.

4.4 Involvement of international organizations

Additionally to the efforts invested by now into the Prespa Park process by certain prominent international organizations (*e.g.* Ramsar Convention Bureau, MedWet Initiative, WWF) and notwithstanding to their valuable support and help in future, other international organizations, recently active in fostering various aspects of transboundary co-operation, particularly related to waters and environmental issues in the SEE countries, should be involved in the PTC.

In parallel with preparatory activities for the PTC, UNDP should approach to such international organizations as:

- European Commission (EC);
- Council of Europe (CoE);
- UN Economic Commission for Europe (UN ECE);
- Organization for Security and Co-operation in Europe (OSCE);
- North Atlantic Treaty Organization (NATO).

On the basis of previously reached agreement of the three Prespa littoral States, the UNDP would ask them to participate in the PTC in the observers' status, and provide assistance based on their experience, and other kind of assistance (in *e.g.* chairing and facilitating the consultation process) if needed.

4.4 International Prespa Conference

Organizing a scientific/professional international conference on policy, legal, institutional, good governance, and management and development issues in the transboundary context focused on the specific Prespa Lakes Basin case would be beneficial for the PTC itself, but to all three Prespa littoral States too. Besides provision of a deep insight into the current development world's and particularly EU trends, such an event would significantly enhance visibility of unique on-going co-operative processes in the Prespa Lakes region, and hopefully contribute to establishment of new connections and open new co-operation and business possibilities.

5. Order of Steps & Content of Activities²⁶⁶

The proposed Tripartite Consultation Process (TCP) aimed at conclusion of the Agreement on the Prespa Lakes Basin would be phased, as followed²⁶⁷:

PHASE I

PREPARATORY ACTIVITIES AND EXPRESSION OF COMMITMENT

1. Preparatory activities

- 1.1 UNDP officially to inform the three Governments on the proposed plan of next steps for institutional maturation

[Formal proposal to be attached. This information could be accompanied with proposed text of a **Letter of Intent** that would contain basic elements of commitment of the three States to (technical) consultations.

Request for official confirmation of commitment to participation in the forthcoming process, in case the Letter of Intent would not be signed]

- 1.2 UNDP officially to inform on the planned process, ask support and propose participation in the status of observers to the organizations members of international community, *i.e.*:

- European Commission (EC)
- Council of Europe (CoE)
- OSCE
- UN ECE
- NATO
- MedWet
- WWF

[The list is not exhausted. Other interested international organizations as well as interested States can join the TCP.

EC, CoE and OSCE should be asked to provide a more concrete support in the form of the facilitating the TCP and chairing official consultative sessions.

UNDP shall decide on the moment of this official communication]

2. Official responses to the UNDP

- 2.1 Three Governments to confirm (may be in form of signing the Letter of Intent) of official participation in the tripartite consultation process aimed at reaching a tripartite agreement, in accordance with Recommendation 4.1

- 2.2 Three Governments to communicate officially to the UNDP information on national delegations empowered for participation in consultation process, with data on:
- Head and deputy of delegation (with power to express final position of the delegation concerning considered issues)

²⁶⁶ All institutional titles in this text (*i.e.* “Tripartite Prespa Lakes Agreement” (Prespa Agreement), “Consultation Logistic Unit (CLU)”, “Prespa Management Committee” (PMC)) are tentative and not intended to suggest any final denomination, and serve only to help in more precise explanation of concepts proposed in this text.

²⁶⁷ Recommended activities are numbered. Additional explanations are given in square brackets.

- Composition of delegation

[Data on experts, professional profile, communication data etc. Delegations should be composed as multidisciplinary expert teams with multi-stakeholder representation. Participation of MFA legal departments is crucial]

- Possibility for inclusion of more experts etc.
- Way of official communication and official contact point during the TCP

2.3 Three Governments to express their support for participation of international community members

[In conformity with 1.4 above. May be contained in the Letter of Intent]

2.4 International community members invited to participate in the TCP officially to respond on the request of UNDP

3. UNDP to establish CLU, as an Interim Secretariat of TCP

[CLU would be established by UNDP and under its control and in one of its premises.

All communications in the TPC would go exclusively through the CLU.

CLU would be composed of a long-term full-time coordinator (int'l expert)²⁶⁸ and a technical secretary²⁶⁹.

ToR to be adopted shall be prepared by UNDP and agreed on at first formal meeting of the States' expert teams/delegations. Commitment for UNDP funding a long-term international expert position was expressed in the GEF PD]

²⁶⁸ The GEF PD foresaw funding a full time co-ordinator, which was inconstantly mentioned as the "Executive Secretary of the PPCC", separate from the position of International Transboundary Advisor (ITA), but as well as ITA playing the role of the Executive Secretary of the PPCC. In regards of those GEF PD references and proposal for establishment of specific organisational unit—CLU to serve the trilateral consultancy process, some additional highlight of details is necessary. It seems that any role of ITA in the PPCC would lead to the conflict of interests, because of controlling function of ITA over the project funds.

A clearly established function of CLU is of vital importance for smooth development of TCP and achievement of projected results in determined time-frame. Its purely high-level professional impartial performance and dedication solely to the TCP, together with strongly-supportive participation of authoritative international organizations, are those factors that would provide a climate of confidence and enthusiasm in the TCP. In that context it seems unrealistic to expect ITA to play this role successfully, additionally to his on-going activities.

Having in view approach taken in this Report (*i.e.* recommendation a three-year TCP to be established and run) a pragmatic reading of the GEF PD would actually provide basis for funding the CLU (which should be under the full control of UNDP, *i.e.* ITA). If there is still need for initially envisaged support to the PPCC secretarial work, it should be considered separately.

The proposal elaborated here is only one concept, intended more to illustrate the need for such logistic support to the PTC than reflecting an exact need. The PTC can last shorter, what depend on teams appointed for consultations and experts chosen to draft legal documents. Similarly, if there are no Project funds enough for covering the entire PTC, other possibilities should be searched for. Perhaps a separate project funded by additional sources (like in the case of the FASRB) could be established, etc.

²⁶⁹ Technical Secretary of CLU would be seen here as a possibility for funding additional work through short-term engagement of high-school profile person for enhanced and time pressure activities.

PHASE II PROCESS OF TRIPARTITE CONSULTATIONS

4. First/Initial formal meeting of the States' consultative teams/delegations

4.1 Invitation by the hosting country, UNDP and facilitating organization

[Tentative Agenda and all material to be prepared by UNDP CLU. Tentative Agenda could comprise:

- (a) Detailed information on commitment to the process expressed by the Governments of three States and members of international community
- (b) Adoption of interim program and plan of consultation
- (c) Adoption of Methodology of Work and a tentative activity time frame
- (d) Adoption of ToR for Rapid Comparative Legal Assessment of Cross-Cutting Issues (RCLACCI)

The elements for RCLACCI of would be:

- Compliance with relevant global, CoE and UNECE treaties and transposition of the Community *acquis*
- Institutions competent for compliance, transposition and enforcement
- Networking of relevant national institutions
-

National experts / lawyers should be engaged. International consultant / lawyer should be engaged for consolidation of Joint Report. Total time for execution would not last more than 45 days. Engagement of experts through the UNDP competitive procedure]

- (e) Initial talks on the text of the Prespa Agreement, e.g.:

- Tentative title
- Contents
- Preamble
- Principles
- Territorial scope

- (f) Next meeting set-up

- (g) Forming of Task Forces

[If there is need for additional in-depth analysis of certain issues, Task Forces might be formed for elaboration and reporting. ToRs and conditions for their work to be agreed on by delegations.]

4.2 First Session holding

4.3 Establishment of electronic consultative network

[List of persons. Openness for proposals and comments. Status of and handling with proposal and comments]

5. Formal Tripartite Consultations Process

5.1 Work

- Work between official meetings

[Comprises: Logistic work of CLU; Work of participants of TCP; Work of experts / Task Forces; Work of authorities; Work of stakeholders; Information and reporting by all]

- Work on the official meetings

[Comprises: Drafting the text of legal norms; Planning of work; Taking joint conclusions aimed at needs of TCP Working Team; Reporting to the Governments (through UNDP CLU)]

- 5.2 RCLACCI Report and other reports when completed on request of TCP Working Team
- 5.3 Finalization of consultation aimed at reaching (expert/technical) agreement on text of the tripartite Prespa Agreement
- 5.4 Final text of Prespa Agreement delivered to UNDP

6. Facilitating international organization and UNDP official delivery of the agreed text of Prespa Agreement to the three States

[Facilitating organization, UNDP and MFAs of the three States would officially facilitate signing the Agreement]

7. Formal consultations on further steps

Plan for work in the III PHASE

[Should comprise: Setting the task evolved on the basis of agreed text of the Prespa Agreement; Expected results; Interim institutionalisation of the process in the III Phase, in terms of forming the expert team(s), organisation of their work, duty of reporting, reporting authorities, etc.; Tentative time frame; Participation of MFAs & Ministries for Environment, at least; Facilitation by UNDP and other members of international community; Logistic by CLU; ToR(s)]

**III. PHASE
NEGOTIATIONS. RATIFICATION. LEGAL INSTRUMENTS & BUDGET
DRAFTING. PREPARATION OF FIRST SESSION OF PRES
PA
MANAGEMENT COMMISSION**

8. On-going process of negotiation and ratification

8.1 Now the States would have a very satisfactory result achieved through their joint effort. They would be owners of the Draft text of one international law instrument. They would be in position to negotiate the nature and details of Agreement and time frame for its ratification.

[More solutions could be chosen at this stage, in accordance with international law, but all of them must be negotiated. Rich possibilities in accordance with Vienna Convention might be investigated in search for satisfactory solution for all the interests of negotiating States.]

8.2 After having completed negotiations, the States would sign the Agreement and initiate the process of its ratification

9. First meeting of [three States delegations/teams] drafting experts

9.1 Invitation

[Invitation by host country, facilitating organization and UNDP.

Tentative Agenda and all material to be prepared by UNDP CLU. Tentative Agenda could comprise:

- (a) Informing on ratification process
 - (b) Review of Work Plan and ToR(s)
- This may comprise drafting of texts of the following documents necessary for successful establishment of trilateral management body under international law:
- Statute
 - Rules of Procedure
 - Staff regulations of the Secretariat

- Regulations on Main Functions & Structure of Secretariat & Job Description of Positions of the Officials and Staff
 - Financial Rules
 - Methodology for Monitoring of Compliance with Tripartite Agreement
 - Seat Agreement
 - Draft Work Plan for the First Year
 - Draft Budget for the First Year
 - Tentative Agenda for the First Session
 - Final report on work
 - (c) Detailed time frame, including limitation of time for work on certain documents
 - (d) Methodology of work
 - (e) Choosing basic material for work
- 9.2 Holding of first meeting

10. Joint drafting of texts of documents

[Agreement on solution of situations when participant were not able to agree on certain option shall be set in advance, to avoid wasting time in fruitless discussions]

11. Finalisation of work and preparation of Final Report

- 11.1 Preparation of agenda & materials for the First Session of new international Prespa Management Commission
- 11.2 Adoption of Final Report
- 11.3 Submitting officially to the new Prespa Management Commission for its First Session the Final Report on the work done and all the text of documents agreed

12. PRESPA MANAGEMENT COMMITTEE IN PLACE. First Session

7. REMINDER NOTES ON POSSIBLE CONTENTS OF THE PRESPA LAKES BASIN AGREEMENT

The following reminder notes are written with the one purpose only: to inspire search for the best legal solutions and in the same time to indicate the complexity (of a multifaceted efforts) of designing and establishment of a sustainable institutional solution for such an area as the Prespa Lakes Basin is. The listed issues, and others not listed here, concerning for instance scope of the agreement, institutional setting, institutional operations, decision-making process and financing and budget, must be discussed, negotiated and an agreement should be reached on each of them in a trilateral negotiation process.

7.1 Some Features of the Agreement

- The territorial scope would be the Prespa Lakes Basin;
- Anticipation of all the WFD requirements;
- The Agreement might have Annexes as needed for comprising all issues in detail;
- The Agreement shall set the legal grounds for additional legislation needed for full development of legal personality of the Prespa Management Committee;
- When draft text is completed in the consultation process, the States shall decide in negotiation process what kind of international treaty it shall be, and sign it in the way they will found appropriate.

7.2 Some Features of the Prespa Management Committee

- It shall be responsible for implementation of the Agreement;
- It shall have international legal capacity necessary for performing its duties, comprising right to sign contacts, to purchase and own assets, to sue and to be sued etc;
- It shall have right to set an international Prespa Trust Fund, if needed;
- It shall have legal possibility to be owner of the Prespa Lakes trade marks, if so agreed;
- It shall have its own premises, obtained on the basis of a Seat Agreement concluded with the host country. The seat of the Committee shall not be subject of consultation. It shall be decide between three States through diplomatic channels.
- Institutional structure of the Committee should be:
 - Simple and transparent, with clear lines of communication, and reporting duty;
 - In terms of regular expenses tailored to the economic possibilities / strengths of the region
 - Officials and staff members of the Secretariat should be employees of the Committee.

7.3 Some Notes on the Role and Scope of Competence of the Prespa Management Committee

Each aspect of the scope of the competence of the Committee must be correlative to the goals and aims of trilateral co-operation and defined as much as possible. No paper should be saved for description of those goals and related competences, the most probable in the annexes to the Agreement.

The role of the Committee should be designed against various activities on-going in the Prespa Lakes Basin, on the basis of national legislation (enforcing or expected to transpose EU requirements), such as *inter alia*:

- Strategic planning affecting the Prespa Lakes Basin;
- Development of the Prespa Lakes Basin Management Plan in the context of the WFD;
- Institutional collaboration with the three respective water councils (or boards) competent for the Prespa Lakes Basin;
- Harmonization of relevant national legislation;
- Issuance of legal instruments setting various kinds of water use rights of which would affect the status of water bodies in the Prespa Lakes Basin;
- Monitoring;
- Environmental impact assessment procedures (SEA and EIA);
- Integration Prevention and Pollution Permit procedure;
- Interface for articulation of the Prespa Lakes basin stakeholder interests and helping in searching for “win-win” solutions;
- Development of nature and man made disaster combating strategies and related risk assessment in the Prespa Lakes Basin (e.g. droughts, fire fighting, floods, aviary influenza);
- Spatial planning in the Prespa Lakes Basin;
- Implementation of BEP in the Prespa Lakes Basin;
- Harmonizing the Prespa Lakes fishery management;
- Developing Prespa trade marks;
- Forestry management;
- Water quality management;
- Harmonizing protective measure in the protected area;
- EU policies adjustment to the needs of the Prespa Lakes Basin;
- Reporting on the state of environment (e.g. achievement of the goals of the Agreement);
- Research into various relevant aspect of the Prespa Lakes Basin Management;
- Coordination efforts with activities on-going in the framework of the Ohrid Lake Basin, and other relevant broader initiatives (e.g. continue exceptionally good cooperation with the Ramsar Bureau and MedWet Initiative);

7.4 Notes on Working Guidance

Summary Reports on the Thematic Sessions 1 (“Institutionalizing co-operation and stakeholder involvement”) and 2 (Sustainable financing), held in the framework of International Roundtable on “Integrated Shared lake Basin Management in the Southern Europe”, organized by Global Water Partnership Mediterranean and Lake Ohrid Watershed Committee 12—14 October 2006 at Ohrid, can be used alongside with the above bulleted notes, as an indicative work guidance.

BIBLIOGRAPHY

Avramoski, Oliver: ANALYSIS OF PUBLIC PARTICIPATION PRACTICES IN ECOSYSTEM APPROACHES TO ENVIRONMENTAL MANAHEMNT IN THE REGION OF OHRID AND PRESAPA LAKES; A the thesis submitted to the Department of Environmental Sciences and Policy of CEU in fulfilment of the Degree of Master of Science; Budapest, 2002

Bogdanovic, Slavko: Good Governance of the Sava Basin—Legal realities and Practical prospects; *Journal of Water Law*; Law Text Publishing Ltd.; 2004; 15 WL3/04

Bogdanovic, Slavko: Legal Aspects of Transboundary Water Management in the Danube Basin; Schweizerbart'sche Verlagsbuchhandlung, Stuttgart; *Large Rivers*, Vol. 16. No. 1-2, Arch. Hydrobiol. Suppl. 158/1-2, 2005

Caponera, Dante A.: THE LAW OF INTERNATIONAL WATER RESOURCES; FAO, Rome, 1980

Chardalopoulos, Gianis: INTRODUCTION OF A PRESAPA PARK TRADE MARKS—Preparatory Investigation; Final Synthesis Report; Society for the Protection of Prespa, 2006

Council of Europe: GENERAL GUIDELINES FOR THE DEVELOPMENT OF THE PAN-EUROPEAN ECOLOGICAL NETWORK; Nature and Environment Series, No. 107, Strasbourg, 2000

Council of Europe: 3rd International symposium of the Pan-European Ecological Network – Fragmentation of Habitats and Ecological Corridors – Proceedings; Riga, October 2002; Environmental Encounters No. 54, Council of Europe, Strasbourg, 2000.

Declaration on the Creation of the Prespa Park and the Environmental Protection and Sustainable Development of the Prespa Lakes and their Surroundings; Aghios Germanos, 2000

EUROPEAN COMMISSION; PUBLIC PARTICIPATION IN RELATION TO THE WATER FRAMEWORK DIRECTIVE: Common Implementation Strategy for the Water Framework Directive (2000/60/EC), Guidance document 8; European Communities, 2003

EUROPEAN ENVIRONMENTAL AGENCY: EUROPE'S ENVIRONMENT—The Fourth Assessment; Copenhagen, 2007

Federal Ministry for the Environment, Nature, Conservation and Nuclear Safety & World Bank: PETERSBURG PROCESS—PHASE II; Berlin Recommendations; 2005

Glesos, Milton: PRELIMINARY ASSESSMENT ON TRANSBOUNDARY FIRE-FIGHTING AND CONTINGENCY COOPERATION IN THE PRESAPA PARK AREA: Society for Protection of Prespa; Aghios Germanos, 2004

Global Water Partnership: EFFECTIVE WATER GOVERNANCE—Learning from Dialogues; Paper presented at the Third Water Forum Kyoto, 16—32 March 2003

Great Lakes Science Advisory Board: EXPERT CONSULTATION ON EMERGING ISSUES OF THE GREAT LAKES IN THE 21ST CENTURY; Report to the International Joint Commission Canada and United States; November 2006

Hammerl, Marion; Gattenboehner, Udo: Lake Constance/Bodensee—Experiences and Lessons Learned; Paper present at the Lake Basin Management Initiative Regional Workshop for Europe, Central Asia and the Americas, held at St. Michale's College in Vermont, USA, 18—21 June 2003

ICPDR: ACTIVE FOR THE DANUBE RIVER BASIN; Vienna, 2004

ICPDR: THE DANUBE BASIN ANALYSIS; WFD Roof Report 2004; PART A—BASIN WIDE OVERVIEW, Summary; Vienna, 2005.

IHP UNESCO: RIVER BASIN MANAGEMENT; Proceedings of the International Workshop, The Hague, 27—29 October 1999

International Joint Commission Canada and United States: ADVICE TO GOVERNMENTS ON THEIR REVIEW OF THE GREAT LAKES WATER QUALITY AGREEMENT; A Special report to the Governments of Canada and United States; August 2006

International Joint Commission Canada and United States: Discussion Paper on THE INTERNATIONAL WATERSHED INITIATIVE; Second report to the Governments of Canada and the United States; June 2005. www.ijc.org. Site last visited 31.10.2007

Johnstad, Mark: BEST PRACTICES—POLICIES AND INSTITUTIONS FOR TRANSBOUNDARY WATER AND BIODIVERSITY MANAGEMENT, In Support of Development and Design of the Transboundary Prespa Park Project;

Kliot, Nurit; Shmueli Deborah; Shamir, Uri: INSTITUTIONAL FRAMEWORK FOR MANAGEMENT OF TRANSBOUNDARY WATER RESOURCES; Vol. One: Institutional Frameworks as Reflected in Thirteen River Basins; Water Research Institute, Haifa, 1997

MED EUWI: SMAP 2005—NATIONAL PROGRESS REPORT OF GREECE;
<http://www.minenv.gr/4/48/00/National%Report%20GREECE%20%20SMAP2005.pdf>

MedWet: MEDITERRANEAN WETLAND STRATEGY (1996—2006);
http://www.medwet.org/medwetnew/en/00.TEXTS/MedWet_Strategy_1996.doc

Mylopoulos, Y; Kolokytha, E.; Vagiona, D; Kampragou, E.; Elefteriadou, E.: Hydrodiplomacy in Practice: Transboundary Water Management in Northern Greece; Global NEST Journal, Vol. X, 2007

OXFOR DICTIONARY OF LAW; Oxford University Press, New York, 2002

PPCC—Prespa Park Coordination Committee: Meeting Reports, I-IX Regular & I and II Extraordinary; <http://www.medwet.org/prespa/park/meetings.html>

Rogers, Peter; Hall, Allan W.: EFFECTIVE WATER GOVERNANCE; Global water Partnership; Stockholm, 2003

Schröder, Germ H.: Transboundary Water Management in Lake Constance: from Tradition to Cooperation; Extended Abstract; Institut für Seenforschung der Landesanstalt für Umweltschutz Baden-Württemberg International Workshop “Value of Water—Different Approaches in Transboundary Water Management”; 10—11 March 2005, Koblenz

SPP—Society for the protection of Prespa: STRATEGIC ACTION PLAN FOR THE SUSTAINABLE DEVELOPMENT OF THE PRESPA PARK; Aghios Germanos, 2002; Executive Summary, 2003

Stojkovski, Andreja: DESCRIPTION AND ASSESSMENT OF THE MACEDONIAN LEGAL, REGULATORY AND INSTITUTIONAL FRAMEWORK; A report submitted in fulfilment of the requirements for the project Transboundary Prespa Park; UNDP-GEF, 2004

Tsarikis G.; Cavadias G.; Pangalou D.; Nanou A.: Greece; In Iglesias A.(ed); Drought preparedness and mitigation in the Mediterranean: Analysis of the organizations and institutions; Zaragoza, CIHEM-IMAZ, 2005;
http://www.resources.cihem.org/util/search/detail_article.php?id=06600009&langue=fr

UNATED NATIONS: MANAGEMENT OF INTERNATIONAL WATER RESOURCES—Institutional and Legal Aspects; Natural Resources / Water Series No.1; UN Secretariat with the assistance of Rober D. Hayton; New York, 1975

UNDP: ENVIRONMENTAL POLICY IN SOUTH—EASTERN EUROPE; Prepared for “Environment in Europe” Ministerial Conference, Belgrade, 2007

UNECE: ACCEPTANCE AND IMPLEMENTATION OF UNECE MULTILATERAL ENVIRONMENTAL AGREEMENTS IN SOUTH-EASTERN EUROPE; Sixth Ministerial Conference "Environment for Europe", Belgrade, 10—12 October 2007.

UNESCO ROSTE: REPORT ABOUT THE LAKE OHRID WATERSHED REGION; 2004

XXX: Petersburg Phase II / Athens Declaration Process: SUMMARY REPORT FROM PARTICIPANTS EVALUATIONS; International Roundtable on "Integrated Shared Lakes Basin management in South-eastern Europe", 12—14 October 2006, Ohrid

XXX: Petersburg Process—Phase II, BERLIN RECOMMENDATIONS; International Roundtable, Protection and Sustainable Use of Transboundary Waters in South East Europe, 5—7 December 2005, Berlin

ANNEXES

IUCN Guidelines for Protected Area Management Categories*

(Relevant excerpts)

At the IV World Congress on National Parks and Protected Areas, meeting in Caracas, Venezuela in February 1992, participants concluded that more and better managed protected areas were urgently required. Participants emphasized that protected areas are about meeting people's needs: that protected areas should not be islands in a sea of development but must be part of every country's strategy for sustainable management and the wise use of its natural resources, and must be set in a regional planning context.

The Caracas Congress also declared its belief in the importance of the full range of protected areas, from those that protect the world's great natural areas to those that contain modified landscapes of outstanding scenic and cultural importance. Within this broad spectrum of uses, many names have been applied to protected areas; Australia alone uses some 45 names and the US National Park Service has 18 different types of areas under its mandate. Globally, over 140 names have been applied to protected areas of various types. Bringing some order to this diversity is clearly a very useful step.

The purpose of these guidelines, therefore, is to establish greater understanding among all concerned about the different categories of protected areas. A central principle upon which the guidelines are based is that categories should be defined by the objectives of management, neither by the title of the area nor by the effectiveness of management in meeting those objectives. The matter of management effectiveness certainly needs to be addressed, but it is not seen as an issue of categorization.

The guidelines build on work done by IUCN in this field over the past of a quarter century. In particular, they draw on the efforts of a task force established in 1984.

* * * *

Matrix of Management Objectives and IUCN Protected Area Management Categories

MANAGEMENT OBJECTIVE	Ia	II	III	V	KEY: 1.Primary objective; 2.Secondary objective; 3. Potentially applicable objective; - Not applicable
Scientific research	1	2	2	2	
Wilderness protection	2	2	3	-	
Preservation of species and genetic diversity	1	1	1	2	
Maintenance of environmental services	2	1	-	2	
Protection of specific natural/cultural features	-	2	1	1	
Tourism and recreation	-	1	1	1	
Education	-	2	2	2	
Sustainable use of resources from natural ecosystem	-	3	-	2	
Maintenance of cultural traditional attributes	-	-	-	1	

* * * * *

* <http://www.iucn.org/dbtw-wpd/edocs/1994-007-En.pdf>

Issues which have emerged in the interpretation of the 1978 system are:

- The size of protected areas;
- Zoning within protected areas;
- Management responsibility;
- Ownership of land;
- Regional variations;
- Multiple classifications;
- The areas around protected areas;
- International designations.

* * * *

IUCN CATEGORIES DESCRIPTION

CATEGORY Ia Strict Nature Reserve **Protected area managed mainly for science**

Definition

Area of land and/or sea possessing some outstanding or representative ecosystems, geological or physiological features and/or species, available primarily for scientific research and/or environmental monitoring.

Objectives of Management

- To preserve habitats, ecosystems and species in as undisturbed a state as possible;
- To maintain genetic resources in a dynamic and evolutionary state;
- To maintain established ecological processes;
- To safeguard structural landscape features or rock exposures;
- To secure examples of the natural environment for scientific studies, environmental monitoring and education, including baseline areas from which all avoidable access is excluded;
- To minimize disturbance by careful planning and execution of research and other approved activities; and
- To limit public access.

Guidance for Selection

- The area should be large enough to ensure the integrity of its ecosystems and to accomplish the management objectives for which it is protected;
- The area should be significantly free of direct human intervention and capable of remaining so;
- The conservation of the area's biodiversity should be achievable through protection and not require substantial active management or habitat manipulation (c.f. Category IV).

Organizational Responsibility

Ownership and control should be by the national or other level of government, acting through a professionally qualified agency, or by a private foundation, university or institution which has an established research or conservation function, or by owners working in cooperation with any of the foregoing government or private institutions. Adequate safeguards and controls relating to long-term protection should be secured before designation. International agreements over areas subject to disputed national sovereignty can provide exceptions (e.g. Antarctica).

Equivalent Category in 1978 System

Scientific Reserve / Strict Nature Reserve

CATEGORY II **National Park**
Protected area managed mainly for
ecosystem protection and recreation

Definition

Natural area of land and/or sea, designated to (a) protect the ecological integrity of one or more ecosystems for present and future generations, (b) exclude exploitation or occupation inimical to the purposes of designation of the area and (c) provide a foundation for spiritual, scientific, educational, recreational and visitor opportunities, all of which must be environmentally and culturally compatible.

Objectives of Management

- To protect natural and scenic areas of national and international significance for spiritual, scientific, educational, recreational or tourist purposes;
- To perpetuate, in as natural a state as possible, representative examples of physiographic regions, biotic communities, genetic resources, and species, to provide ecological stability and diversity;
- To manage visitor use for inspirational, educational, cultural and recreational purposes at a level which will maintain the area in a natural or near natural state;
- To eliminate and thereafter prevent exploitation or occupation inimical to the purposes of designation;
- To maintain respect for the ecological, geomorphologic, sacred or aesthetic attributes which warranted designation; and
- To take into account the needs of indigenous people, including subsistence resource use, in so far as these will not adversely affect the other objectives of management.

Guidance for Selection

- The area should contain a representative sample of major natural regions, features or scenery, where plant and animal species, habitats and geomorphologic sites are of special spiritual, scientific, educational, recreational and tourist significance;
- The area should be large enough to contain one or more entire ecosystems not materially altered by current human occupation or exploitation.

Organizational Responsibility

Ownership and management should normally be by the highest competent authority of the nation having jurisdiction over it. However, they may also be vested in another level of government, council of indigenous people, foundation or other legally established body which has dedicated the area to long-term conservation.

Equivalent Category in 1978 System

National Park

CATEGORY III **Nature Monument:**
Protected area managed mainly for conservation of
special nature features

Definition

Area containing one or more, specific natural or natural/cultural feature which is of outstanding or unique value because of its inherent rarity, representative or aesthetic qualities or cultural significance.

Objectives of Management

- To protect or preserve in perpetuity specific outstanding natural features because of their natural significance, unique or representational quality, and/or spiritual connotations;
- To an extent consistent with the foregoing objective, to provide opportunities for research, education, interpretation and public appreciation;
- To eliminate and thereafter prevent exploitation or occupation inimical to the purpose of designation; and

- To deliver to any resident population such benefits as are consistent with the other objectives of management.

Guidance for Selection

- The area should contain one or more features of outstanding significance (appropriate natural features include spectacular waterfalls, caves, craters, fossil beds, sand dunes and marine features, along with unique or representative fauna and flora; associated cultural features might include cave dwellings, cliff-top forts, archaeological sites, or natural sites which have heritage significance to indigenous peoples);
- The area should be large enough to protect the integrity of the feature and its immediately related surroundings.

Organizational Responsibility

Ownership and management should be by the national government or, with appropriate safeguards and controls, by another level of government, council of indigenous people, non-profit trust, corporation or, exceptionally, by a private body, provided the long-term protection of the inherent character of the area is assured before designation.

Equivalent Category in 1978 System

Natural Monument / Natural Landmark

CATEGORY V

**Protected Landscape/Seascape:
Protected area managed mainly for
Landscape / seascape conservation and recreation**

Definition

Area of land, with coast and sea as appropriate, where the interaction of people and nature over time has produced an area of distinct character with significant aesthetic, ecological and/or cultural value, and often with high biological diversity. Safeguarding the integrity of this traditional interaction is vital to the protection, maintenance and evolution of such an area.

Objectives of Management

- To maintain the harmonious interaction of nature and culture through the protection of landscape and/or seascape and the continuation of traditional land uses, building practices and social and cultural manifestations;
- To support lifestyles and economic activities which are in harmony with nature and the preservation of the social and cultural fabric of the communities concerned;
- To maintain the diversity of landscape and habitat, and of associated species and ecosystems;
- To eliminate where necessary, and thereafter prevent, land uses and activities which are inappropriate in scale and/or character;
- To provide opportunities for public enjoyment through recreation and tourism appropriate in type and scale to the essential qualities of the areas;
- To encourage scientific and educational activities which will contribute to the long term well-being of resident populations and to the development of public support for the environmental protection of such areas; and
- To bring benefits to, and to contribute to the welfare of, the local community through the provision of natural products (such as forest and fisheries products) and services (such as clean water or income derived from sustainable forms of tourism).

Guidance for Selection

- The area should possess a landscape and/or coastal and island seascape of high scenic quality, with diverse associated habitats, flora and fauna along with manifestations of unique or traditional land-use patterns and social organizations as evidenced in human settlements and local customs, livelihoods, and beliefs;
- The area should provide opportunities for public enjoyment through recreation and tourism within its normal lifestyle and economic activities.

Organizational Responsibility

The area may be owned by a public authority, but is more likely to comprise a mosaic of private and public ownerships operating a variety of management regimes. These regimes should be subject to a degree of planning or other control and supported, where appropriate, by public funding and other incentives, to ensure that the quality of the landscape/seascape and the relevant local customs and beliefs are maintained in the long term.

Equivalent Category in 1978 System

Protected Landscape

CONSULTANT: ASSESSMENT OF PRESPA PARK COORDINATION COMMITTEE IN TRANSBOUNDARY ECOSYSTEM MANAGEMENT

Location :	Resen, FYR Macedonia/home based
Application Deadline :	31-Aug-07
Type of Contract :	SSA
Languages Required :	English
Starting Date : (date when the selected candidate is expected to start)	15-Sep-2007
Duration of Initial Contract :	35 working days in the period indicated,
Expected Duration of Assignment :	35 working days in the period indicated,

Background

The Prespa region is situated in the Balkan Peninsula and is shared among the three neighbouring countries Albania, FYR of Macedonia and Greece. It is considered to be an ecosystem of global significance and has been identified as one of Europe's major transboundary "ecological bricks". The entire Prespa region hosts unique habitats and species that are important from both a European and global conservation perspective.

The difficulties impeding transboundary cooperation are also multiple. In general, differences in capacity, commitment and national policy across borders are strong constraints, in addition to questions of national sovereignty, security and high transaction costs. Economic constraints include divergent national development status and policies, barriers to free trade, unsustainable productive activities, political instability etc.

This GEF project aims to mainstream ecosystem management objectives and priorities into productive sector practices and policies. The project is designed to strengthen capacity for restoring ecosystem health and conserving biodiversity first at the national level in Albania and FYR-Macedonian Prespa by piloting ecosystem-oriented approaches to spatial planning, water use management, agriculture, forest and fishery management, and conservation and protected area management. The third littoral State, Greece –an EU member- is not a direct beneficiary of the GEF funding but actively participates through parallel financing.

The project also aims to strengthen ongoing trans-boundary cooperation in resource management and conservation by empowering the existing transboundary institution (i.e. the Prespa Park Coordination Committee) and piloting / reinforcing trans-boundary management and conservation activities.

Prespa Park and the Coordination Committee

The Prespa Park, established on 2 February 2000 by the Prime Ministers of Albania, Greece and the FYR of Macedonia, has been the first transboundary 'protected area' in a politically sensitive region of the Balkans. It covers the hydrological basin of Micro and Macro Prespa Lakes. Besides this trilateral designation, the effectiveness and adequacy of which is the subject of the present consultancy, the Prespa basin includes two Ramsar sites, as well as other nationally protected areas in all three countries.

The Prespa Park, according to the founding Declaration of 2 February 2000 has the following ultimate goals:

The enhancement of living standards of the inhabitants of Prespa through the preservation of its natural and cultural values and the sustainable use of its resources;
Peace and cooperation among the three countries.

The main challenges the three States want to address through long-term cooperation are:

(a) the conservation and protection of the unique biodiversity of Prespa;

- (b) preventing or reversing the causes of habitat degradation;
- (c) exploring suitable management regimes and methods for the wise use of its water resources;
- (d) providing a model and reference point for peaceful collaboration in the wider region

With the support of the Ramsar Convention and its MedWet Initiative, the trilateral Prespa Park Coordination Committee (PPCC) was established in 2001. Members of the PPCC are the representatives of the Ministries for Environment, Mayors or the Local Municipalities, and one NGO from the three countries (with strong local involvement). MedWet/Ramsar participates as an ex officio member of the PPCC with a non-voting status. The PPCC is supported by a trilateral Secretariat, consisting of the NGOs represented in the PPCC, with a seat in the office of the Society for the Protection of Prespa in Aghios Germanos, Greece.

In the six years of its operation the PPCC convenes biannually, and has held ten regular and two extraordinary meetings. The PPCC serves as a forum for information exchange, collaboration, and coordination of joint actions and interventions in Prespa. Such joint activities have included the preparation of a Strategic Action Plan for the sustainable development of the Prespa Park, and the contribution to the development and submission of a GEF Prespa Park project proposal. This assessment is a component of the GEF project which officially started in September 2006.

The purpose of this assessment is to review the existing practices and challenges in trans-boundary ecosystem management and water governance in the Prespa Lakes Basin. The emphasis will be placed on an assessment of the (mostly informal) operations of the Prespa Park Coordination Committee (PPCC) over the past six years and the recommendation of options for the appropriate legal and institutional arrangements for formal and effective trans-boundary ecosystem management, water governance and sustainable development in the Prespa Lakes Basin.

Duties and Responsibilities

The overall responsibility of the consultant will be to assess past and current role of the PPCC with regard to the PP objectives, namely transboundary ecosystem management and water governance contributing to sustainable development and model transboundary collaboration between the three littoral states. Based on the findings of the assessment, the consultant will provide concrete recommendations and a detailed plan outlining next steps for the institutional maturation of the PPCC and its future role.

It is anticipated that the assessment will incorporate (but is not limited to) the following tasks:

A review of the current institutional set up of the PPCC, capacity to perform its duties, the role of its secretariat and current operations in relations to its mission and objectives with recommendations on how to strengthen its capacity.

Assessment of the financial sustainability of the PPCC operations, future funding mechanisms and commitment from the littoral States to sustain its operations.

A review of the current legal and institutional provisions at the national level in relation to transboundary ecosystem management, water governance and sustainable development.

A review of existing commitments with regard to multilateral environmental agreements, bilateral agreements, EU Water Framework Directive etc in relation to transboundary ecosystem management, water governance and sustainable development in view of the potential role of the PPCC.

An assessment and review of the current draft tripartite agreement on the Protection and Sustainable Development of the Prespa Park Area.

Formulation of concrete recommendations on the most appropriate institutional arrangements/ set up for transboundary ecosystem management and water governance in Prespa in view of the PPCC playing this role, its current capacity to do so and next steps for its institutional maturation.

Presentations of the findings of the assessment at an identified stakeholder workshop for comments and feedback.

Expected Output

A comprehensive technical assessment report with recommendations and a work plan detailing next steps for institutional maturation of the PPCC for effective trans-boundary ecosystem management, water governance and sustainable development in the Prespa Lakes Basin.

Time frame

The duration of the contract is in total a period of 35 days from the 15th of September to 30th November 2007. It is anticipated that this will consist of 10 days of preparation and review, one trip to the site with 10 days of consultations (this will include mini-workshops and meetings with individual key stakeholders in the 3 countries) and 15 days of write up. The consultant will therefore be required to travel to all 3 littoral States and consult with key stakeholders.

A first draft of the assessment report is expected by 31 October 2007. This will be distributed to key stakeholders for comments. The consultant is expected to present the findings of the assessment at a key stakeholder workshop (possibly in mid November). The consultant will then finalize the report and submit it to UNDP by 30 November 2007.

ASSESSMENT METHODOLOGY

ANALITICAL REVIEW OF THE PROJECT TASKS

A systematic analytical review of designed project tasks shows that the work on their realization should comprise reviews, assessments, recommendations and presentation of the findings to the (interested) public.

- I. **Review of current national legislation in regards of:**
 1. Trans-boundary ecosystem management;
 2. Water governance;
 3. Sustainable development;
- II. **Review of exiting commitments in regards of:**
 1. Global and UNECE environmental treaties applicable to the region;
 2. Relevant bilateral agreements;
 3. Relevant parts of the Community *acquis*, especially WFD; in relation with elements listed under I. above and with a prospect of future role of the PPCC;
- III. **Review of existing institutional set up of the PPCC in regards of:**
 1. Capacity to perform its duties;
 2. Role of its Secretariat;
 3. Current operations in regards of its mission and objectives; &
 4. Recommendation how to strengthen its capacity;
- IV. **Assessment of:**
 1. Financial sustainability of the PPCC operations;
 2. Future funding mechanisms;
 3. Commitment from the littoral states to sustain its operations;
- V. **Review and assessment of current draft tripartite treaty on the Protection and sustainable Development of the Prespa Park Area;**
- VI. **Formulation of the concrete recommendations on the most appropriate institutional arrangements/set up for:**
 1. Trans-boundary ecosystem management; &
 2. Water governance;
 - In the Prespa Lake Basin; &
 - Having in view of the PPCC:
 - Playing its role;
 - Its current capacity to do so;
 3. Next steps for its institutional maturation
- VII. **Presentation of the findings and assessment at identified stakeholder workshop for:**
 1. Comments; &
 2. Feedback.

NOTE:

Details shown in the above analytical review could be broadened during the work, with the aim of comprising additional aspects needed for better accomplishment of the output requested.

ANALITICAL REVIEW OF THE EXPECTED OUTPUT

The expected output is defined as the Technical Assessment Report, which should comprise:

1. Reviews and assessments listed above under I—V; and additionally
2. Recommendations, as it is shown under VI, above; &
3. A work plan detailing next steps for institutional maturation of the PPCC for:
 - Effective trans-boundary ecosystem management;
 - Water governance; &
 - Sustainable development; In the Prespa Lakes Basin.

PROPOSAL OF METHODOLOGY

Above analyzed tasks require the following methodology to be applied:

Preparation and Review (15 September—04.October)

1. Set detailed plan and time schedule of all activities in collaboration with UNDP Office and PPCC Secretariat;
2. Collection of relevant national referent material:
 - Policy documents;
 - Law instruments (primary and secondary);
 - Reports of authorities;
 - Bilateral instruments;
3. Identification of applicable international:
 - Policy; &
 - Legal regimes;
 - Sources for potential financial support;
4. Analysis and systematization of material;
5. Draft contents of Technical Assessment Report (TAR)
6. Detailed plan for trip to the site prepared by UNDP Office and PPCC Secretariat [Details in regard of preparation of this plan should be decided before the trip].

Sources:

- Internet;
- PPCC;
- Competent national authorities;
- UNDP;
- Other.

Existing national policy documents (particularly those relating to spatial planning, environmental protection, water

management and land use) and related legislation (primary and secondary), as well as bilateral or trilateral policy and legislative settings shall be compared with global and EU policy and law instruments serving as a paradigm, cross cutting issues shall be identified and gap analysis done.

Trip to the site (05.October—14 October)

Contacts & meetings/mini workshops with:

1. PPCC/PPC Secretariat;
2. Competent national authorities (central, regional, local);
3. Key stakeholders/members of interested public in all three countries;

Consultations shall be prepared (in terms of content; a brief list of issues/questions might be prepared and spread in advance) and documented (memos).

Writing the Draft of TAR (15—31 October)

The structure (contents) of Draft TAR shall be as discussed earlier.

Recommendations and work plan with detailed next steps leading towards institutional maturation of the PPCC shall be formulated having in view:

1. Findings of current state of things and assessments (in regards of local/bilateral/trilateral policy and legal frameworks; institutional and legal PPCC setup);
2. Identified broader paradigms (global and particularly UNECE, and EU policy/legal transposition requirements);
3. Possibility of adjustments of local (national) setup to the broader requirements in a feasible time;
4. Commitment of three countries to sign the Prespa Lakes Basin treaty, based on the accepted international Water & Environmental Law principles.

Presentation of Draft TAR (Mid-November)

1. Power Point presentation;
2. Discussion;
3. Recorded notes, remarks, and proposals.

Finalized TAR (delivered on 30 November 2007 at latest)

Corrections of Draft TAR in line with received comments and stakeholder workshop results.

DEBRIFING NOTE

After having accomplished, in accordance with plan, mission that comprised meetings and talks with a number of persons being involved in the Prespa Park process in Albania, FYR of Macedonia and Greece, in the period between 14—26 October 2007, it is possible to undertake further steps in accordance with the project Terms of Reference. Following is the

DRAFT CONTENTS OF THE TECHNICAL ASSESSMENT REPORT

EXECUTIVE SUMMARY

- I. INTRODUCTION
 - 1. Brief of nature of the Prespa Lakes Basin
 - 2. History of management efforts
 - 3. ToR
- II. MISSION SCOPE, CONTENT AND FINDINGS
- III. PRESPA LAKE BASIN IN INTERNATIONAL LAW CONTEXT
 - 1. Global
 - 2. UNECE
 - 3. EU
- IV. TRILATERAL CONTEXT
- V. NATIONAL POLICY AND LEGAL SYSTEMS
- VI. PPCC
 - 11. Description/history
 - 12. Legal profile
 - 13. Legal nature of decisions
 - 14. Secretariat
 - 15. Specific features of stakeholders
 - 16. Financial issues
- VII. DRAFT TRILATERAL AGREEMENT
- VIII. RECOMMENDATIONS
- BIBLIOGRAPHY
- GLOSSARY
- ANNEXES

This structure could be changed during further work/writing, in accordance with needs (in terms of e.g. splitting in more subchapters) but essentially the issues to be dealt with as are grouped into the chapters above would be the basic framework for work.

Detailed study of collected material and further collection of new documents is on-going. As by now I did not receive any reply on questionnaires. But, even without that, still is the huge pile of collected material to be analyzed. I expect that during writing I could need some specific documents. In talks on mission everybody was supportive and willing to help. So, I do not expect problems in obtaining additional material if there is need for that.

Further work will, actually, be writing and filling in the structure set above.

Advices, proposals, remarks etc. are welcome.

I hope the Draft report shall be completed as planned, *i.e.* until 20 November 2007. After that, the UNDP Office shall have time enough to distribute it to stakeholders and organize a workshop for reviewing and discussing the text. The procedure is, of course in the hands of UNDP, but in my view as more stakeholders are involved as better.

Having in view that several authoritative international organizations are particularly active in the field of transboundary cooperation in Europe regarding shared water resources, I would propose UNDP to contact them, inform on the on-going activity and ask them to participate in the process as observers. Those organization are (the list is not exhausted) European Commission (EC), UNECE, Council of Europe (CoE), OSCE, NATO. According to my knowledge, their presence in similar processes was only beneficial and helpful. This issue, of course, should be discussed more. In talks during the mission this idea was accepted and

supported. Here the idea is specifically mentioned with the aim of leaving enough time for initial contacts with them, if the idea is finally accepted.

The list of persons I met and talked with during the mission is attached to this Note.

Further contacts and exchange of information should be regularly maintained, during preparation of Draft Report.

Novi Sad, 30.10.2007

Dr. Slavko Bogdanovic

LIST OF PARTICIPANTS IN TALKS DURING THE MISSION

[Chronological order of talks]

Alvin Lopez, UNDP-GEF Project International Transboundary Advisor (ITA)
Dimitar Buzlevski, Mayor of the Municipality of Resen, FYR of Macedonia
Vivi Roumeliotou (SPP—GR), PPCC Secretariat Member GR
Sonja Spirovska, Public Health Institute, Bitola-Resen— FYR of Macedonia, PPCC Secretariat Member
Lazaros Nalpantides, Mayor of the Prespa Municipality, GR
Myrsini Malakou, Director of SPP, GR
Daphne Mantziou, WWF and SPP Secretariat, GR
Spyros Plessas, PPCC Member, GR
John Vournas, Director General for the Environment in the Ministry for the Environment, Physical Planning and Public Works GR
Ms. Nikolau _____, Special Secretariat for Water Management. GR
Dimitra Spala, Department of Conservation Management in the Ministry for the Environment, Physical Planning and Public Works GR
Panagiota Maragou, WWF GR
Demetres Karavellas, Director of WWF GR
Giannis Chardaloupas, SPP, WWF GR
Thymio Papayanis, President of SPP, MedWet Senior Advisor and PPCC ex-officio
Eno Dodbiba, UNDP-GEF AL
Violeta Zuna, National Project Coordinator, UNDP-GEF Prespa Project AL
Zamir Dedej, former PPCC Member, AL
Spase Shumka, Member of PPCC Secretariat, P.P.N.E.A., AL
Pellumb Abeshi, Secretary General of the Ministry of Environment, Forestry, Water and Agriculture AL (MoEFWA), Project Director and GEF focal point
Suela Ibrahim, lawyer, Legal Department of the Ministry of Foreign Affairs, AL
Roza Dedja, Expert in Instruments of Pre-Accession (IPA) Unit of the Ministry of Integration, AL
Ledina Luzzi, Expert in Instruments of Pre-Accession (IPA) Unit of the Ministry of Integration, AL
Adriana Micu, Head of Crosscutting Cluster of the UNDP AL
Mihallaq Qirjo, REC AL
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