Interview: How environmental law protects wild rivers

As part of our series on the Lawyers for Balkan Rivers network within the Save the Blue Heart of Europe campaign, we asked one of our environmental lawyers, Elvana Tivari, to unpack how environmental law actually works in practice, from how ecosystems are defined under the law to what citizens can do when damage begins on the ground. Below are key excerpts from that conversation on the legal tools, safeguards, and citizen rights that help defend wild rivers and ecosystems.

Elvana Tivari is an Albanian lawyer with over 20 years of experience in public and administrative law, anti-corruption, and environmental and nature conservation law. Her work focuses on empowering civil society organisations through legal advocacy, strategic litigation, and advice on complex legal and regulatory challenges. She has been actively involved in efforts to protect the Vjosa River and Vjosa-Narta wetlands, contributing to stronger environmental governance and the effective enforcement of nature conservation laws.

To what extent can a river or ecosystem be protected by law?
Law can protect a river or an ecosystem quite far, but only if it understands what it is protecting. A river is not just water flowing between two banks. It is a living system. It includes the water flow, the riverbed, the banks, the floodplains, the tributaries, the groundwater connections, the sediments, the forests, the wetlands, the species, and the ecological processes that keep all of this alive. If the law protects only a blue line on the map, it does not really protect the river.

First, the law can give an area a formal protected status. This changes the legal regime of the territory: it defines what can and cannot happen there, restricts construction, regulates tourism, protects habitats and species, and requires special permits or assessments before any intervention is allowed.

Second, the law can create management obligations. A protected area should not be just a name. It should have conservation objectives, a management plan, zoning, monitoring, staff, funding, and clear institutional responsibility. Otherwise, the protection remains symbolic.

Third, the law can control projects before they happen. This is where Environmental Impact Assessment, Appropriate Assessment for habitats and species, public consultation, and access to courts become essential. These tools are supposed to make sure that a project is tested before the damage is done, not after.

Fourth, law can give people power. Local communities, NGOs, scientists and citizens must be able to access information, participate in decisions, challenge unlawful permits, and ask courts or international bodies to intervene. Without public control, environmental law becomes too dependent on the goodwill of the same institutions that may be under political pressure.

But law also has limits. It cannot protect nature by declaration alone. A river is not saved because a government calls it protected. It is saved when the protection is applied consistently: when harmful projects are refused, when illegal works are stopped, when institutions enforce the regime, and when courts are willing to treat environmental damage as real damage, not as an administrative inconvenience.

In the case of rivers, the most serious protection is protection of the river as a whole system. You cannot protect only the most scenic stretch and ignore the tributaries, the sediment flow, the floodplain, the delta, or the wetlands connected to it. A river can be legally protected in one segment and still be ecologically damaged elsewhere.

So the real question is not only: "Is this river protected by law?" The real question is: "Does the law protect the river's life?" If the answer is yes, the law becomes a shield. If the answer is no, it becomes a label.

We often hear about Environmental Impact Assessments (EIAs). What are they designed to do, and how are they frequently manipulated in high-stakes projects?

An Environmental Impact Assessment is supposed to be an early warning system, not a late excuse.

In simple terms, an EIA should answer a few basic questions before a project is approved: What will this project do to the environment? What alternatives exist? Is this location acceptable? Can the damage be avoided or reduced? And, most importantly, should the project be allowed at all? This last question is crucial. An EIA is not meant to help a bad project look acceptable. It is meant to test whether the project is acceptable in the first place.

In high-stakes projects, however, the process is often manipulated by changing its timing and its function. The political decision comes first. The investor is publicly embraced. The project is presented as inevitable. Planning or development approvals begin to move. And only then does the environmental assessment appear, under pressure to fit the decision already taken. At that point, the EIA stops being a decision-making tool and becomes a justification tool.

This is one of the most common problems in Albania. Environmental assessment is often treated as a document to be produced, not as a process that can genuinely change the outcome. But the law requires the opposite logic. The assessment must come early enough for alternatives to matter and for refusal to still be possible.

There are several ways an EIA can be weakened. The project can be split into smaller pieces, so the cumulative impact is hidden. The study area can be defined too narrowly, ignoring the river basin, the lagoon, the migration routes, the wetlands or the wider ecological connection. Baseline data can be poor or outdated. Public consultation can be formal, rushed, or held when the public can no longer influence the decision. Mitigation measures can be written in vague language, as if every ecological loss can be repaired later. And the most serious alternative, not doing the project in that location, is often treated as unrealistic before it is even assessed.

In protected areas, this is even more serious. There, the question is not only "how much damage will the project cause?" The question is also "is this type of project compatible with the legal purpose of the protected area?" If the answer is no, mitigation cannot save it. You cannot mitigate your way out of a fundamentally wrong location.

A real EIA can stop a project. A fake EIA only teaches the project how to survive on paper.

So when citizens challenge an EIA, they are not being anti-development. They are asking the state to respect the most basic rule of environmental decision-making: first understand the damage, then decide. Not the other way around.

Some protected areas – including, recently, the Vjosa Wild River National Park – have been described as 'paper parks'. What is the purpose of the law if it does not seem to deliver protection on the ground? In other words, what is it actually meant to achieve, and why isn't that happening?

The expression "paper park" is painful because it captures a real problem: a protected area can exist legally and still remain vulnerable physically. But I would not conclude from this that the law is

meaningless. A protected area on paper is not enough, but without that paper, in many cases, there is no legal ground to defend the area at all.

So the law is meant to do three things: to recognise that a place has ecological value that is not ordinary real estate value; to create binding limits for public authorities, private investors and users; and to give institutions, communities, scientists, NGOs and courts a legal basis to act when those limits are crossed.

The weakness often appears after designation. A park becomes a "paper park" when the declaration is not followed by a real management plan, a functioning administration, sufficient budget, trained staff, monitoring, enforcement, clear rules for visitors and activities, and political backing to say no to incompatible projects. In other words, the park exists in the legal system, but not yet as a defended reality.

Vjosa is a very good example of both the power and the limits of law. The declaration of the Vjosa Wild River National Park was a historic achievement. It was not symbolic in a shallow sense. It changed the legal position of the river and created a much stronger basis to resist destructive projects. But the declaration alone does not protect the river forever. A wild river park must remain wild in practice: in its flow, its tributaries, its sediments, its floodplains, its banks, its ecological corridors, and its connection with the wider landscape. In Vjosa's case, this also means that the river cannot be treated as fully protected if its delta, the Narta lagoon, the wetlands and the coastal habitats connected to it are left exposed.

This is where many protected areas fail. Management plans are delayed. Administrations are understaffed. Budgets are small. Other sectoral policies, energy, infrastructure, tourism, agriculture, territorial planning, continue to behave as if the protected area were only one consideration among many, instead of a legal limit.

So the real issue is not that law has no value. A protected area needs a living administration, people on the ground, conservation objectives that are actually financed, ecological connections that are preserved beyond administrative boundaries, rules that carry consequences, and enough institutional courage to defend the area when pressure comes. Otherwise it may be protected in name, but negotiable in practice.

Still, I would never dismiss the legal designation as useless. Many environmental victories start as "paper" before they become reality. The paper matters because it gives society something to invoke, something to defend, and something to enforce. Without it, the fight is much harder.

A massive element of the Flamingo Revolution happening in Albania is citizens demanding a voice. What legal rights do local communities have under the Aarhus Convention when decisions are made about their land?

The most important thing to say about the Aarhus Convention, an international treaty ratified by Albania that gives the public rights to environmental information, participation in decision-making and access to justice, is that it changes the position of citizens. Local communities are not supposed to be informed as a courtesy after decisions have already been shaped. They have the right to know, the right to participate, and the right to challenge.

This is why the Flamingo Revolution is so important. It should not be seen only as citizens protesting emotionally for a landscape they love. It is also citizens insisting on a legal right: the right to have a

voice before their territory is transformed, before fences appear, before machines enter the land, and before decisions become irreversible.

But Aarhus goes further than access to information. It requires participation at a stage when all options are still open. This is essential. A public hearing is not real participation if the project has already been politically promised, the investor has already been selected, the location has already been fixed, and the institutions are only collecting signatures to complete a file. Consultation must happen early enough for the public to influence the outcome, including the possibility that the project is changed, moved, reduced or refused.

For local communities, this matters deeply because environmental decisions are also decisions about territory, livelihood, access and identity. When a lagoon, a riverbank, a forest, a pasture or a fishing area is transformed, the people who live there do not lose only a view. They may lose access, traditional uses and the ecological base of their local economy. So when citizens demand a voice, they are not asking for a favour. They are exercising a right.

The third pillar of Aarhus is access to justice. If information is refused, if consultation is formal, if a permit is issued without proper assessment, or if a protected area is opened to incompatible development, citizens and organisations must be able to go before administrative bodies and courts. Otherwise, participation becomes decorative.

In Albania, the gap is often not in the formal recognition of these rights, but in how late, technical and inaccessible the procedures become. Documents may be difficult to find. Consultations may be poorly announced. Hearings may take place when the real decision has already been taken. Local people may be treated as emotional or uninformed, while technical documents are used to exclude them from the debate. This is exactly the opposite of the spirit of Aarhus.

So, under Aarhus, participation is not a public relations exercise. It is a legal condition of legitimate environmental decision-making.

For places like Vjosa-Narta, this is crucial. The people who live near the river, the lagoon, the wetlands and the coast should not discover the future of their territory through rumours, media statements, fences or bulldozers. They should be part of the process while the decision can still be influenced.

If a local citizen or group sees illegal construction starting along a river or lagoon, what immediate legal steps can they take to report or halt it?

The first thing is not to treat the situation only as a protest moment, but as a legal emergency.

If a citizen or a local group sees construction starting in or near a river, lagoon or protected area, they should first document what is happening as clearly and safely as possible: the date, the exact location, photos or videos, machinery, fences, road openings, tree cutting, earthworks, signs on the site, and any information about the company or contractor. In environmental cases, evidence from the first days can be extremely important, because damage can happen very fast and may later be described as "minor", "temporary" or "preparatory".

The first legal remedy is a request for information. Citizens should ask immediately for the development permit, construction permit, environmental permit or declaration, Environmental Impact Assessment documents, public consultation records, protected area authorisations, and any decision of the National Territorial Council or other authority. Very often the first legal question is

simple: does the document that supposedly allows the works exist, is it public, and was it issued through a lawful procedure?

The second remedy is a written complaint and request for inspection. This should be addressed to the protected area administration, the National Agency of Protected Areas, the National Environment Agency or environmental authorities, the territorial/construction inspectorate, the municipality, the police, and any other competent body depending on the case. The complaint should not only ask the authorities to "verify the situation". It should expressly request immediate inspection, suspension of works, preservation of the site, and verification of all permits and environmental procedures.

The third remedy is an administrative appeal or request for revocation, annulment or suspension of the relevant administrative acts, such as a development permit, a construction permit, an environmental declaration or a protected area authorisation. The point is to challenge not only the machines on the ground, but the administrative chain that allowed them to enter.

The fourth remedy is a lawsuit before the administrative court. In environmental cases, the lawsuit should often be accompanied by a request for interim measures, asking the court to suspend the effects of the permit or the works while the case is examined. This is crucial because environmental damage is often irreversible. A final judgment that comes after a wetland has been filled, a dune has been levelled or a forest has been cut may still be legally important, but ecologically it may come too late.

The fifth remedy is a criminal complaint, when there are signs of illegal construction, damage to habitats in protected areas, illegal logging, abuse of office or other criminal offences. This is not theoretical. In the Zvërnec case, the prosecution reportedly registered criminal proceedings for illegal construction, damage to habitats in protected environmental areas, illegal cutting of forests and abuse of office.

In parallel, NGOs and community groups can use international avenues where the area has international value, by bringing the case to the Bern Convention bodies, the European Commission, the EU Delegation or other relevant mechanisms. These do not replace domestic remedies, but they can create pressure, visibility and an additional layer of accountability.

Illegal construction in a protected area is not a normal administrative inconvenience. It is often a race against time. That is why citizens need to act early, act in writing, and use the law before the damage becomes a fact on the ground.