



AUDIT  
OFFICE



REPUBLIC  
OF CYPRUS

# **ENVIRONMENTAL MANAGEMENT OF THE AKAMA PENINSULA – HAVE THE DESIRED RESULTS BEEN ACHIEVED?**

## **Executive Summary**



**AUDIT OFFICE OF THE REPUBLIC  
SPECIAL REPORT no. ΠΕ/02/2022**

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# **ENVIRONMENTAL MANAGEMENT OF THE AKAMA PENINSULA – HAVE THE DESIRED RESULTS BEEN ACHIEVED?**

## **Executive Summary**

### **AUDITED ENTITIES**

**Department of Environment**

**Game and Fauna Service**

**Department of Forests**

**Department of Fisheries and Marine Research**

**Department of Town Planning and Housing**

## Executive Summary

Our Office decided to carry out this audit, taking into consideration the enormous ecological importance of the Akama Peninsula, as well as the efforts to protect and preserve the Peninsula, which date back to the 1980s. During this period, a significant amount of public resources was spent, both in the form of costs for preparing studies, mainly, and in the form of administrative cost, since a large number of public officers were engaged, in the matter, over time. The purpose of the audit was to establish whether, after so many years, the desired results, from the management of the Akama Peninsula, have been achieved, as explained in the «Purpose of the Audit» section of our Report.

Currently, the urban planning regime in the Akama area is defined by the current Development Plan of the Policy Statement for the Countryside of Cyprus.

On the basis of the Council of Ministers' Decision, the Town Planning Council undertook the preparation of two Local Plans (LP) affecting the Akama Peninsula, Akamas LP and Peyia LP. The Town Planning Council forwarded, on 26.2.2021, to the Environmental Authority, Akamas LP document, which would regulate land use and permitted activities in the area and establish protection measures, together with the relevant Strategic Environmental Assessment (SEA) Study. The Peyia LP document is currently being drawn up.

At the same time, Akamas National Forest Park Sustainable Development Plan was approved, which covers about 75% of the protected «Natura 2000» site, for which the Environmental Authority issued, on 20.9.2021, the SEA Opinion, which also includes the Special Ecological Assessment Report.

Environmental assessment is a procedure that ensures that the environmental implications of decisions are taken into consideration before the decisions are made. Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora («The Habitats Directive»), provides for appropriate assessment, through the evaluation, which in the Republic of Cyprus is called SEA Study, of the impact on the environment, with particular regard to the «Natura 2000» network. The purpose of the appropriate assessment is to ensure the protection and integrity of the «Natura 2000» site, while the Special Ecological Assessment Study is part of the information and data that the Environmental Authority takes into consideration to evaluate, in this context, projects or plans. Also, the objective of Directive 2001/42/EC on the assessment of the effects of certain plans and projects on the environment («SEA Directive») is to ensure a high level of environmental protection and contribute to the integration of environmental aspects during the preparation, adoption and implementation of plans and projects, with the aim to promote sustainable development during the planning procedures. This objective is achieved by ensuring that an environmental assessment is carried out for any plan and project that is likely to have a significant effect on the environment. In this context, the competent Authority for the preparation of the plan or project prepares and submits a SEA Study to the Environmental Authority. The two assessment procedures may be carried out simultaneously, provided that appropriate coordinated and/or common procedures are ensured to fulfill the requirements of European Union Law.

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Our Office, recognizing the specialized expertise that would be required, used the services of an expert in environmental management issues, in accordance with the International Standard on Auditing 620: using the work of an auditor's expert.

The most important findings are summarized below:

- ◆ Designation of «Natura 2000» site boundaries differed significantly from what was initially established in relevant studies, due to, according to evidence, arbitrary interventions from the affected Communities. This is contrary to the provisions of article 4(1) of the «Habitats Directive», according to which, when setting the boundaries of a protected area, only environmental criteria and scientific information should be taken into consideration. Regarding the issue, there is an ongoing infringement procedure against the Republic of Cyprus, since, according to the Reasoned Opinion of the European Commission, the «Natura 2000» network in Cyprus is insufficiently designated and there are still significant representation gaps for various habitat types and species, some of which are found in the Special Area of Conservation (SAC) of Akamas Peninsula.
- ◆ Even though the Sites of Community Importance «Chersonisos Akama CY4000010» and «Koili - Mavrokolymbos - CY4000008» were designated as SACs, by the Regulations R.A.A. 338/2021 and R.A.A. 294/2015, respectively, the designation acts seem to be problematic, since SAC maps have no undisputable binding force, an observation that the European Commission also records in the Reasoned Opinion dated 6.4.2022. Also, site conservation objectives, which concern the aforesaid SAC and were defined by the Protection and Management of Nature and Wildlife (Priority Measures for Special Areas of Conservation) Decrees (R.A.A. 339/2021 and R.A.A. 292/2015), are incomplete, since they are not comprehensive and specific and do not provide for quantitative and measurable data, in order to quantify SAC's specific contribution to achieving a satisfactory conservation status at the local and national level. In addition, in some cases, there is no reference made to specific habitats and species included in Standard Data Form of Akamas area, while the general objectives pursued do not, in many cases, take into consideration the conservation status of the protected natural types.
- ◆ Similarly, designation acts of SPA «Chersonisos Akama CY4000023» and «Farangia Agias Aikaterinis - Agias Paraskevis CY4000016» (Minister of Interior Decrees dated 18.12.2009 and 26.10.2007, respectively) seem to be problematic, since SPA maps have no indisputable binding force. Also, the framework and management measures for the species and habitats that need protection have not yet been determined, since the Minister of Interior has not yet issued relevant Decrees, contrary to the provisions of article 6(1)(b) of the Protection and Management of Wild Birds and Game Law (N.152(I)/2003).
- ◆ An examination of the actual situation, regarding the saturation of the existing Planning Zones in the area, in some cases, raised questions in relation to Planning Zone expansion, which, however, were not answered by the Town Planning Council.

- ◆ **Environmental assessments of Akamas Local Plan.** Our Office, recognizing the specialized expertise that would be required and after relevant search, used the services of an expert in biodiversity and protected areas management issues, who possesses special knowledge and international experience and carried out an audit related to the evaluation of Akamas LP and its main environmental assessment studies, specifically the SEA Study (initial and revised) and the Special Ecological Assessment Study (initial and revised), as well as the relevant Environmental Authority's Reports and Opinions, in order to establish whether the obligations of the Republic of Cyprus for «Natura 2000» sites of the Akamas Peninsula are satisfied, as they derive from the relevant European Directives, specifically the «Habitats Directive» and, secondly, the «SEA Directive», and according to the relevant interpretations of the Court of Justice of the European Union and the guidelines of the European Commission. The main points and conclusions of the expert's report have been adopted and incorporated into our Report, while expert's original report is presented as Appendix 1.

In summary, the expert's report concludes that Akamas LP's environmental assessment procedures have led to mitigation measures in order to minimize the environmental impact of the final Akamas LP.

For the avoidance of doubt, the expert emphasizes that, despite the weaknesses that have been observed with regard to the implementation of article 6(3) of the «Habitats Directive», particularly in relation to the preparation of SEA Study and the appropriate assessment of the environmental impact in the context of Special Ecological Assessment, the final conditions proposed by the Environmental Authority, which were based on the scientific data, consist the minimum requirements for the protection, conservation and maintenance of the four «Natura 2000» sites of the Akamas Peninsula.

The expert's report reached the following conclusions:

- Given the lack of legally binding SAC and SPA management measures, the provisions of article 6(1) of the «Habitats Directive», which explicitly state the obligation of the Member States to establish the necessary conservation measures, which correspond to the ecological requirements of the natural habitat types, are not satisfied. Obviously, this shortcoming does not arise from Akamas LP's assessment procedures, but it clearly affects them.
- Weaknesses and deficiencies were observed, in relation to Special Ecological Assessment Study (initial and revised) and Reports. In the final Special Ecological Assessment Report, Environmental Authority tried to cover some of these shortcomings, however, some weaknesses remain which are not consistent with the provisions of article 6(3) of the «Habitats Directive», which provide for appropriate assessment.
- **Principle of conservation.** Given the absence of legally mandated specific conservation objectives for the four «Natura 2000» sites of the wider Akamas area, the expert could not conclude whether Akamas LP impact assessment could be considered comprehensive and fully valid. This conclusion derives from the provisions of article 6(3) of the «Habitats

Directive», which particularly address the issue of impact assessment of a plan or project in view of the site's conservation objectives. The expert therefore considers that the establishment of specific conservation objectives, i.e. objectives that are clear and precise and allow the implementation of operational measures for the conservation and/or restoration of habitats and species in a favorable conservation status, so as to contribute to the general objective of the «Habitat Directive» at the national and biogeographical level, should have preceded not only Akamas LP's appropriate assessment, but also the preparation of the LP proposed. As in the case of article 6(1), the lack of specific conservation objectives does not derive from the LP's assessment procedures, but it clearly has relevant implications.

- **Precautionary principle.** The expert observed several issues for which the Special Ecological Assessment Study (initial and revised) not only does not support, beyond all reasonable scientific doubt, that the LP will not adversely affect the protected species and habitats, individually or in combination with other plans or projects, but also supports that the implications for the protected site are uncertain. It is pointed out that, based on European Commission's guideline, when applying article 6(3), the precautionary principle implies that the absence of adverse implications on «Natura 2000» sites must be proved before a plan or project is approved. Therefore, if it cannot be ascertained that it will not adversely affect the integrity of the site concerned, then the competent national authorities cannot agree to the plan or project.
- Special Ecological Assessment Study assessed possible impacts of Akamas LP per proposed Zone, with specific reference to potential impacts on protected types. However, there is no quantitative approach to the possible impacts on the species and habitats of each Zone, nor an overall assessment of the impacts of Akamas LP on species and type of habitats, or any assessment for the specific habitats. The revised Special Ecological Assessment Study does not cover these shortcomings, while Environmental Authority's final Report partially covers the shortcomings with a summary presentation in tabular form, which would need further analysis so as to clearly support the conclusions drawn.
- **Inadequate assessment of the effect of Akamas LP in combination with other plans or projects.** With the exception of some short references, Special Ecological Assessment Study does not assess the effects on the site in combination with other plans or projects. In particular, there are at least nine important plans/projects concerning the wider Akamas area, the impacts of which should have been assessed in combination with Akamas LP. This very important gap was partially covered, in Environmental Authority's final Report, dated 25.8.2022, which provides, in an Appendix, a brief analysis of plans and projects which, in combination with Akamas LP, may have a significant effect on the site. However, this does not appear to have been based on a thorough assessment of all the parameters required or based on any specific methodology. Therefore, there is no full compliance with the provisions of article 6(3) of the «Habitats Directive», according to which any plan or project not directly connected with or necessary to the management of the site but likely to have a

significant effect thereon, either individually or in combination with other plans or projects should be subject to appropriate assessment. Also, the fact that Planning Authority did not promote Akamas and Peyia LPs in the same period consists, in the opinion of the expert, a failure to effectively coordinate LPs planning and evaluation.

- **Mitigation measures.** Special Ecological Assessment Study proposes some realistic and effective mitigation measures, but, in some cases, the recommendations proposed, mainly in the revised Study, are a last-ditch effort to build «safeguards», especially in cases of provisions where realistic measures cannot guarantee significant mitigation of the impacts and, indirectly, show that there are no effective mitigation measures for the specific provisions. The mitigation measures, which were eventually incorporated into the final Special Ecological Assessment Report, do not include the above-mentioned «safeguards». On the contrary, they include clear measures which even remove those provisions, which are not considered by any mitigation measures (e.g. single housing, specialized developments in Innia and Droushia Communities, new Quarry Zone of Androlykou).

In accordance with national legislation, the «Habitats Directive» and the case law of the Court of Justice of the European Union, the conditions established by the Environmental Authority during the appropriate assessment procedure, in order to decide that the integrity of the site is not impaired, is binding for the competent Authority. Therefore, the final conditions established by the Environmental Authority in the Special Ecological Assessment Report must be incorporated, without any exceptions, in the final Akamas LP, otherwise the competent authorities shall not agree to the plan.

- **Lack of assessment for two «Natura 2000» sites falling within Akamas LP.** Special Ecological Assessment Study is incomplete, since, in the Study, there is no reference to SAC «Koili-Mavrokolymbos CY4000008» and the SPA «Farangia Agias Aikaterinis – Agias Paraskevis CY4000016», part of which is covered by Akamas LP, and, therefore, there is lack of assessment of the potential impacts of Akamas LP on these sites. It is noted that the revised Special Ecological Assessment Study has some brief references to the above sites (name and code), but has not any substantial description or assessment. Environmental Authority's Special Ecological Assessment Reports refer to the four sites but, due to the nature of the Reports, the relevant analysis by site is limited.
- **Consultations with the public and stakeholders.** It seems that the stakeholders and the wider public consultation procedures, with regard to the Akamas LP, have been formally followed. However, the revised Akamas LP document has neither captured some scientifically supported stakeholders views, nor has included the relevant conditions established by Environmental Authority's Special Ecological Assessment Report. None of the above was sufficiently justified by the competent Authority.
- **«SEA Directive».** SEA Study provides satisfactory information on some mandatory subject areas under the «SEA Directive». However, other areas are considered less satisfactory (other relevant plans, protection objectives at international or community level, alternative

solutions, monitoring). Also, the revised SEA Study concerns, only, the presentation of the impacts per Zone or policy of the revised Akamas LP document. Therefore, the aforementioned weaknesses remain.

- **Access to information.** The lack of public access to the initial and revised Akamas LP document is contrary to the provisions of the Aarhus Convention (and the related Directive 2003/4/EC) on public access to environmental information, public participation in decision-making and access to justice for environmental issues, as well as to the provisions of the «SEA Directive». Competent Authorities' ability to assess the plan, without having access to the initial document and how they evaluated Akamas LP through the relevant information provided in the relevant Special Ecological Assessment Study, raises an issue.
- ◆ **Akamas National Forest Park Sustainable Development Plan appropriate assessment.** During the environmental assessment of Akamas National Forest Park Sustainable Development Plan, the provisions of articles 6(1) and 6(3) of the «Habitats Directive» were not followed, and, in particular site protection and conservation requirements, while there was insufficient assessment of its significant effects in combination with other plans or projects.
- ◆ The issue of the impact on landowners rights, by the protection measures of the area, was repeatedly examined by the Supreme Court in the context of appeals, that were rejected.

It is a fact that, for a relatively small part of the Peninsula, Development Zones were previously designated, although this lasted for a very short period of time, from four to 12 years. Since the last abolition of these Zones, in 1989, 33 years have elapsed.

In the period following the abolition of Development Zones, there was a large number of appeals at the Supreme Court, which we analyze at length in our Report and which, in all cases, had a negative outcome against the applicant landowners.
- ◆ Although, to date, more than €3,7m has been spent for the preparation of studies, regarding Akamas Peninsula Management, a large number of these have omissions and deficiencies. Also, even studies, which are considered extremely important and contain essential recommendations for the rational management of the Peninsula, were not properly considered during the preparation of Akamas LP.
- ◆ **Illegalities.** Within the «Natura 2000» Site of Community Importance and (CY4000010) and SPA (CY4000023) «Chersonisos Akama», illegal catering and leisure centers (restaurants and refreshment bars), as well as residences have been erected. This is of particular concern, considering that these illegalities are contrary to the provisions of the «Habitats» and «Birds Directives».

The General Conclusions and Recommendations of our Report, based on the above findings, are set out in sections 7 and 8, respectively.