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Use of Pastures in the Traditional Use Zone of Vashlovani National Park: Legal and Institutional Aspects



**Sustainable Management of Pastures in Georgia to Demonstrate
Climate Change Mitigation and Adaptation Benefits and Dividends
for Local Communities (UNDP/EU).**

Prepared by

**NACRES - Centre for Biodiversity
Conservation & Research**

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The views expressed in this report are those of the author and do not necessarily represent those of the United Nations or UNDP.

Abbreviations Used

APA	Agency of Protected Areas
MoEPNR	Ministry of Environmental Protection and Natural Resources
NACRES	Centre for Biodiversity Conservation and Research
NP	National Park
PA	Protected Area
NR	Nature Reserve
VNP	Vashlovani National Park
VPA	Vashlovani Protected Area
UNDP	United Nations Development Program

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Executive summary

The assessment of legal and institutional aspects of livestock grazing on Vashlovani National Park (VNP) was carried out during 7-27 May, 2013.

For centuries, the steppe and semi-deserts of VNP have been used for livestock wintering and winter grazing. As a result of the *Law on the Creation and Management of the Tusheti, Batsara-Babaneuri, Lagodekhi, and Vashlovani Protected Areas (2003)*, some of the winter pastures traditionally used by the Tush sheep farmers were included in VNP.

After the breakup of the Soviet Union, the farm buildings located on the winter pastures were privatized. The privatization of the pastures was not allowed by law. So pastures were leased to livestock owners for periods ranging from a few years to as long as 50.

VNP is situated in the district of Dedoplistkaro. However, the winter pastures in and around the national park are under the jurisdiction of the Akhmeta district municipality. This has caused misunderstandings and even conflicts between the two municipalities for years.

Livestock grazing is allowed in the traditional use zone of VNP. The purpose of the traditional use zone, as defined by the legislation, is to meet irreplaceable economic interests of the local population through traditional use of natural resources.

The legislation also declares exclusive state ownership over the territory any national park and over all natural resources thereby. However, the pastures that had been leased out before VNP was created could not be put under the management of Agency of Protected Areas (APA) until those contracts would expire. On the other hand, a legal possibility was created for the privatization of some of the pastures of the traditional use zone of VNP. Certain sections of the traditional use zone might have been privatized.

Agency of Protected Areas (APA) has recently been given the right to lease pastures. However, relevant procedures have yet to be put in place on the ground. Currently there is lack of guidelines and regulations such as grazing standards, grazing pressure norms, etc.

There are no unified regulations for pasture use and grazing norms. The effective legislation fails to make any reference to lowland (winter) pastures. There is no governmental agency responsible for setting and/or controlling grazing norms on either winter or summer pastures of Georgia.

1 Background

This report describes the results of an assessment conducted for the project: **Sustainable Management of Pastures in Georgia to Demonstrate Climate Change Mitigation and Adaptation Benefits and Dividends for Local Communities** (UNDP/EU).

The assessment was carried out during 7-27 May, 2013 and relied on the materials available at NACRES as well as on field surveys and interviewing and obtaining existing information from various key stakeholders. Due to the short time available to the assessment team, it was impossible to obtain any official information on current property relationships in respect of pasture use from the relevant governmental agencies.

2 Short description of Vashlovani Protected Areas

Vashlovani Protected Areas (VPA) is situated in the district of Dedoplistkaro, in southeast Georgia. With a total area of 35,594.7 ha, VPA is one of the largest PAs in the country.

The history of VPA begins in 1930s by the establishment of the Vashlovani Nature Reserve. The reserve originally covered only 4,000 ha, but in subsequent years it was enlarged several times. Finally, in 2003, Vashlovani Protected Areas was established which consists of the Vashlovani Nature Reserve (10 142 ha), Vashlovani National Park (24 598 ha), and three natural monuments (the Alazani floodplain forest, the Takhti-Tepa mud volcano and the Artsivi gorge).

VPA is remarkable for its landscapes and habitats, which are generally not typical of Georgia. These include juniper and pistachio arid light woodlands, semi-deserts and dry steppe.

The biodiversity of VPA includes a rich community of carnivores (brown bear, wolf, leopard, lynx, golden jackal, wild cat, etc.) and is also distinguished by a high reptile diversity. Since it still harbors what seems to be the best suitable habitats, Vashlovani is one of the key sites for the planned reintroduction of the goitered gazelle, a species which became extinct in Georgia almost half a century ago.

Parts of VNP and the adjacent areas are traditionally used as winter pastures for livestock. Livestock grazing is the most important of the human factors that have apparently played a huge role in shaping the Vashlovani landscapes and creating the ecological mosaic currently found throughout the park.

Over the last 10 years, Vashlovani has seen the development of protection as well as tourist infrastructure. Visitor numbers have also increased in recent years.

3 Livestock grazing in Vashlovani National Park

3.1 Past and current livestock grazing

For centuries, the steppe and semi-deserts of VNP have been used for livestock wintering and winter grazing. VPA was established within its current boundaries in 2003 by the *Law on the Creation and Management of the Tusheti, Batsara-Babaneuri, Lagodekhi, and Vashlovani Protected Areas* (“Law on Creation”). As a result, some of the winter pastures traditionally used by the Tush sheep farmers were included in VNP.

Sheep farming is the major activity of the Tush community. It has a seasonal transhumant form and is closely linked to the socioeconomic aspects and lifestyle of this distinct community. Each year, the Tush sheep farmers graze their livestock on the (summer) pastures of Tusheti mountains during the summer season and bring them down to the winter pastures of VNP and the adjacent territories for winter. The sheep farmers are usually joined by their families when they go up to Tusheti, where each family maintains a summer house, but as they come back to the lowlands, the families remain at the Tushetain villages of the Akhmeta district, in the Kakheti region.

A similar livestock farming pattern (but mostly involving shepherd members of the family) is practiced by other communities from Kakheti or other regions of Georgia which also graze their livestock at Vashlovani or adjacent areas during the winter but go to various places in Kakheti, Tsalka and Ninotsminda districts for the summer.

Residential infrastructure is practically absent on the winter pastures. There are only livestock farms. In soviet times, each of the farms was assigned some of the surrounding pastures. Both were state property. After the breakup of the Soviet Union, in 1990s, the farms (the buildings) were privatized. The privatization of the pastures was not allowed by law, however, so pastures were leased to livestock owners for periods ranging from a few years to as long as 50. In most cases, the person that owned a farm would also rent pastures around it. However, there were situations in which the farm and the pastures around it were owned/rented by different persons.

At present, most of the farms in and around VNP are private property. Some farmers have built residential houses at their farms. There are also unconfirmed reports that certain pastures have also been privatized (see also subchapter 4.3).

Leasing out farm buildings is a common practice in and around VNP. In fact, the majority of farm building owners do not use their property themselves but lease it out to a cooperative of livestock owners. Such cooperatives typically consist of several livestock farmers who jointly use the farm building as well as the pastures around them. Sometimes livestock farmers cooperatives pay zero rent to owner of the farm buildings but take care of his/her sheep.

The whole territory of the winter pastures is divided into plots (pastures). The size of each pasture varies from dozens of hectares to up to 500 ha. Sheep farmers sometimes use not just their own pastures but also any neighboring pastures which happen to be unoccupied in that season.

There are a total of 45 farm buildings within the national park and another 17 in close proximity in the Eldari lowland, Patara Shiraki and Iori steppe.

3.2 Local set-up and the responsibilities of pasture management

VNP is situated in the district of Dedoplistskaro. However, the winter pastures in and around the national park are under the jurisdiction of the Akhmeta district municipality. Such an unusual distribution of administrative responsibilities is justified by the fact that those territories have been traditionally used by the Tush community, most members of which are permanent residents of the Akhmeta district (residing in the lowland Tushetian villages), and the fact that the historical province of Tusheti is also in the Akhmeta municipality. Therefore, most of the winter pastures that were eventually included in the traditional-use zone of VNP (after the expansion of VPA) were leased to Akhmeta district residents and managed by the Akhmeta municipality. This has caused misunderstandings and even conflicts between the two municipalities for years, with the main issue apparently being the fact that all revenues from the leasing of the pastures were going to the Akhmeta municipality local budget.

4 Legal and institutional base

The establishment and management of VPA is defined by the *Law on the Creation and Management of the Tusheti, Batsara-Babaneuri, Lagodekhi, and Vashlovani Protected Areas* ("Law on Creation", 2003). This law defines the boundaries of VPA, its territorial units and administration, and is in turn derived from the 1996 *Law on the System of Protected Areas*, which is framework legislation defining the categories, status, administration and permitted uses of protected areas.

In general, the responsibility for the overall administration of Georgia's protected areas lies with the Agency of Protected Areas (APA) which operates under the Ministry of Environmental Protection and Natural Resources (MoEPNR). The APA has the status of a legal body of public law and was specially established by the state to fulfill the state's objectives and provide public services in the field of protected areas. The APA's main objective is to ensure effective operation of protected areas administrations and control of rule of law.

The management of VPA on the ground is executed by the VPA administration, which is sited in Dedoplistskaro and has relevant infrastructure both in town and inside the park. The VPA administration is a territorial entity of the APA and its goals, roles and scope of activity are defined in the VPA management plan officially approved by the Minister of Environmental Protection and Natural Resources.

The management plan for VPA was approved by Order #48 of 26th January, 2006 of the Minister of Environmental Protection and Natural Resources and had the validly period of 2003-2008. Currently this management plan is being updated.

4.1 The zoning and structure of VPA

The *Law on the Creation and Management of the Tusheti, Batsara-Babaneuri, Lagodekhi, and Vashlovani Protected Areas* (Article 35) defines the following zones of VNP: Strict protection zone, managed protection zone, traditional use zone, restoration zone, administration zone, and visitors zone.

Permitted activities in each of these zones are implemented in the form of integrated programs (law on Protected Areas System, Article 42) described in the management plan of the given protected area. A PA's management plan defines the borders of each zone, a protection regime and management regulations. The list of permitted activities also differs for each zone.

4.2 Pasture management

By law, livestock grazing is allowed in the traditional use zone of VNP. A traditional use zone is established for nature protection and traditional use of renewable natural resources. The permitted activities within this zone include: hay making as permitted by natural productivity, livestock grazing, fuel wood collection, etc.

The total area of VNP's traditional use zone is 8310 ha (paragraph 4.3.2.3 of the VPA management plan) and encompasses: the western part of the Chigoeltkhevi, the section of the Lekistskali river from Mlashe Tskaroebi (Brakish springs) to Patara Ole, the western and northern pastures bordering on the Shavi Mta (Black mountain), the sector from Alazani flood-plain forests to Jumaskure, and Bougdalo pastures.

The purpose of the traditional use zone is to meet irreplaceable economic interests of the local population through traditional use of natural resources. The VPA management plan aims to maintain and restore the genetic diversity of domestic animals involved in traditional Tush livestock farming by sustainably using renewable natural resources to both meet social and economic demands of the local population and provide protection and monitoring.

4.3 Property rights

The property rights within the borders of protected areas are regulated by law. The law on Protected Areas System defines the ownership, use and management of natural resources on protected areas (Article 12: Property on Protected Areas). This law also declares exclusive state ownership over the territories of any nature reserve, national park, natural monument and managed reserve and over all natural resources thereby. The law does forbid leasing out both the territories and any natural resources found within those territories to any legal or real person. However, certain exemptions

may apply as defined by the management plan (or interim regulations) of a national park for the traditional use zone as well as for a managed reserve. Namely, Article 2² of the above law permits leasing of land in the traditional use zone for a period of 10 years provided it is agreed upon with the local municipality.

It is important to note that after the adoption of the “Law on Creation”, all land and property within the new boundaries of the expanded protected areas were to become the property of the APA. However, the same law also sets limitations. According to Article 62 of the interim provisions of this law, the above requirement does not apply to the land and property for which property relationships were already in place before the creation of the protected area.

As of 2003, by the adoption of the “Law on Creation”, the expanded VPA covered territories of traditional sheep farming where winter farm buildings are present and intense livestock grazing has been continued to date. As mentioned earlier, these territories had been under the jurisdiction of the Akhmeta municipality in accordance with the law on “Local municipalities” (Article 47; Paragraph 1). Based on the currently available information, all the pastures situated on the mentioned territories had been leased out. Consequently, the pastures that had already been leased out were not transferred to APA/VPA--at least, this could not have happened before the lease contracts would expire. However, Article 62 of the interim provisions of the “Law on Creation” requires that lease contracts be registered with the State Registry. Presently it is unknown if this requirement was met in the case of Vashlovani pastures. It is also unknown which contracts (if any) are still valid and which pastures may be transferred over to the APA/VPA for management. This confusion is partly caused by the facts that the lease contracts were issued at different times and had various periods of validity. Hence, Vashlovani pastures could have been transferred over to the APA at different times. There was no centralized database of the lease contracts and both agencies apparently were waiting for all the contracts to expire so that they would be all put under the management of APA and VPA administration.

According to Article 64 (Paragraph 3) of the “Law on Creation”, the land within the protected area is exempt from the provision of the law on “the declaration of the agricultural land owned by real and private bodies as private property”. This would have prevented the privatization of any land on VPA. In addition, a new law (Law on State Property) was adopted in 2010 which regulates the privatization of state property including pastures. Article 4 of this law lists state property types not subject to privatization. This list includes pastures and livestock migration routes.

However, the above law still leaves a narrow hole which could or could have allowed the privatization of some pastures, specifically those that had been leased out before 30 June, 2005. In addition, the pastures that are assigned by the local authorities to the real estate owned by real or legal bodies may also be privatized. The Law on State Property was adopted in 2010 and therefore would prevail over the earlier “Law on Creation”. Thus, a legal possibility has been created for the privatization of some of the pastures of the traditional use zone of VNP. As far as current unconfirmed information is concerned, certain sections of the traditional use zone have indeed been privatized i.e. they are now private property.

4.4 The procedures for pasture leasing

The “Law on Creation” (2003) highlighted the need of regulations for leasing pastures of the traditional use zone and for setting the rates for their renting. A relevant decree of the Government of Georgia was adopted in 2011¹. This decree defines fiscal and procedural aspects of pasture lease. The APA has thus been given the right to lease pastures in agreement with local municipalities through a simplified procedure, namely without a tendering process.

The above procedure has yet to be put in place on the ground and implemented by the VPA administration. It is important to note that the VPA administration lacks any guidelines or regulations such as grazing standards, grazing pressure norms, etc., which are obviously critical for effective pasture management. Interviews with local specialists revealed that currently there is little understanding of the issue among them and they rather choose to wait for clear guidance from the central apparatus. On the other hand they seem to be clear about the fact that the pastures would have to be leased to local community members and the process must involve the local municipality.

4.5 Legal aspects of pasture use

There are no unified regulations for pasture use and grazing norms. *The Law on Land Protection* requires that livestock be grazed within the grazing pressure norms for the highland pastures and that farmers must employ so called vertical grazing and pasture rotation schemes to avoid land erosion (Article 3). This law also prohibits pasture impoverishment including through excessive grazing (Article 4) and sets the framework for legal responsibility for the violation of the requirements of this law.

This law also obliges the Ministry of Agriculture and Food to set grazing standards for highland pastures (Article 12). However, it fails to make any reference to lowland (winter) pastures.

This creates a gap in the legislation causing serious problems to both the Dedoplistskaro and Akhmeta municipalities. A recent decree issued by the Dedoplistskaro municipality council (Decree #8, 10 April, 2013) acknowledges problems associated with excessive grazing and sets the requirement to obey grazing norms. However, no reference was provided by the municipality for “grazing norms”. Some of the members of the Dedoplistskaro council referred to the *Product Safety and Free Movement Code*. However, we did not find any provisions on grazing in that law. We could not obtain any document (regulations, guidelines) from any governmental body including from the Ministry of Agriculture and Food, about grazing norms on pastures. The only reference we have been able to find dates back to 1983. The publication, titled: *Technologies of transhumant livestock farming in the light of intensification* by V. Kumsishvili proposes the following grazing norms per hectare of winter pasture: 3 heads (sheep) per 1 hectare. The same norm is mentioned in the VPA management plan.

¹ Decree #339 of the Government of Georgia (7th September, 2011) on the initial auction price and organization of public auction for leasing immovable property on protected areas (except protected landscape and multiple use territory).

At present there is no governmental agency responsible for setting and/or controlling grazing norms on either winter or summer pastures of Georgia.