

Strasbourg, 31 August 2015
[files22e_2015.docx]

T-PVS/Files (2015) 22

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

35th meeting
Strasbourg, 1-4 December 2015

Specific Site - File open

**Wind farms in Balchik and Kaliakra -
Via Pontica
(Bulgaria)**

- REPORT BY THE GOVERNMENT -

*Document prepared by
Ministry of Environment and Water of Bulgaria*

UPDATED INFORMATION

on implementation of the Recommendation No. 130 (2007) of the Bern Convention Standing Committee on the Windfarms planned near Balchik and Kaliacra, and other wind farm developments on the Via Pontica route (Bulgaria)

In connection with the application of Recommendation 130 (2007) of the Standing Committee of the Bern Convention regarding construction of Wind Farms in the region of Kaliacra, Bulgaria provides the following updated information about the progress reached thereafter:

- 1. review relevant decisions, at the local, regional and national level, concerning wind energy plants and ensure that new plants are not built in the region unless Environmental Impact Assessment (EIA) prove they do not have a substantial negative effect on the biological diversity protected under the Convention - EIA reports should be more precise and scientifically sound than those already presented and should formulate independent peer reviewed conclusions;***

For the period after the adoption of the Recommendation No. 130 (2007) to the Bern Convention Standing Committee, significantly improved the Environmental Impact Assessment (EIA) and Appropriate assessment (AA) Reports, thanks to the development of knowledge, methodology, capacity and corresponding policy in this area. During these years, Ministry of Environment and Water increase the quantity and quality of available information and also requirements to the scope, content and quality of the reports.

Were implemented several projects targeted at species and habitats of the Birds and Habitats Directives. The role of NGOs and scientific organisations to provide access to their information increase too.

It was considerably improved and methodological basis related to the preparation and evaluation of the EIA and AC Reports, and training of people involved in the proceedings (see paragraph 10 below).

The change in the legislation allowed to repeal several decisions for wind power generation building, and another in - to lose its legal effect. In practice this means that will be realised very few number of projects that have been granted (see paragraph 9 below).

Been put in place, the precautionary principle and the assessment of cumulative effects in the planning, authorisation and implementation of the projects. Appropriate assessment has become an integral part of the procedures preceding the issuing of the authorisation for the project.

Most important for reducing the impact of wind farms have introduced by National Action Plan for Renewable Sources Energy, prohibitions on the construction of such facilities in the most important for birds areas of the Natura 2000 network, as well as in neighboring areas, forming practically buffer zones around it.

- 2. fully reconsider the development of approved windfarms projects in the Balchik and Kaliacra region situated within or nearby sites designated as important bird areas and special areas of conservation;***

Since 2009, the Ministry of Environment and Water started reconsideration of already issued permissions for realisation of projects in Kaliacra Important Bird Areas

As the Standing Committee was informed, in 2012 of changes were made in the Biological Diversity Act (art. 31, paragraph 23, published in State Gazette 32/2012) and Environmental Protection Act (art 93, paragraph 7, published in State Gazette 53/2012) which establish the following:

- Appropriate assessment decision loses its validity if within 5 years after being issued the operator does not take steps to implement the project or the investment proposal or steps to have plan or the program approved.

- Decisions that state that no EIA are required also lose their validity if within 5 years after being issued the operator does not take steps to implement the investment proposal.

According to Paragraph 12 a (2) of the Transient and final provisions of Environmental Protection Act, the above limit of validity is applied to all decisions issued in accordance with the national legislation.

A retroactive effect was given to the measure, thus covering the existing environmental permits. With the introduction of this measure more than 90% of the approved projects have been eliminated. With these two measures a certainty has been established that there will be no excessive construction in the region.

3. *investigate the possibility of relocating the windfarm projects already under construction as well as the single turbines (whose building is possible without EIA) in order to restore the integrity of sites to be considered as Natura 2000 sites, IBAs, or under other protection status;*

Since 2009, all wind generators, including single ones in Natura 2000 sites, have been subject to mandatory EIA / AA. In assessing they pay attention to the location of the individual turbines and where appropriate, their arrangement is changed, which is reflected in the EIA/AA decision.

4. *select alternative locations for future and not yet operating turbines based on appropriate data (including long-term monitoring of biodiversity) and assessments (e.g. using multicriteria-analysis); key bird areas, potential SPAs, IBAs, intensive bird migration corridors and sites regularly used by large flocks of roosting species such as storks and wintering geese must be avoided from windfarm development;*

See paragraph 10.

5. *assess the impact of the current operating turbines*

General targeted monitoring of the impact of wind turbines on birds has not been made. Monitoring has been made by the operators of several large wind energy parks. Monitoring is carried out also in separate activities in two projects financed by EU funds. The data are interpreted by different experts differently and therefore, they will not be discussed herein.

Due to uncertain interpretations of the impact of wind farms on birds both in nationally and internationally level, we believe that the observations need to continue, and the results to be subject of depth discussion. However, it can be said that no evidence of high mortality and behavioral response of birds to a possible barrier effect.

6. *conduct an Strategic Environmental Assessment (SEA) of Bulgaria's wind energy programme, taking into account possible conflicts of wind energy production within the most intensive bird movements areas, in particular along the Black Sea coast;*

Bulgarian Energy Strategy by year 2020

By Standpoint on Ecological Assessment № 3-2/2010, the Minister of environment and water has coordinated the **Bulgarian Energy Strategy by year 2020**

The condition of the protected areas is analysed in the document regarding the realised and/or in a process of coordination investment proposals, plans and projects for starting new energy resources (mainly Wind Parks). An increased concentration of such projects in the protected areas has been accounted for and the following measures have been proposed:

- complex measures, mitigating and decreasing the adverse impact on the natural habitats and habitats of species, including birds being object of protection in the corresponding sites;
- specific measures for the sites, taking into account the possible adverse impacts, originating from the character of the types of intentions;

A generalised conclusion is taken, that the application of the Energy Strategy under observing of the included recommendations and mitigating measures will not lead to significant extend of the adverse impact on the subject and the goals of conservation of the protected sites from Ecological Network NATURA 2000.

National Action Plan on Energy from the Renewable Energy Sources 2011-2020 (NAPERES 2011-2020)

On 9 January 2013, the Council of Ministers adopted the *National Action Plan on Energy from the Renewable Energy Sources 2011-2020*. The Action Plan reflects the measures and conditions contained in the Opinion №1-2/2012 on the Strategic Environmental Assessment which the Minister of Environment and Water coordinated the National plan, in order to eliminate, reduce and as fully as possible offset any significant adverse effects of its implementation on Natura 2000 sites. In particular these are circumstances and bans, for the duration of the plan, on holding new coordination procedures under the Environmental Protection Act and Biological Diversity Act for wind generators located within the boundaries of Natura 2000 network as well as in designated areas outside the boundaries of Natura 2000 network in Dobruja Area, East Rhodopi Area and a distance of 2-6 km from some important for birds Natura 2000 sites (detailed information can be found in our report to the Bern Convention Standing Committee, September 2012).

Because for SEA opinion is allowed preliminary implementation that applies by its delivery - August 8, 2012, from that no approved wind generator projects in the areas covered of prohibitions listed in the SEA opinion.

Zoning map for wing power generation capacity and Guidance for planning

As part of the Mapping and Determination of the Conservation Status of the Habitats and Species (Phase 1) Project conducted by the Ministry of Environment and Water and financed by Environment Operational Program 2007-2013, a map was prepared that shows the zones of the country based on capacity to construct WPG. This project is part of separated position 7 -Determination and Minimisation of the Risks to the Wild Birds and is conducted by ECONECT venture part of which is The Bulgarian Society for Protection of Birds, 9 regions of the country have been determined to be suitable for construction of WPG based on the wing power generation capacity, the current state of the national power grid and the plans for its development until 2020, forecasts for electricity consumption, as well as evaluating different scenarios for limiting the construction of WPG.

Within the same project was developed also a guidance for planning taking into account the risk to birds. There is public access to the guidance on the internet site of the MOEW.

These documents are the good basis for the strategic planning of the territory of the region and assessing its carrying capacity order to protect the birds and their habitats.

7. *establish a strict moratorium on further turbines and windfarm projects in the coastal areas of Bulgaria until EIA and SEA reports mentioned in paragraphs 1 and 6 are completed*

As the Standing Committee has been already informed during its session in November 2008, the Minister of environment and water has issued an Order RD – 855/21.11.2008 for preventive protection and prevention from the threat and/or extinguishing of conservation significant natural habitats and habitats of species subject of protection in NATURA 2000 site BG0000573 “Kompleks Kaliacra”. It has been imposed by the existence of many plans, projects and investment proposals for construction on the territory of the area, which realisation could lead to significant adverse impact before issuing order for its declaration under Article 12, par. 6 of the Biodiversity Act.

The following prohibitions are imposed by the order: Change of the purpose and the manner of permanent use of lands, forests and water areas (in agricultural and forestry lands) excluding cases when the change is connected with construction of purification stations for draining water, stations for drinking water, constructions for waste treating, roads, stabilisation of landslides and other objects of technical infrastructure, or connected with plans, programs, projects and investment proposals, for which there is a started procedure under Chapter 6 of the. Environment Protection Act and/or article 31 of the Biodiversity act.

The prohibition applies to the whole NATURA 2000 site, including territories from the land-use of Balchik, village of Tjulenovo, municipality Shabla, village of Bojuretz, village of Bulgaevo, Kavarna, village of Kamen brjag, village of Sveti Nikola and village of Topola, municipality of Kavarna, region Dobrich, with total area of 441 282 643 dka, 39.561 of which are marine territories.

The prohibitions had in force within one year or until the order of the Minister under article 12, par. 6 of the Biodiversity Act for declaration of NATURA 2000 site BG0000573 “Komplexe Kaliacra” under Habitat Directive is enforced, and it was extended the period for another one year.

Subsequently, in 2012, by the *National Action Plan on Energy from the Renewable Energy Sources 2011-2020* were introduced bans, for the period of duration of the plan, on holding new coordination procedures under the Environmental Protection Act and Biological Diversity Act for wind generators located within the boundaries of Natura 2000 network as well as in designated areas outside the boundaries of Natura 2000 network, including in Dobruja and other Areas around Black Sea (see paragraphs 3 and 10).

8. *respect the need to focus on the avoidance of the impacts coming from outside having negative effects on areas of recognised conservation importance;*
9. *take into account the following guidance to improve EIAs for future and not yet operating turbines, including in accordance with “Regulation about the conditions and the order for accomplishment of assessment for compatibility of plans, projects, programmes and investment intentions with the subject and the aims of the conservation of protected zones”:*
 - *further research and monitor birds, bats, other fauna, vegetations and key landscape-ecological structures and processes influencing biodiversity; to this end long-term monitoring of flora and fauna, review and validation of all data is required, included those from NGOs, institutes and independent scientists;*
 - *apply collision modelling of cumulative effects of several wind farms or turbines along intensive flyways, followed by the assessment of the suitability of localities using multicriteria-analysis methods;*
 - *develop compulsory procedures to peer review the completeness and quality of biodiversity chapters of EIAs and their conclusions before continuing the administrative and legal processes;*

In the advice to the competent authorities for carrying out procedures for SEA and EIA, the Ministry of Environment and Water has requested that the reports take into account all the relevant points of the Recommendations 117(2005) и 130(2007) adopted by the Bern Convention Standing Committee and related to the long-term planning and the realisation of projects for utilisation of renewable energy sources, implementation of the *precaution principle*, conformity with the specific conditions of Bulgarian Black sea coast and the concrete requirements for the protection of bird, bats and other faunistic species, as well as their habitats, considering the cumulative effect. For all submitted projects for construction of wind generators (regardless their number) in the region of Dobrudja, situated out of range of Natura 2000 sites, the competent institution also requires implementation of explicit EIA procedure (for detailed information – see paragraph 10 bellow).

10. *develop guidelines for appropriate planning of the construction of windfarms and/or individual turbines, taking account of the following issues in order to integrate biodiversity conservation concerns:*
 - *initiate a broad debate on the precautionary principle regarding development projects in relation to sites with outstanding biodiversity values;*
 - *take measures for the removal of turbines in case of unacceptable bird collisions where no alternatives exist; this require the drafting of a set of mitigating and compensatory measures when biodiversity losses occur;*
 - *promote capacity building for specific and independent control of the ecological effects of turbines (in terms of experienced staff, equipment, legal base, cooperation with other institutions and NGOs, appropriate procedures, etc);*

to consider and properly investigate the social impacts of windfarms on local population and on the loss of nature and scenery as a significant source of recreation and eco-tourism.

Methodological tools

Since 2009 many **meetings** have been conducted with investors on expert level in connection with the specification of the assessment scope, the type and the detaility of the map materials, representing the identified "red zones or hot spot zones" as well as regarding the concrete recommendations on the future project planning for power generation by using Renewable Energy Sources in the territories concerned, done by the independent experts, responsible for the elaboration of the reports.

As a result a decision has been made and instructions have been elaborated for practical implementation of the environmental legislation concerning the intentions for wind farms construction. They have been sent to all regional structures of the Ministry of Environment and Water strictly to demand from all investors in their submitted documents for assessment the necessity of EIA to have done precise analysis of the cumulative impact from all existing, approved or in process of approval plans, programs and projects/investment proposals. Also it has been instructed not to allow coordination of projects having completed or approved construction projects, without profound and adequate EIA and effective assessment of the cumulative effect regardless if they are situated in the boundaries of protected areas or they are outside them.

The Ministry of Environment and Water has developed **methodic instructions** for assessment the extent of impact of investment proposals for construction of wind generators in NATURA 2000 sites. The methodic instructions is coordinated with the NGOs and are in compatibility with legislative requirements, and also the Instruction Manual of the EC has been also taken into account which help experts in performing their assessments and in determination of the EIA and Assessment of compatibility procedures.

In 2013 within the MOEW project Mapping and identifying the favorable conservation status of habitats and birds, Phase I a Guide on wind farms development with respect of risk on birds was elaborated.

In 2014 within the project LIFE 09NAT/HU/000384 Protection of Saker Falcon (*Falco cherrug*) in northeastern Bulgaria, Romania and Slovakia of BSPB Bulgaria were prepared and issued a Guidelines for evaluation of plans for wind farms building. The project aims to support the implementation of best practices in conservation of the Saker Falcon and to reduce the risk of mortality for the species caused by humans.
http://sakerlife2.mme.hu/sites/default/files/SakerLIFE_windfarmGuide_BG_online.pdf

All documents - the European Manuals for performance the assessment under Article 6 (3 and 4) of the Habitat Directive, the manual for EIA performance, the Recommendations of the Bern Convention Standing Committee, the Methodic for assessment of the impact on the bats, the Guide on wind farms development and birds, etc. – have been published in the web site of MOEW:

<http://www.moew.government.bg/?show=top&cid=153> .

New facilities for birds and Natura 2000 protection

In 2013 was completed two years **project for Mapping and Identifying of the Favorable conservation status of habitats and birds**, financed by Environmental Operational Programme and implemented by BSPB-Bulgaria. The project objective is to minimise the risk for the wild birds by identifying the delineations of the main migratory routs and the most important sites for them in order to ensure their conservation and to minimise the risk caused by realisation of new investment proposals and projects in these territories. The outputs of the project are developing of: methodology for monitoring of birds for Environmental Executive Agency; guidance for conservation of the wild birds during the wind farms development in Bulgaria; system for early warning which will regulate the works of the wind turbines; a map and GIS model with the territories at high risk for birds caused by wind farms development. By the project 9 regions of the country have been determined to be suitable for construction of WPG based on the wing power generation capacity, the current state of the national power grid and the plans for its development until 2020, forecasts for electricity consumption, as well as evaluating different scenarios for limiting the construction of WPG. Two of those regions are within Dobrudja region (*Shabla* and *Dobrudja*).

Another project financed by Operation Environment Programme 2007-2013 ends too for Development and introduction of information system for the NATURA 2000 ecological network.

The project aims the building of united information system for the necessities of the management of the protected areas, which will unify spatial and non-spatial data acquired from different sources and it will assure simple access through Internet from the side of institutions, related to the management of the protected areas. The development of this system will facilitate the actualisation of the available data for the protected areas, the acquiring of information and carrying out analysis, which will considerably improve the coordination between the single administrative bodies having attitude toward the management of the protected areas and it will limit the possibility for decision making as a result of insufficient communication. A public register with data for performing procedures on assessment for compatibility of the plans, programs, projects and the investment proposals with the scope and the aims of conservation of the NATURA 2000 sites is a part of the information system.

The assurance of connection network between the register and the spatial data for the plans, programs, projects and the investment proposals on the one hand will facilitate the competent authorities and the experts dealing with assessment for compatibility in their assessment of the cumulative impacts from the realisation of the plans, programs, projects and the investment proposals on the topic and the aims of the protected areas conservation, and on the other hand it will improve considerably the administrative control. Thus, the project as a whole will contribute for optimisation of the management of the network of protected areas and it will facilitate the protection of the areas, which in its turn will contribute for diminishing the biodiversity in the country.

Ban on the construction of wind power generators in NATURA 2000 sites

In 26 of the Natura 2000 sites designated under the Birds Directive establishes a ban on the construction of wind power generators as follows: BG0000156, BG0000270, BG0002003, BG0002021, BG0002026, BG0002041, BG0002043, BG0002050, BG0002051, BG0002053, BG0002059, BG0002066, BG0002072, BG0002076, BG0002077, BG0002098, BG0002109, BG0002113, BG0000191, BG0000271, BG0002002, BG0002044, BG0002060, BG0002061, BG0002060, BG0002097.

Measures derived from the National Action Plan on Energy from the Renewable Energy Sources 2011-2020.

In order to prevent significant adverse effects (mortality, barrier effect, disturbance, loss of feeding grounds, driving away) on species which are to be protected in the NATURA 2000 sites, facilitate acquirement of favourable conservation status, to stop the loss of biological diversity, securing safe migration routes for the migratory birds (pelicans, storks, cranes, birds of prey and waterfowl), the **National Action Plan on Energy from the Renewable Energy Sources 2011-2020** (NAPRES) introduces a ban to conduct new assessment procedures under the Environmental Protection Law and the Biological Diversity Law for WPG (only procedures already started will be completed) on the territory of:

1. Agricultural lands and forests within the boundaries of Natura 2000 network excluding projects for local autonomous power supply and projects on environmentally degraded terrains.
2. Agricultural lands and forests outside the boundaries of Natura 2000 network:
 - in Dobruja Area (includes all municipalities in Dobrich district and municipalities Aksakovo, Alfatar, Silistra and Kajnarja);
 - in East Rhodopi Area (includes municipalities Krumovgrad, Momchilgrad, Ivajlovgrad, Majarovo, Ljubimec, Kyrjali, Stambolovo and Kirkovo)
 - in municipalities Burgas, Pomorie, Kameno, Ajtos, Ruen, Sozopol i Primorsko;
 - at least 6 kilometers away from the boundaries of Natura 2000 SPA: BG0002017, BG0002091, BG0002007, BG0002010, BG0002003, BG0002078, BG0002020, BG0002070, BG0000332, BG0002030, BG0002058, BG0002062, BG0000237, BG0000270, BG0002027, BG0000152, BG0002066, BG0002021, BG0000191, BG0002045, BG0002054, BG0002082, BG0002038, BG0000271, BG0002025, BG0000240 и BG0002108;

- at least 2 kilometers away from the boundaries of Natura 2000 SPA: BG0002046, BG0002015, BG0002086, BG0002067, BG0000242, BG0002009, BG0002023, BG0002028, BG0002008, BG0002096, BG0002094, BG0002095, BG0002104, BG0002018, BG0002024, BG0002110, BG0002006, BG000206, BG0002065, BG0002001, BG0002088, BG0002099, BG0002103, BG0002057, BG0002069, BG0002022 и BG0002081.

This restriction ensures that in the future no Renewable Energy projects will be assessed or approved on the territory of the sites of NATURA 2000 and with a significant parameter around them, as well as within vulnerable areas outside NATURA 2000 ecological network. On the other side, Environmental Protection Law and Biological Diversity Law introduce five year limit of validity for Environmental Impact Assessments and Appropriate Assessments. Due to this limitation most projects that are cause for complains from the Bulgarian environmental protection community will not be executed.

In the period 01.07.2014-01.07.2015, the Director of the Varna Regional Inspectorate, as an authority on EIA, refused to allow the realisation of one wind park, located outside of Natura 2000 network and consists of 19 wind turbines (EIA Decision № VA-32014). Wind farm is located in lands of the villages Vidno and Neykovo, Kavarna Municipality. Reason for refusing is reporting of cumulative effect, barrier effect, location of the planned park near Natura 2000 sites BG 0000130 Kraymorska Dobrudzha and BG 0002115 Bilo, as well as data from the autumn migration in the region, which indicate active migration over the territory of the planned a wind park.

Institutional strengthening

In recent years the Ministry has made efforts to strengthen the structures responsible for the establishment and management of the Natura 2000 network. Vastly are increased the number of employees, seminars and specialised training are conducted to enhance their capacity. Been implemented several major projects, including related with assessment of species and habitats conservation status and establishment of information system on NATURA 2000 in Bulgaria. In the process are involved as employees of the Ministry and the Regional Inspectorates of Environment and Water, as well as partners from other governmental administrations, scientific organisations and NGOs.

OTHER RELATED INFORMATION:

In addition to the above, the Ministry of Environment and Water has taken action to ensure additional protection of species and habitats in the region of Dobrudzha, as follows:

1. SPA BG0002051 Kaliacra was expanded in 2014

In order to protect, maintain and restore the habitats of the target species in SPA BG0002051 Kaliacra with Council of Ministers Decision No 678 / 07.11.2013 (SG, No. 99/2013), the boundaries of the area have been expanded to the borders of Important Bird Area - Kaliacra. Territory, by which SPA Kaliacra has been expanded amounted to 5289.04 ha.

An order was issued by the Minister of Environment and Water, No 97/06.02.2014 (SG, No.15/2014), which describes the coordinate points defining the limits, regimes and the target species for conservation within the extended site.

Within the new area, a prohibitions set for SPA Kaliacra (before its expansion) are introduced, incl. ban on construction of wind generators and photovoltaic installations on agricultural land (except for projects that have a completed procedure under Chapter Sixth of the Environmental Protection Act and / or under Art. 31 of the Biodiversity Act) .

2. Procedure for a declaration of new SPA in the region of Dobrudzha was completed

Additional territory under the Bird Directive is determined, namely the SPA BG0002115 Bilo, with an area of 8620.06 ha. With the said in the previous point Council of Ministers Decision No 678 / 11.07.2013 (SG, No. 99/2013), the SPA BG0002115 Bilo is included in the Natura 2000 List of sites under the Birds Directive. An order has been issued by the Minister of Environment and Water, No 330/04.28.2014 (SG, br.41/2014), which describes the coordinate points defining the boundaries, regimes and target species for conservation in the area.

Within the SPA, construction of wind generators, photovoltaic systems and accompanying infrastructure, outside the settlements is prohibited.

<http://natura2000.moew.government.bg/Home/ProtectedSite?code=BG0002115&siteType=BirdsDirective>

3. New areas of "steppe habitats" in Dobrudzha region have been included in the Sites of Community Importance

Dated 7.03.2014, the National Biodiversity Council considered proposals prepared by the Bulgarian Academy of Sciences for increasing the area of SCI BG0000130 Kraymorska Dobrudzha and for supplementing the national list of Natura 2000 sites under Habitat Directive with new SCI BG000635 Devnenski halmove. The sites are located in the region of Dobrudzha and include "steppe habitats" - preserved areas of habitat 62S0 * Ponto-Sarmatian steppes.

By Decision of the Council of Ministers No 223/24.04.2014 (SG No.37/2014), the area of SCI BG0000130 Kraymorska Dobrudzha is increased by 140.8 hectares, and the area of the new SCI Devnenski halmove is defined at 297.108 ha .

4. An order was prepared for declaring of SCI Complex Kaliacra

An order was prepared for declaring of SCI BG0000573 Complex Kaliacra - site under the Habitats Directive. Regimes in the site have been proposed by the experts from Bulgarian Academy of Sciences and they are consistent with the protection requirements of the target species and habitats in the site. They ensure protection of the natural habitat 62S0 * Ponto-Sarmatian steppes and of target species for conservation in the site.

<http://natura2000.moew.government.bg/Home/ProtectedSite?code=BG0000573&siteType=HabitatDirective>

5. Management Plan of Natura 2000 sites in Dobrudzha region

Development of Integrated Management plan for the whole territory in the region of Kaliacra have been started by the Ministry of Environment and Water. It covers 3 Natura 2000 sites in the region of Dobrudzha (BG0000573 Complex Kaliacra, BG0002151 Kaliacra and BG0002097 Belite skali) and will contain the management activities needed for the protection of the species and habitats in the region as well as monitoring schemes. The plan will be ready for implementation in 2015.

The draft Management Plan includes an analysis of activities impacting on the targeted species and habitats. Data from published reports on the quantities of birds flying before the construction of wind farms, from 3-annual monitoring reports, and other relevant data.

In order to reduce the wind turbines impact on the birds, the main measures that are foreseen at the draft management plan are related to managing the risk of collision of migratory birds and the monitoring of the mortality of these species in the region of Kaliacra.

Various parameters of migration are evaluated, as species composition and number of migrants, their distribution on migration route, direction and height of migration, reported a barrier effect etc. In order to reduce the impact of wind turbines on birds, the main measures that are foreseen at the draft management plan are related to managing the risk of collision of migratory birds and to the monitoring of the mortality of these species.

Also, a detailed examination was made of the size, distribution and threats to wintering birds in Kaliacra region, particularly red-breasted goose. Attention is paid to the type of used resting and feeding areas, routes of migration, the possible effect of habitats fragmentation, the effect of exorcism, as well as to different kind of factors as hunting and anxiety associated with hunting, etc.

6. Communication between the Ministry of Environment and the European Commission on overcoming the existing problems

The European Commission is regularly informed on overcoming the existing problems.

Communication is in connection with infringement procedure № 2007/4850 (launched in 2008, with the object of reducing the territory of the Natura 2000 SPA Kaliacra, to the Kaliacra IBA) and

infringement procedure № 2008/4260 (on the approval of many projects for wind turbines in the Kaliacra IBA without proper assessment of the cumulative effect). In 2011 both infringement procedures are combined into one, in June 2012 the Commission moved the infringement procedure to the next stage - reasoned opinion, and in September 2013 bring the case before the European Court of Justice.

In May 2015 the European Court in Luxembourg looks at the first session Kaliacra case brought by the Commission against Bulgaria. So far, the court has not taken a final decision in connection with charges brought.

August 2015

Prepared by: Rayna Hardalova

**UPDATED INFORMATION ON IMPLEMENTATION OF THE
RECOMMENDATION NO. 130 (2007) OF THE BERN CONVENTION STANDING
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- 2. *Fully reconsider the development of approved windfarms projects in the Balchik and Kaliakra region situated within or nearby sites designated as important bird areas and special areas of conservation;***

Since 2009, the Ministry of Environment and Water started reconsideration of already issued permissions for realisation of projects in Kaliakra Important Bird Areas

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3. *Investigate the possibility of relocating the windfarm projects already under construction as well as the single turbines (whose building is possible without EIA) in order to restore the integrity of sites to be considered as Natura 2000 sites, IBAs, or under other protection status;*

Since 2009, all wind generators, including single ones in Natura 2000 sites, have been subject to mandatory EIA / AA. In assessing they pay attention to the location of the individual turbines and where appropriate, their arrangement is changed, which is reflected in the EIA/AA decision.

4. *Select alternative locations for future and not yet operating turbines based on appropriate data (including long-term monitoring of biodiversity) and assessments (e.g. using multicriteria-analysis); key bird areas, potential SPAs, IBAs, intensive bird migration corridors and sites regularly used by large flocks of roosting species such as storks and wintering geese must be avoided from windfarm development;*

See paragraph 10.

5. *Assess the impact of the current operating turbines*

General targeted monitoring of the impact of wind turbines on birds has not been made. Monitoring has been made by the operators of several large wind energy parks. Monitoring is carried out also in separate activities in two projects financed by EU funds. The data are interpreted by different experts differently and therefore, they will not be discussed herein.

Due to uncertain interpretations of the impact of wind farms on birds both in nationally and internationally level, we believe that the observations need to continue, and the results to be subject of depth discussion. However, it can be said that no evidence of high mortality and behavioral response of birds to a possible barrier effect.

6. *Conduct a Strategic Environmental Assessment (SEA) of Bulgaria's wind energy programme, taking into account possible conflicts of wind energy production within the most intensive bird movements areas, in particular along the Black Sea coast;*

Bulgarian Energy Strategy by year 2020

By Standpoint on Ecological Assessment № 3-2/2010, the Minister of environment and water has coordinated the **Bulgarian Energy Strategy by year 2020**

The condition of the protected areas is analysed in the document regarding the realised and/or in a process of coordination investment proposals, plans and projects for starting new energy resources (mainly Wind Parks). An increased concentration of such projects in the protected areas has been accounted for and the following measures have been proposed:

- complex measures, mitigating and decreasing the adverse impact on the natural habitats and habitats of species, including birds being object of protection in the corresponding sites;
- specific measures for the sites, taking into account the possible adverse impacts, originating from the character of the types of intentions;

A generalised conclusion is taken, that the application of the Energy Strategy under observing of the included recommendations and mitigating measures will not lead to significant extend of the adverse impact on the subject and the goals of conservation of the protected sites from Ecological Network NATURA 2000.

National Action Plan on Energy from the Renewable Energy Sources 2011-2020 (NAPERES 2011-2020)

On 9 January 2013, the Council of Ministers adopted the *National Action Plan on Energy from the Renewable Energy Sources 2011-2020*. The Action Plan reflects the measures and conditions contained in the Opinion №1-2/2012 on the Strategic Environmental Assessment which the Minister of Environment and Water coordinated the National plan, in order to eliminate, reduce and as fully as possible offset any significant adverse effects of its implementation on Natura 2000 sites. In particular these are circumstances and bans, for the duration of the plan, on holding new coordination procedures under the Environmental Protection Act and Biological Diversity Act for wind generators located within the boundaries of Natura 2000 network as well as in designated areas outside the boundaries of Natura 2000 network in Dobruja Area, East Rhodopi Area and a distance of 2-6 km from some important for birds Natura 2000 sites (detailed information can be found in our report to the Bern Convention Standing Committee, September 2012).

Because for SEA opinion is allowed preliminary implementation that applies by its delivery - August 8, 2012, from that no approved wind generator projects in the areas covered of prohibitions listed in the SEA opinion.

Zoning map for wing power generation capacity and Guidance for planning

As part of the Mapping and Determination of the Conservation Status of the Habitats and Species (Phase 1) Project conducted by the Ministry of Environment and Water and financed by Environment Operational Program 2007-2013, a map was prepared that shows the zones of the country based on capacity to construct WPG. This project is part of separated position 7 -Determination and Minimisation of the Risks to the Wild Birds and is conducted by ECONECT venture part of which is The Bulgarian Society for Protection of Birds, 9 regions of the country have been determined to be suitable for construction of WPG based on the wing power generation capacity, the current state of the national power grid and the plans for its development until 2020, forecasts for electricity consumption, as well as evaluating different scenarios for limiting the construction of WPG.

Within the same project was developed also a guidance for planning taking into account the risk to birds. There is public access to the guidance on the internet site of the MOEW.

These documents are the good basis for the strategic planning of the territory of the region and assessing its carrying capacity order to protect the birds and their habitats.

7. *Establish a strict moratorium on further turbines and windfarm projects in the coastal areas of Bulgaria until EIA and SEA reports mentioned in paragraphs 1 and 6 are completed*

As the Standing Committee has been already informed during its session in November 2008, the Minister of environment and water has issued an Order RD – 855/21.11.2008 for preventive protection and prevention from the threat and/or extinguishing of conservation significant natural habitats and habitats of species subject of protection in NATURA 2000 site BG0000573 “Kompleks Kaliakra”. It has been imposed by the existence of many plans, projects and investment proposals for construction on the territory of the area, which realisation could lead to significant adverse impact before issuing order for its declaration under Article 12, par. 6 of the Biodiversity Act.

The following prohibitions are imposed by the order: Change of the purpose and the manner of permanent use of lands, forests and water areas (in agricultural and forestry lands) excluding cases when the change is connected with construction of purification stations for draining water, stations for drinking water, constructions for waste treating, roads, stabilisation of landslides and other objects of technical infrastructure, or connected with plans, programs, projects and investment proposals, for which there is a started procedure under Chapter 6 of the. Environment Protection Act and/or article 31 of the Biodiversity act.

The prohibition applies to the whole NATURA 2000 site, including territories from the land-use of Balchik, village of Tjulenovo, municipality Shabla, village of Bojuretz, village of Bulgaevo, Kavarna, village of Kamen brjag, village of Sveti Nikola and village of Topola, municipality of Kavarna, region Dobrich, with total area of 441 282 643 dka, 39.561 of which are marine territories.

The prohibitions had in force within one year or until the order of the Minister under article 12, par. 6 of the Biodiversity Act for declaration of NATURA 2000 site BG0000573 “Komplexe Kaliakra” under Habitat Directive is enforced, and it was extended the period for another one year.

Subsequently, in 2012, by the *National Action Plan on Energy from the Renewable Energy Sources 2011-2020* were introduced bans, for the period of duration of the plan, on holding new coordination procedures under the Environmental Protection Act and Biological Diversity Act for wind generators located within the boundaries of Natura 2000 network as well as in designated areas outside the boundaries of Natura 2000 network, including in Dobruja and other Areas around Black Sea (see paragraphs 3 and 10).

8. *Respect the need to focus on the avoidance of the impacts coming from outside having negative effects on areas of recognised conservation importance;*
9. *Take into account the following guidance to improve EIAs for future and not yet operating turbines, including in accordance with “Regulation about the conditions and the order for accomplishment of assessment for compatibility of plans, projects, programmes and investment intentions with the subject and the aims of the conservation of protected zones”:*
 - *further research and monitor birds, bats, other fauna, vegetations and key landscape-ecological structures and processes influencing biodiversity; to this end long-term monitoring of flora and fauna, review and validation of all data is required, included those from NGOs, institutes and independent scientists;*
 - *apply collision modelling of cumulative effects of several wind farms or turbines along intensive flyways, followed by the assessment of the suitability of localities using multicriteria-analysis methods;*
 - *develop compulsory procedures to peer review the completeness and quality of biodiversity chapters of EIAs and their conclusions before continuing the administrative and legal processes;*

In the advice to the competent authorities for carrying out procedures for SEA and EIA, the Ministry of Environment and Water has requested that the reports take into account all the relevant points of the Recommendations 117(2005) и 130(2007) adopted by the Bern Convention Standing Committee and related to the long-term planning and the realisation of projects for utilisation of renewable energy sources, implementation of the *precaution principle*, conformity with the specific conditions of Bulgarian Black sea coast and the concrete requirements for the protection of bird, bats and other animal species, as well as their habitats, considering the cumulative effect. For all submitted projects for construction of wind generators (regardless their number) in the region of Dobrudja, situated out of range of Natura 2000 sites, the competent institution also requires implementation of explicit EIA procedure (for detailed information – see paragraph 10 bellow).

10. *Develop guidelines for appropriate planning of the construction of windfarms and/or individual turbines, taking account of the following issues in order to integrate biodiversity conservation concerns:*
 - *initiate a broad debate on the precautionary principle regarding development projects in relation to sites with outstanding biodiversity values;*
 - *take measures for the removal of turbines in case of unacceptable bird collisions where no alternatives exist; this require the drafting of a set of mitigating and compensatory measures when biodiversity losses occur;*
 - *promote capacity building for specific and independent control of the ecological effects of turbines (in terms of experienced staff, equipment, legal base, cooperation with other institutions and NGOs, appropriate procedures, etc);*

to consider and properly investigate the social impacts of windfarms on local population and on the loss of nature and scenery as a significant source of recreation and eco-tourism.

Methodological tools

Since 2009 many **meetings** have been conducted with investors on expert level in connection with the specification of the assessment scope, the type and the detaility of the map materials, representing the identified "red zones or hot spot zones" as well as regarding the concrete recommendations on the future project planning for power generation by using Renewable Energy Sources in the territories concerned, done by the independent experts, responsible for the elaboration of the reports.

As a result a decision has been made and instructions have been elaborated for practical implementation of the environmental legislation concerning the intentions for wind farms construction. They have been sent to all regional structures of the Ministry of Environment and Water strictly to demand from all investors in their submitted documents for assessment the necessity of EIA to have done precise analysis of the cumulative impact from all existing, approved or in process of approval plans, programs and projects/investment proposals. Also it has been instructed not to allow coordination of projects having completed or approved construction projects, without profound and adequate EIA and effective assessment of the cumulative effect regardless if they are situated in the boundaries of protected areas or they are outside them.

The Ministry of Environment and Water has developed **methodic instructions** for assessment the extent of impact of investment proposals for construction of wind generators in NATURA 2000 sites. The methodic instructions is coordinated with the NGOs and are in compatibility with legislative requirements, and also the Instruction Manual of the EC has been also taken into account which help experts in performing their assessments and in determination of the EIA and Assessment of compatibility procedures.

In 2013 within the MOEW project Mapping and identifying the favorable conservation status of habitats and birds, Phase I a Guide on wind farms development with respect of risk on birds was elaborated.

All documents - the European Manuals for performance the assessment under Article 6 (3 and 4) of the Habitat Directive, the manual for EIA performance, the Recommendations of the Bern Convention Standing Committee, the Methodic for assessment of the impact on the bats, the Guide on wind farms development and birds, etc. – have been published in the web site of MOEW:

<http://www.moew.government.bg/?show=top&cid=153> .

New facilities for birds and Natura 2000 protection

In 2013 was completed two years **project for Mapping and Identifying of the Favorable conservation status of habitats and birds**, financed by Environmental Operational Programme and implemented by BSPB-Bulgaria. The project objective is to minimise the risk for the wild birds by identifying the delineations of the main migratory routs and the most important sites for them in order to ensure their conservation and to minimise the risk caused by realisation of new investment proposals and projects in these territories. The outputs of the project are developing of: methodology for monitoring of birds for Environmental Executive Agency; guidance for conservation of the wild birds during the wind farms development in Bulgaria; system for early warning which will regulate the works of the wind turbines; a map and GIS model with the territories at high risk for birds caused by wind farms development. By the project 9 regions of the country have been determined to be suitable for construction of WPG based on the wing power generation capacity, the current state of the national power grid and the plans for its development until 2020, forecasts for electricity consumption, as well as evaluating different scenarios for limiting the construction of WPG. Two of those regions are within Dobrudja region (*Shabla* and *Dobrudja*).

Another project financed by Operation Environment Program 2007-2013 ends too for Development and introduction of information system for the NATURA 2000 ecological network. The project aims the building of united information system for the necessities of the management of the protected areas, which will unify spatial and non-spatial data acquired from different sources and it will assure simple access through Internet from the side if institutions, related to the management of the protected areas. The development of this system will facilitate the actualisation of the available data for the protected areas, the acquiring of information and carrying out analysis, which will

considerably improve the coordination between the single administrative bodies having attitude toward the management of the protected areas and it will limit the possibility for decision making as a result of insufficient communication. A public register with data for performing procedures on assessment for compatibility of the plans, programs, projects and the investment proposals with the scope and the aims of conservation of the NATURA 2000 sites is a part of the information system.

The assurance of connection network between the register and the spatial data for the plans, programs, projects and the investment proposals on the one hand will facilitate the competent authorities and the experts dealing with assessment for compatibility in their assessment of the cumulative impacts from the realisation of the plans, programs, projects and the investment proposals on the topic and the aims of the protected areas conservation, and on the other hand it will improve considerably the administrative control. Thus, the project as a whole will contribute for optimisation of the management of the network of protected areas and it will facilitate the protection of the areas, which in its turn will contribute for diminishing the biodiversity in the country.

Ban on the construction of wind power generators in NATURA 2000 sites

In 26 of the Natura 2000 sites designated under the Birds Directive establishes a ban on the construction of wind power generators as follows: BG0000156, BG0000270, BG0002003, BG0002021, BG0002026, BG0002041, BG0002043, BG0002050, BG0002051, BG0002053, BG0002059, BG0002066, BG0002072, BG0002076, BG0002077, BG0002098, BG0002109, BG0002113, BG0000191, BG0000271, BG0002002, BG0002044, BG0002060, BG0002061, BG0002060, BG0002097.

Measures derived from the National Action Plan on Energy from the Renewable Energy Sources 2011-2020.

In order to prevent significant adverse effects (mortality, barrier effect, disturbance, loss of feeding grounds, driving away) on species which are to be protected in the NATURA 2000 sites, facilitate acquirement of favourable conservation status, to stop the loss of biological diversity, securing safe migration routes for the migratory birds (pelicans, storks, cranes, birds of prey and waterfowl), the **National Action Plan on Energy from the Renewable Energy Sources 2011-2020** (NAPRES) introduces a ban to conduct new assessment procedures under the Environmental Protection Law and the Biological Diversity Law for WPG (only procedures already started will be completed) on the territory of:

1. Agricultural lands and forests within the boundaries of Natura 2000 network excluding projects for local autonomous power supply and projects on environmentally degraded terrains.

2. Agricultural lands and forests outside the boundaries of Natura 2000 network:

- in Dobruja Area (includes all municipalities in Dobrich district and municipalities Aksakovo, Alfatar, Silistra and Kajnarja);
- in East Rhodopi Area (includes municipalities Krumovgrad, Momchilgrad, Ivajlovgrad, Majarovo, Ljubimec, Kyrjali, Stambolovo and Kirkovo)
- in municipalities Burgas, Pomorie, Kameno, Ajtos, Ruen, Sozopol i Primorsko;
- at least 6 kilometers away from the boundaries of Natura 2000 SPA: BG0002017, BG0002091, BG0002007, BG0002010, BG0002003, BG0002078, BG0002020, BG0002070, BG0000332, BG0002030, BG0002058, BG0002062, BG0000237, BG0000270, BG0002027, BG0000152, BG0002066, BG0002021, BG0000191, BG0002045, BG0002054, BG0002082, BG0002038, BG0000271, BG0002025, BG0000240 и BG0002108;
- at least 2 kilometers away from the boundaries of Natura 2000 SPA: BG0002046, BG0002015, BG0002086, BG0002067, BG0000242, BG0002009, BG0002023, BG0002028, BG0002008, BG0002096, BG0002094, BG0002095, BG0002104, BG0002018, BG0002024, BG0002110, BG0002006, BG0002006, BG0002065, BG0002001, BG0002088, BG0002099, BG0002103, BG0002057, BG0002069, BG0002022 и BG0002081.

This restriction ensures that in the future no Renewable Energy projects will be assessed or approved on the territory of the sites of NATURA 2000 and with a significant parameter around them, as well as within vulnerable areas outside NATURA 2000 ecological network. On the other side, Environmental Protection Law and Biological Diversity Law introduce five year limit of validity for Environmental Impact Assessments and Appropriate Assessments. Due to this limitation most projects that are cause for complains from the Bulgarian environmental protection community will not be executed.

Institutional strengthening

In recent years the Ministry has made efforts to strengthen the structures responsible for the establishment and management of the Natura 2000 network. Vastly are increased the number of employees, seminars and specialised training are conducted to enhance their capacity. Been implemented several major projects, including related with assessment of species and habitats conservation status and establishment of information system on NATURA 2000 in Bulgaria. In the process are involved as employees of the Ministry and the Regional Inspectorates of Environment and Water, as well as partners from other governmental administrations, scientific organisations and NGOs.

OTHER RELATED INFORMATION:

In addition to the above, the Ministry of Environment and Water has taken action to ensure additional protection of species and habitats in the region of Dobrudzha, as follows:

1. SPA BG0002051 Kaliacra was expanded in 2014

In order to protect, maintain and restore the habitats of the target species in SPA BG0002051 Kaliacra with Council of Ministers Decision No 678 / 07.11.2013 (SG, No. 99/2013), the boundaries of the area have been expanded to the borders of Important Bird Area - Kaliacra Territory, by which SPA Kaliacra has been expanded amounted to 5289.04 ha.

An order was issued by the Minister of Environment and Water, No 97/06.02.2014 (SG, No.15/2014), which describes the coordinate points defining the limits, regimes and the target species for conservation within the extended site.

Within the new area, a prohibitions set for SPA Kaliacra (before its expansion) are introduced, incl. ban on construction of wind generators and photovoltaic installations on agricultural land (except for projects that have a completed procedure under Chapter Sixth of the Environmental Protection Act and / or under Art. 31 of the Biodiversity Act) .

2. Procedure for a declaration of new SPA in the region of Dobrudzha was completed

Additional territory under the Bird Directive is determined, namely the SPA BG0002115 Bilo, with an area of 8620.06 ha. With the said in the previous point Council of Ministers Decision No 678 / 11.07.2013 (SG, No. 99/2013), the SPA BG0002115 Bilo is included in the Natura 2000 List of sites under the Birds Directive. An order has been issued by the Minister of Environment and Water, No 330/04.28.2014 (SG, br.41/2014), which describes the coordinate points defining the boundaries, regimes and target species for conservation in the area.

Within the SPA, construction of wind generators, photovoltaic systems and accompanying infrastructure, outside the settlements is prohibited.

3. New areas of "steppe habitats" in Dobrudzha region have been included in the Sites of Community Importance

Dated 7.03.2014, the National Biodiversity Council considered proposals prepared by the Bulgarian Academy of Sciences for increasing the area of SCI BG0000130 Kraymorska Dobrudzha and for supplementing the national list of Natura 2000 sites under Habitat Directive with new SCI BG000635 Devnenski halmove. The sites are located in the region of Dobrudzha and include "steppe habitats" - preserved areas of habitat 62S0 * Ponto-Sarmatian steppes.

By Decision of the Council of Ministers No 223/24.04.2014 (SG No.37/2014), the area of SCI BG0000130 Kraymorska Dobrudzha is increased by 140.8 hectares, and the area of the new SCI Devnenski halmove is defined at 297.108 ha .

4. An order was prepared for declaring of SCI Complex Kaliakra

An order was prepared for declaring of SCI BG0000573 Complex Kaliakra - site under the Habitats Directive. Regimes in the site have been proposed by the experts from Bulgarian Academy of Sciences and they are consistent with the protection requirements of the target species and habitats in the site. They ensure protection of the natural habitat 62S0 * Ponto-Sarmatian steppes and of target species for conservation in the site.

5. Management Plan of Natura 2000 sites in Dobrudzha region

A procedure for development of Integrated Management plan for the whole territory in the region of Kaliakra have been started by the Ministry of Environment and Water. It covers 3 Natura 2000 sites in the region of Dobrudzha (BG0000573 Complex Kaliakra, BG0002151 Kaliakra and BG0002097 Belite skali) and will contain the management activities needed for the protection of the species and habitats in the region as well as monitoring schemes. The plan will be ready for implementation in 2015.

6. Communication between the Ministry of Environment and the European Commission on overcoming the existing problems

The European Commission is regularly informed on overcoming the existing problems.

Communication is in connection with infringement procedure № 2007/4850 (launched in 2008, with the object of reducing the territory of the Natura 2000 SPA Kaliakra, to the Kaliakra IBA) and infringement procedure № 2008/4260 (on the approval of many projects for wind turbines in the Kaliakra IBA without proper assessment of the cumulative effect).

In 2011 both infringement procedures are combined into one, in June 2012 the Commission moved the infringement procedure to the next stage - reasoned opinion, and in September 2013 bring the case before the European Court of Justice.

March 2015