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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

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

REPORT BY THE GOVERNMENT

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

**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 information about the progress reached thereafter:

I. Strategic planning

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

On 19 July 2012 the Interdepartmental Commission to the Supreme Ecological Expert Council to the Ministry of Environment and Water examined the Reports of Strategic Environmental Assessment and Assessment in Compatibility of National Action Plan on Energy from the Renewable Energy Sources 2011-2020.

The Minister of Environment and Water with Opinion №1-2/2012 on the Strategic Environmental Assessment coordinated the proposed NAPERES 2011-2020.

NAPERES 2011-2020. is a document of strategic national importance that will facilitate the planning and development projects for utilization of energy from renewable sources on regional and municipal level, will help the contractors of such projects to choose locations according to the requirements to minimize the probability for adverse effects on NATURA 2000 network.

The Opinion on the Environmental Assessment contains measures and requirements to prevent, mitigate and eliminate to the maximum extent possible the expected adverse effects resulting from the implementation of NAPERES, including:

A. General requirements –investment proposals and plans, projects or programs that require Environmental Impact Assessment/ Strategic Environmental Assessment (EIA/SEA) (under the Environmental Protection Law) and Assessment in Compatibility (AC) for compatibility with scope and aims for conservation of protected areas (under the Biological Diversity Law) will be approved according to the procedures of the above laws only after the agreement of the competent environmental authorities and taking into account the conditions in such agreements and the recommendations made during the assessment procedure.

B. Measures and requirements which should be accounted in the final version of NAPERES in order to mitigate, overcome, reduce or eliminate to the maximum extent possible the adverse effects on NATURA 2000 sites from the implementation of the Plan .

The planned measures are directed at: hydroelectric powerplants (HEPP), for photovoltaics (FV), and for wind powered electricity generating units (WPE) for which measures aiming at Wind Power generators (WPG) will be presented in more detail.

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 current 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.

Taking into account that European Commission has opened infringement procedures on Renewable Energy projects (procedure № 2008/4260 on approval of WPG in the Kaliakra area; procedure № 2008/4461 on approval of Renewable Energy projects on Bulgarian territory; Official study of European Commission EU Pilot № 3458/12/ENVI on the development of Renewable Energy projects and other projects that put into danger endangered species and habitats of NATURA 2000, to investigate if there is ground for opening an infringement procedure) and the high public interests are at stake the above restrictions would enter into force immediately.

II. Changes in the environmental legislation.

In 2012 changes were made in the Biological Diversity Law (art. 31, paragraph 23, published in State Gazette 32/2012) and Environmental Protection Law (art 93, paragraph 7, published in State Gazette 53/2012) which establish the following:

- Assessment in conformity with Art 6 of Habitat Directive (AC) 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 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 Law, the above limit of validity is applied to all decisions issued in accordance with the national legislation.

Due to those provisions majority of the investment proposals approved in the period 2003-2007 without EIA/AC being required will not be implemented, since they lack valid approvals.

Considering that of the approved 2062 WPG only 273 have been constructed, it can be concluded that most of those approvals have lost/will lose their validity. We would like to highlight the fact that due to the Strategic Environmental Assessment of the National Plan of the Renewable Energy Sources after 8th August 2012, it is not possible to initiate procedures for new Renewable Energy projects in areas that have been specified. 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 perimeter 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 EIA/AC Decisions. Due to this limitation most projects that are cause for complaints from the Bulgarian environmental protection community will not be executed

III. Projects for production of energy from Renewable Sources in the Dobrudja region

According to the detailed data available, on the territory under the authority of Regional Inspectorate of Environment and Water - Varna (RIEW-Varna) (which includes other areas besides Dobrudja region), evaluation according to the environmental law (procedures under Environmental Protection Law and Biological Diversity Law) of investment proposals for 2900 wind power generators (WPG) have been conducted ever since 2003. It should be taken to account that the above number contains all investment proposals that have been examined by RIEW-Varna and not only those that have been approved.

1. Examined WPG by 01.01.2007

From the beginning of 2003 until the end 2006 (before Bulgaria's accession to EU) 374 WPG were examined under Environmental Protection Law, 57 WPG of those are within the boundaries of the Natura 2000 network in Kaliacra region that were established after 2007. From those WPG examined before 2007 at the present moment 156 WPG have been constructed.

2. Examined and approved WPG after 01.01.2007

In the period from 01.01.2007 until present 2526 WPG have been examined under Environmental Protection Law and Biological Diversity Law as follows:

- in 2007 - 320 WPG examined, from them 256 WPG approved (23 after Environmental Impact Assessment/ Assessment on Compatibility (EIA/AC) and 233 with the opinion to proceed without EIA). From the approved 44 WPG have been constructed.
- in 2008 - 399 WPG examined, from them 372 WPG approved (2 after EIA/AC and 370 with the opinion to proceed without EIA). From the approved 67 WPG have been constructed.
- in 2009 - 588 WPG examined, from them 302 WPG approved (192 after EIA/AC and 110 with the opinion to proceed without EIA). From the approved 6 WPG have been constructed.
- in 2010- 814 WPG examined, from them 600 WPG approved (all 600 after EIA/AA). From the approved none have been constructed.
- in 2011- 344 WPG examined, from them 158 WPG approved (all 158 after EIA/AA). From the approved none have been constructed.
- in 2012- 157 WPG examined, all with EIA/AA. From them none have been approved.

From the above data is clear that:

- From the beginning of 2003 until now 2062 WPG have been approved
- After 01.01.2007 none of approved WPG is within Natura 2000
- Within the boundaries of Natura 2000 network, 21 WPG have been examined (two investment proposals for 14 WPG in 2009 and for 7 WPG in 2010) and the decision requests EIA/AC to be conducted. At present the investor has taken no further steps in order to conduct EIA/AC
- 273 WPG have been constructed (156 WPG - before 2007; 117 WPG - after accession to EU) and connected to the national power grid.

It should be noted that a large fraction of the approved WPG are under appeal with Minister of Environment and Water or the administrative courts (none of those approvals is final and into force yet). Part of the appeal procedures have been finalised and approvals for 853 WPG have been cancelled, while others are still not decided, for example 95 in Shabla Municipality, 42 in Valchi Dol Municipality, 150 in General Toshevo Municipality, 70 in Kavarna Municipality and so on).

3. Connection of WPG to the national power grid

The constructed 273 WPG with total capacity of around 500 MW have been connected to the national power grid in the district maintained by the National Electric Company (NEC) and E.ON Bulgaria.

Data from NEC and E.ON shows that 450 WPG with total capacity of around 900 MW have contracts for connection to the grid (81 WPG have final contracts and 369 WPG preliminary contracts). All those 369 WPG have no final approval under the environmental legislation. Thus the preliminary contracts do not presuppose final approval of the investment proposal.

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 Minimization 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 wind 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* - with capacity of 500 MW to be connected and *Dobrudja* with capacity of 890 MW). This means that power grid within Dobrudja region allows for around 1400 MW from WPG to be connected until 2020.

In addition, according to the data supplied by the Ministry of Industry, Energy and Tourism based on the information from the owners of the power grid (NEC and E.ON Bulgaria) in the Dobrudja region up to around 1500 MW can be connected. This means that no more than 750 new WPG can be connected assuming average capacity of 2MW per generator.

Considering the above, it can be concluded that connected, constructed and those WPG with contracts, cover the capacity of the power grid for 750 WPG.

4. Annulled decision

Considering the complaint to the Ministry of Environment and Water filed on behalf of the Bulgarian Society for Protection of Birds and Zeleni Balkani NGOs against EIA Decision № BA-7/2012 of the Director of RIEW-Varna for approval of investment proposal *Construction of Wind Power park consisting of 95 WPG and 2 transformer stations* in the area of villages Vaklino, Chernomorci, Smin, Staevci, Bojanovo, Granichar, Zahari Stojanovo and Bejanovo, all in Dobrich district (investor Wind Energy consortium), after analysis of all documents and data provided in the complaint the Minister of Environment and Water issued Decision №181/29.06.2012 that annuls Decision № BA-7/2012 and returns the evaluation procedure to the step of Impact Assessment Report requesting further studies and analysis to be conducted.

Note: *The above investment proposal is not within the boundaries of Natura 2000 network. EIA/AC is conducted in order to evaluate the potential impact on habitats and species in the nearby SPA: BG0002051 Kaliakra, BG0002050 Durankulashko ezero, BG0000156 Shablensko ezero and SACs: BG0000573 Complex Kaliakra, BG0000130 Krajmorska Dobruja, BG0000154 Ezero Durankulak u BG0000621 Ezero Shabla- Ezerec. Subject to evaluation is also the potential impact on the red-breasted geese -Branta ruficollis.*

IV. Forthcoming activities

1. Considering the above, the following steps will be taken in September 2012:
 - Preparation of an Order for establishment of a Kaliakra complex SAC as part of Natura 2000 site will be initiated.
 - Measures will be to increase the administrative capacity of unit within Regional Inspectorate of Environment and Water – Varna, responsible for conducting the AC procedures and the experts will be trained in order to improve the quality of the assessments.
2. As part of the mandatory SEA/AC procedures of the Kavarna Municipality's General Spatial Development Plan will be conducted. As part of this process all necessary measures to protect important habitats will be taken. This is a long term measure.

CONCLUSIONS

Implementing Recommendation 130 (2007) of the Standing Committee of the Bern Convention regarding construction of Wind Farms in the region of Kaliacra, the following major actions were performed in 2012:

1. Legislation was changed in a way that forbids implementation of all investment proposals if validity if within 5 years after EIA/AS decisions being issued implementation of the proposed project has not started.
2. Ministry of Environment and Water coordinated the National Plan of the Renewable Energy Sources, and upon its request changes were made and a ban introduced for the duration of the plan for evaluation under Environmental Protection Law and Biological Diversity Law of WPG to be placed in specified areas. This is done in order to overcome, reduce and if possible completely eliminated all adverse effects the construction of WPG may have on the NATURA 2000 sites.
3. Decisions have been issued that block the construction of WPG or returns EIA procedure the level of EIA report in all cases when it was assumed that the projects proposed will have significant adverse impact of the flora, fauna or habitats in NATURA 2000 sites or when such adverse effects are likely to occur.

Understanding the high responsibility to protect the Bulgarian biological diversity that is part of the Nature heritage of the entire Europe, the Ministry of Environment and Water will continue to monitor the strict application of all legal requirements on environmental protection, including those aiming to prevent damage to occur, and will be ready to cooperate with parties concerned.

September 2012