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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*

**REPUBLIC OF BULGARIA****MINISTRY OF ENVIRONMENT AND WATER**

Recommendation No. 130(2007)**on the Windfarms planned near Balchik and Kaliakra, and other wind farm developments on the Via Pontica route****(Bulgaria)***- October 2016 -***1. Introduction**

The Windfarms planned near Balchik and Kaliakra project has been monitored by the Bureau and Standing Committee of the Bern Convention for years and as part of this process Recommendation No. 130 (2007) has been issued. Following a complaint from local NGOs, the progress of the project has been last reported at the 35th Meeting of the Standing Committee in December 2015. Further to that, at the Meeting of the Bureau on 22 March 2016 the project has been discussed and a request for information has been sent to the authorities (letter dated 9 May 2016). Additional information about the progress made since May 2016 was provided to the Secretariat on 3 August 2016.

2. Implementation of Recommendation No. 130(2007)

The Bulgarian Government has provided to the Secretariat all the available information on implementation on the Recommendation No. 130 (2007).

Currently we are in dialogue with European Commission on the implementation of the judgement made by the Court of Justice of the European Union from 14 January 2016, on the case number C-141/14 concerning Kaliakra. In this respect the Bulgarian authorities will inform the Commission services about the measures undertaken in order to fulfill the requirements of the Court decision.



REPUBLIC OF BULGARIA

MINISTRY OF ENVIRONMENT AND WATER

Recommendation No. 130(2007)

on the Windfarms planned near Balchik and Kaliakra, and other wind farm developments on the Via Pontica route

(Bulgaria)

- August 2016 -

1. INTRODUCTION

The Windfarms already constructed or planned to be constructed near Balchik and Kaliakra have been monitored by the Bureau and Standing Committee of the Bern Convention for years. As part of this process Recommendation No. 130 (2007) has been issued. Following a complaint from local NGOs, at the 35th Meeting of the Standing Committee in December 2015 Bulgaria reported on the recent developments of the situation. Further to that, at the Meeting of the Bureau on 22 March 2016 there was a discussion and request for information has been sent to the Bulgarian authorities (letter dated 9 May 2016).

2. IMPLEMENTATION OF RECOMMENDATION NO. 130(2007)

The letter from the Bureau dated 9 May 2016 asked for additional information pursuant to the Recommendation No. 130 (2007), in particular on:

- the negative impacts of windfarms on bats' conservation;
- the situation of migratory birds on the Northern-East coast of Bulgaria;
- the need to carry out a comprehensive, independent, and quality post-construction assessment of the impact of developments of windfarms in the concerned area.

This report provides the information sought by the Bureau and summarises the progress made:

In 2008 scientists from Bulgarian Academy of Science (BAS) with the assistance of experts from the Ministry of Environment and Water (MOEW), prepared "Bats - Methodology for the evaluation of environmental impact assessment and compatibility assessment" manual, available (in Bulgarian) at <http://www.moew.govment.bg/?show=top&cid=153>. It is designed both for developers and for experts in the field of environment. It aims to facilitate the work of the regulators in assessing the quality of Environmental Impact Assessment (EIA) and Appropriate assessment (AA) reports of plans, programs, projects and investment proposals that may affect bat habitats and the areas they use, incl. underground habitats. The manual facilitates identification of possible impacts on bats caused by the construction of infrastructure projects, wind turbines, the working of quarries, reconstruction in urban area, forest management. etc.

The section of the Manual on windfarms contains general information about the characteristics, biology and ecology of bats, risk periods of their life cycle. In addition that section identifies possible scenarios on the mortality of bats near windfarms, and appropriate investigation techniques. It also contains measures to prevent and reduce the negative impact on bats' populations, incl. recommendations for placement of the turbines, light sources, reduction the risk to attract prey and

predators in the area of the turbines, underground placement of powerlines, recommendations for compensatory measures (protection of important habitats outside the wind farm), maintenance and restoration of important bat habitats and ecosystems in the vicinity, control of predators and invasive alien species, etc.

Already in 2010, the Minister of Environment and Waters sent to the directors of the Regional Inspectorate and Water with Letter No 05-08-1024/11.02.2010 a methodological guidelines for practical implementation of environmental legislation in the cases when examining proposals for construction of wind turbines, hydropower and photovoltaic systems. They aim to facilitate implementation of preventive measures for biodiversity conservation, incl. EIA and AA procedures. The guidance contains guidelines for each type of investment plan, depending on the source of renewable energy and requirements for the type and specificity of the investment proposal. The document is available at <http://www3.moew.government.bg/?show=top&cid=154>.

It should be noted that the approval procedure under national environmental legislation is preceded by general monitoring of biodiversity, and that was the case for the area of wind farms near Kaliakra. Preliminary monitoring is organized by the developer and is carried out by experts on bats and ornithologists. The data from monitoring is used as basis for EIA and AA decisions.

Subsequent monitoring conducted by the owners of windfarms in the region of Kaliakra is carried out in accordance with the " Bats - Methodology for the evaluation of environmental impact and assessment compatibility" manual. Data show that there are only single instances of collision of bats with wind turbines. For example see <http://www.aesgeoenergy.com/site/Studies.html> for the data collected during the monitoring carried out between 2010 and 2012 at the site of such windfarm after its entry into service.

The conclusions can be made are that the impact of wind turbines on bat populations is negligible. It should be noted that targeted research on the impact of wind turbines on bat populations in the Bulgarian Northeastern Black Sea coast has not performed. We expect such activities to take place as part of Integrated Management Plan (IMP) of three Natura 2000 zones SCI BG0000573 "Complex Kaliakra", SPA BG0002051" Kaliakra" and SPA BG0002097" White Cliffs", that has been commissioned by the MOEW to the independent scientific institution Institute of Biodiversity and Ecosystem Research (IBER) at the BAS. The implementation of that plan should provide information on the status of species and habitats under protection in the all three zones and to propose specific measures to be implemented when threats are identified.

As stated above, the conduct of the approval procedure under national environmental legislation was preceded by monitoring of biodiversity in the area of the windfarms near Kaliakra. Particular attention was paid to the birds because of the vicinity to the migratory route Via Pontica. Part of the wind turbines have been approved and built before Bulgaria to become a party of the European Union in 2007. According to the data provided by the Varna Regional Inspectorate of Environment and Water the monitoring has been conducted in the area of the windfarms after their construction and commissioning regardless of whether they were within the frame of Natura 2000 zones or not. The subsequent monitoring involves use of radar systems and observations from ornithologists. It is target at breeding, wintering and migratory bird species that use this area in their life cycle.

The data from that monitoring are interpreted differently by different experts. Most windfarms have not reported bird deaths caused by collision with the turbines, but there are recorded deaths during in the monitoring of the large windfarms. However, there is no evidence of increased mortality of birds and no evidence of barrier effect.

Because of contradictory interpretations of impact of windfarms on birds we believe that systematic observations should continue and the results obtained should be subjected to in depth analysis. Because no monitoring specifically targeted at the impact of wind turbines on birds has been made until now, we expect to get answers to some of the questions from the studies that will be carried out in connection with the development of the above mentioned IMP of three Natura 2000 zones SCI BG0000573 "Complex Kaliakra", SPA BG0002051" Kaliakra" and SPA BG0002097" White Cliffs". The IBER as institution contracted to develop that plan is obliged to conduct the necessary studies also

for the birds species. The plan should also identify specific measures to be implemented when threats are identified.

The development of IMP is one of the measures that Bulgaria agreed to implement as result of Decision C-141/14 of European Court of Justice from 14.01.2016 related to inadequate classification of areas as Special Protection Area and the approval of certain projects including wind turbines, near Kaliakra. The IMP includes:

1. The development and deployment of combined early warning system (including radars and observers).

The aim of the proposed measure is to cover constructed and operating facilities for energy production from the wind by introducing effective management of the risk of bird mortality caused by blades of wind generators by coordinating existing monitoring programs of the windfarms and by stopping single turbines or entire windfarms at risk periods during the migration and wintering of the birds. This measure will ensure transparency of data collected by the early warning system and the system for monitoring the impact of current windfarms on bird migration. The data collected during field studies will be published on a specially developed website and it is possible to develop a mobile application as well. On one hand, this will allow an independent and objective evaluation of the data collected, and on the other would make it possible to share experience and useful knowledge, including between other windfarms as well as between decision-making institutions. That measure will introduce a practice that is common in Western Europe, especially in relation with marine windfarms.

2. Implementation of measures to support and sustain key habitats for bird species with conservation significance associated with steppe protected in zones SCI BG0000573 "Complex Kaliakra", SPA BG0002051" Kaliakra" and SPA BG0002097" White Cliffs" and affected by various activities such as construction of windfarms, changes in land use, etc.

The implementation of those measures will ensure an increase in breeding success and survivability of bird species subject to protection. The aim of the measure is to provide active management of affected habitats of steppe birds (which are also natural habitats listed in Annex I of the Habitats Directive and subject to protection in SPA BG0002051" Kaliakra") related to the management of succession processes towards stabilization by limiting the growth of invasive plant species and shrubs not typical for these habitats.

3. Adoption and implementation of IMP of three Natura 2000 zones SCI BG0000573 "Complex Kaliakra", SPA BG0002051" Kaliakra" and SPA BG0002097" White Cliffs".

The aim of the measure is to provide an effective mechanism for management and conservation of habitats and species, incl. birds. The plan is under development by an interdisciplinary team of experts from BAS.

The proposed measures will cover all windfarms incl. those that are not covered by the judgment of the European Court of Justice but are near or could have similar effects. The measures include restoration of damaged habitats, incl. habitat 62S0* "Ponto-Sarmatian steppes", as well as monitoring the effects of implementation of those measures.

In order to coordinate the implementation of measures in IMP, the MOEW envisages the creation of a body for the management of the protected areas. This will ensure involvement of the public and active participation of stakeholders. Thus the efforts of various agencies and organizations for the implementation of the necessary measures will be coordinated.

4. Implementation of measures from the Action Plan for Red-breasted Goose (*Branta ruficollis*).

The proposed measure aims the conservation and management of Red-breasted Goose's wintering grounds, the bird species with the highest conservational importance in the region.

5. Training activities and information campaigns.

This measure aims to increase the capacity to implement conservation and protection activities by the regulatory authorities, operators of windfarms, owners and users of land occupied by natural habitats and habitats of species, including birds.

In order to ensure the implementation of the above measures, on 13 July 2016 the MOEW organised a technical meeting with representatives of windfarms operators based in Kaliakra area and scientists from BAS. The main topic of the meeting was the windfarms operators to share their achievements and experience in operation of systems for bird tracking and decreasing the risk of collisions. The concept for creation of a combined early warning system covering all existing wind power generators in the area concerned was discussed. The proposed approach aims to coordinate risk management of collisions by integration of all the monitoring programs in place used by the different windfarms and single wind power turbines. The proposed integrated system will utilize the existing radars, meteorological data and real time visual observations by ornithologists.

The three biggest windfarms on the territory of Kaliakra have radar systems with different quality. They help the operators to identify risks of collisions with birds but have several limitations in determining the real object. As result of the using of such systems windfarms operators stopped wind turbines on several occasions. For example in 2015 windfarm St Nicola has reported about 15 stoppages equal to the stoppages of a total 292 wind turbines. EVN has reported 7 stops in 2016. Kaliakra Wind Power Ltd has reported for 2 complete stops of the entire windfarm in 2013 and 2014 due to flocks of storks.

The effectiveness of that system could be estimated on the base of the number of dead bird found. The data on that numbers is relatively limited. On the territory of St Nicola windfarm regular searches have been conducted around the wind turbines and about 11 dead birds for different species, mainly passerines, have been found but no dead storks have been observed. In addition to the bird monitoring the same facility is implementing monitoring for dead bats. About 8 dead bats have been found. The monitoring for dead bats remains difficult because bats remains are likely to disappear from the field much faster than bird remains being taken by scavengers.

In addition to the above we would like to inform you that in the period 2012 - 2015 a number of changes in legislation have been made that blocked the implementation of many approved plans for the construction of wind turbines near Balchik and Kaliakra. 5-year period of validity has been introduced retroactively for all administrative decisions that found investment proposals, including construction of wind turbines that would have no significant negative impact on the environment, incl. on Natura 2000 network or that no environmental impact assessment (EIA) is necessary. This way most of the decisions taken in 2007 to approve construction of wind turbines without EIA have expired in 2012 with the adoption of the above measure. That prevented the construction of 1153 wind turbines. In 2015 5-year period of validity has been introduced also for Environmental Assessment (EA) of plans and programs, including for those that found that no EA is necessary. This way all proposals approved in 2007 whose implementation had not started were blocked.

In conclusion we would like to emphasize that conservation of biodiversity is an important priority for the MOEW on which we work in close collaboration with scientists and other experts on birds and bats. We believe that using their experience and by engaging stakeholders from the industry we will be able to implement measures to eliminate threats to birds and bats that result from human activity.

August 2016



REPUBLIC OF BULGARIA

MINISTRY OF ENVIRONMENT AND WATER

WINDFARMS IN BALCHIK AND KALIAKRA - VIA PONTICA (BULGARIA) - DEVELOPMENT SINCE THE 35TH MEETING OF THE BERN CONVENTION STANDING COMMITTEE

25 February 2016

Introduction

The Wind Farms in Balchik and Kaliakra (Via Pontica) case (Complaint No. 2004/2) has been monitored by the Bureau and Standing Committee of the Bern Convention for years and Recommendation No. 130 (2007) has been issued. The development of the case has been last reported at the 35th Meeting of the Standing Committee in December 2015.

In 2008 the European Commission has launched infringement procedure № 2007/4850 (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 brought the case to the European Court of Justice.

In May 2015 at its first session the European Court in Luxembourg looks the Kaliakra case C-141/14 of European Commission against Bulgaria

Latest Development:

On 14.01.2016 the European Court of Justice announced its decision on case C-141/14 of European Commission against Bulgaria for the inappropriate classification of the areas into special protected zones and approval of certain projects in the area of Kaliakra. The court decided that:

1) “As:

has not included entirely the territories of important ornithological sites in the special protected zone in the region of Kaliakra, the Republic of Bulgaria has not classified as special protected zone the most appropriate in number and area territories in view of protection, on one hand, of biological species listed in Annex I to Directive 2009/147/EU of the European Parliament and Commission from 30 November 2009 regarding the protection of wild birds, and on the other hand, of the regularly occurring migratory species not listed in Annex I, on terrestrial and sea geographical zones, in which this directive is implemented, and in this way the member country has not met its obligations according to Art. 4 (1) and (2) of the indicated directive,

has approved projects “AEC Geo Energy”, “Disib” Ltd., “Longman Investment” Ltd. on the territory of teh Important Bird Place in the region of Kaliakra, which was not, but should have been classified as a special protected zone, the Republic of Bulgaria has not met its obligations according to Art. 4 (4) of Directive 2009/147,

has approved projects “Kaliakra Wind Power”AD, “EVN Enertrag Kavarna” Ltd. and “Vertical — Petkov and Co” Ltd., as well as the project “Thracian Cliffs Golf & Spa Resort”OOD respectively on the territory of special protected zone in the region of Kaliakra and special protected zone in the region White Rocks, the Republic of Bulgaria has not met its obligations according to Article 6 (2) of Directive 92/43/EIO of the Council on 21 May 1992 for the protection of natural habitats of the wild flora and fauna,

on one hand, has not properly assessed the cumulative effect of projects “Windtech” Ltd., “Brestiom” Ltd., “Eco Energy” Ltd., and “Longman Investment” Ltd. on the territories of ornithological significance in the region of Kaliakra, which was not, but should have been classified as special protected zone, and on the other hand, irrespective of this has approved the realization of project “Longman Investment” Ltd., the Republic of Bulgaria has not respectively met its obligations, on one hand according, to Art. 4 (2) and (3) of Directive 2011/92/EU of the European Parliament and Council on 13 December 2011 regarding the assessment on the influence of some public and private projects on the environment and Section 1, Letter B of Annex III to it, and, on the other hand, to Art. 2 (1) of this directive.

2) Discards the rest of the case.”

Referring to this, through the Permanent representation of the Republic of Bulgaria in Brussels, DG Environment sent a letter in which according to Art. 260 (1) of the Contract for the functioning of the EU, Bulgaria must accept the necessary measures for the execution of the decision of the EU Court. In the same letter is noted that the first violation was duly removed as the necessary territories were added to special protected zone “Kaliakra”.

In respect to the remaining three violations indicated by the court, the EC requires a time of 2 months from reception of the letter (considered from 15.02.2016) to present the measures which will be taken for the execution of the court’s decision together with a graphic for their realization. Furthermore on 10 March this year, there will be a meeting with the European Commission in Brussels at which they will also be subject of discussion.