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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

35th meeting
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**Wind farms in Balchik and Kaliakra -
Via Pontica
(Bulgaria)**

- REPORT BY THE NGO -

*Document prepared by
the Bulgarian Society for the Protection of Birds/BirdLife Bulgaria
the Royal Society for the Protection of Birds / BirdLife UK*

SUMMARY

This document provides a follow up update of the report submitted by NGOs to the Bern Convention Standing Committee in 2014 - T-PVS/Files (2014) 40 and overview of the overall implementation of Recommendation 130 (2007 and effectiveness of measures taken over 8-years period – from 2008 to 2015).

Since December 2014 the Bulgarian Society of the Protection of Birds (BirdLife Bulgaria) and the Royal Society for the Protection of Birds (BirdLife UK) have not registered any progress in implementation of most aspects of the Recommendation. The results from the detailed studies carried out under the project LIFE09/NAT/BG 00230 “Conservation of the Wintering Population of the Globally Threatened Red-breasted Goose (*Branta ruficollis*) in Bulgaria” confirmed significant displacement impact of wind generators on the globally threatened Red-Breasted goose in its most important wintering ground in the world – Coastal Dobrudzha in Bulgaria.

The detailed assessment of the efficiency of actions taken so far (as part of work on amendments in legislation and the Strategic Environmental Assessment of the National Action plan on renewables) and has found that the improvement of the situation is minimal and far from the goal set through Recommendation 130 (2007). There is practically not a recommendation of the Bern Convention, from 10 ones, in Recommendation 130 (2007), which is implemented in full and / or timely. Some of the recommendations have been met almost entirely, but with great delay which renders their underlying effect. Recommendations related to specific actions in the area of Coastal Dobrudzha (review of decisions dismantling of wind, moving the alternative sites) are not met. Three big wind farms that harm integrity of Kaliakra IBA/SPA are constructed and still operational, and continue to have negative impacts on birds and other biodiversity.

Generally where government really endeavors to deal with the problem, it achieves progress. However the Bulgarian Government continue to provide too general, incomplete and some time not correct reports to Bern Convention and avoid to implement some actions. Thus more and systematic effort is needed to be fully implemented the recommendation and it has a positive effect on biodiversity conservation in the development of the wind energy sector. Reporting to the Convention also need to be improved in order clearly and fully to represent the achievements. Thus we propose measures which could facilitate better and more targeted implementation of the recommendations which are not sufficiently implemented, as well as to guide reporting of the achievements.

We believe that after almost 10 year after the case file is open, it is crucial to have the official opinion of the Bern Convention Standing Committee on the progress and quality of implementation of Recommendation 130 (2007) with further guidance what further efforts needs to be encouraged. We will appreciate any further efforts by the Convention to investigate the case in order to express its opinion (as for example on-spot appraisal), if the Bern Convention Standing Committee finds it necessary.

We also request the Birds Experts Group assists the Bern Convention with appropriate proposals for further actions in order to stop continuing pressure on birds and habitats in the area of Kaliakra and Dobrudzha.

I. SUMMARY REVIEW OF THE WIND FARMS IN KALIAKRA AND COASTAL DOBRUDZHA THAT ARE ASSESSED AS MOST RISKY FOR MIGRATORY BIRDS ALONG VIA PONTICA MIGRATION ROUTE

1. “Kaliakra” wind farm

Located in Kaliakra IBA/SPA on strictly protected steppe habitats. Approved in 2005. Constructed in 2007-2008. Operational since 2009. No mechanism to prevent bird collision. Only one year post-construction monitoring.

Identified impacts for the period 2007 – 2015: destruction and deterioration of steppe habitats; documented bird collisions – white pelican, common crane, herring gull, eagle owl; barrier effect on flying migratory storks and raptors and wintering geese and raptors.

No attempts to be relocated at alternative locations. Subject of court case against Bulgaria in the European Court of Justice C-141/14.

2. “St Nikola” wind farm

Located almost entirely in Kaliakra IBA/SPA on arable land for crops. Approved in 2007. Constructed in 2009 – 2010. Operational since 2010. Radar system for detecting flocks of birds and stop the windfarms to prevent risk. Annual monitoring on migratory and wintering birds. Reports published, nevertheless that are with unsatisfactory scientific quality.

Identified impacts for the period 2007 – 2015: large scale displacement of red-breasted goose from its foraging areas in Kaliakra IBA/SPA; documented bird collisions – griffon vulture; barrier effect on flying migratory storks and wintering geese.

No attempts to be relocated at alternative locations. Subject of court case against Bulgaria in the European Court of Justice C-141/14.

3. EVN wind farm

Located in Kaliakra IBA/SPA mainly on strictly protected steppe habitats. Approved in 2005, but the decision came into force in 2008 because of court case procedure. Constructed partially in 2009 and 2011-2012. Construction was stopped by the competent authority in 2009, but because of unknown reasons it was finalised in 2012. Operational since 2012. Radar system for monitoring of birds, but details are not available.

Identified impacts for the period 2007 – 2015: destruction and deterioration of steppe habitats; barrier effect on flying wintering geese and raptors.

No attempts to be relocated at alternative locations. Subject of court case against Bulgaria in the European Court of Justice C-141/14.

4. “Smin” wind farm

Located close to Durankulak Lake IBA/SPA and partially in the new designated SPA “Bilo”. Approved by RIEW Varna in the beginning of 2012. The consent is rescinded by MoEW in 2012. The Higher administrative court (HAC) rescinded the order of MoEW in 2013 using administrative arguments. MoEW issued second order to rescind the approval of the wind farm in 2013. The investor complained in front of the HAC and the court judged in favour of the investor in 2014. MoEW complained the court decision to a higher instance. In April 2015 there was a court hearing where the court case began to be examined. The court case is still open, but there is no big chance the windfarm to be stopped entirely.

Expected impacts to birds: most significant are the displacement of wintering geese from their foraging habitat and significant barrier for red-breasted goose between its foraging areas and its most important winter roosting site in the world – Durankulak lake. Collisions and barrier effect on migratory birds is also expected.

5. “General Toshevo” wind farm

Located in inland Dobrudzha near Chairya IBA/SPA on arable land. It is the biggest planned wind farm in Dobrudzha, consisting of 150 turbines. The area is documented as one with the most intensive migration of storks and raptors in inland Dobrudzha. Approved by RIEW Varna in the beginning of 2012. The consent is rescinded by MoEW in 2012. The Higher administrative court (HAC) rescinded the order of MoEW in 2013 using administrative arguments. Now the wind farm can be constructed, but the construction is not started yet.

II. SUMMARY OF MAIN ACTIONS TAKEN SINCE DECEMBER 2014

1. Bulgarian Society for the Protection of Birds (BSPB)

BSPB in partnership with RSPB and WWT finalised the analysis and results from their study on impact of wind farms on Red-breasted goose in Coastal Dobrudzha in the framework of the project LIFE09/NAT/BG 00230 “Conservation of the Wintering Population of the Globally Threatened Red-breasted Goose (*Branta ruficollis*) in Bulgaria”. As part of the results Status of combined impact of the

landscape features species on the species was elaborated (**figure 1a**), where clear evidence was provided for significant displacement impact caused by wind farms (**figure 1b**). On a base of the data on wind farm development, presented in the report T-PVS/Files (2014) 40 a prediction map was elaborated to present expected future impact in case all approved and planned windfarms in Coastal Dobrudzha are constructed and operational (**figure 2**). By using results of this detailed impact analysis and the habitat model for Red-breasted goose, a sensitivity map was elaborated (**figure 3**).

The results were published in the book “Secure wintering grounds for Red-breasted Goose. A guide to good planning”, and also have been presented in front of local authorities and stakeholders and in front of the Ministry of Environment at the end of May 2015.

All the results were also reported to the European Commission as part of “Kaliakra” infringement case and as part of the final report to LIFE+ Programme of EU, which financially supported this detailed study.

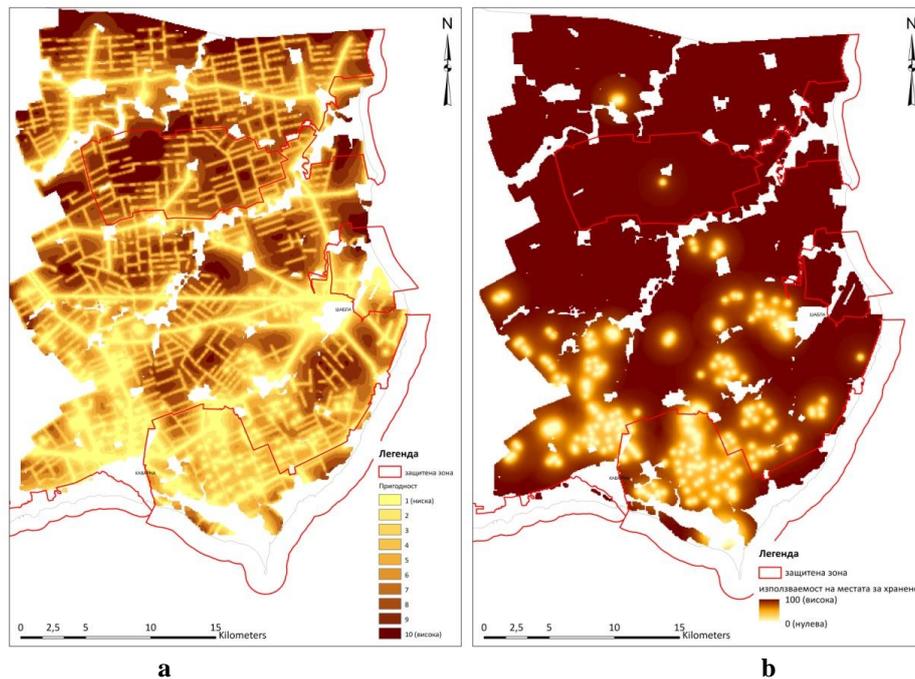


Figure 1. (Legend: dark colour presents most used/suitable areas, and the light – least used/suitable areas)

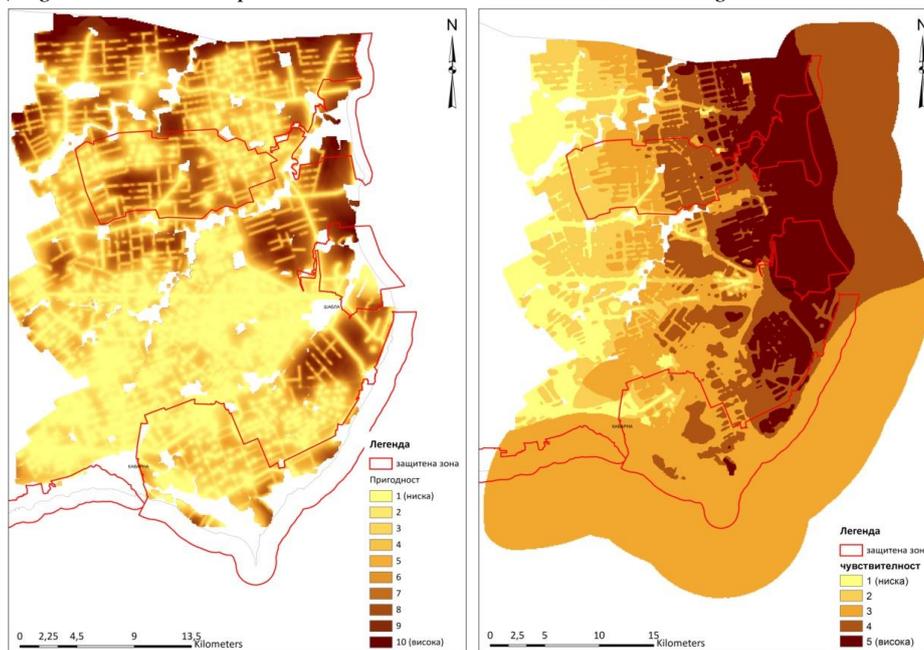


Figure 2

figure 3

In the framework of the Red-breasted Goose project BSPB also finalised its report on in-depth analysis of the wind sector development in Dobrudzha and submitted it to MoEW.

In April 2015 BSPB confirmed in front of Higher Administrative Court that supports its position to support the attempts of MoEW to stop “Smin” wind farm, thus the court case was opened.

2. Ministry of Environment and Water

In April 2015 MoEW confirmed in front of Higher Administrative Court that supports its position that “Smin” wind farm have to be stopped, thus the court case was opened.

In May 2015 MoEW and RIEW Varna participated at the presentation of the results of the project LIFE09/NAT/BG 00230 “Conservation of the Wintering Population of the Globally Threatened Red-breasted Goose (*Branta ruficollis*) in Bulgaria”, where expressed its positive attitude to results achieved.

3. European Court of Justice

In May 2015 the European Court of Justice carried out hearing on the court case C-141/14 against Bulgaria in relation to not compliance with EU Legislation in case of Kaliakra, which also include the wind farms presented in chapter I of this report. The opinion of the Advocate General is expected on 3th September 2015 and possibly the Court will take decision by the end of 2015.

III. IMPLEMENTATION OF THE RECOMMENDATION 130 (2007) – STATE OF IMPLEMENTATION

On 30 November 2006 the Bern Convention on European Wildlife and Natural Habitats ‘opened a file’ on wind farm development on the Via Pontica bird migration route along the Bulgarian Black Sea coast. On 29 November 2007 the Bern Convention adopted recommendation 130 (2007) following an on-spot appraisal carried out in 2007, and consideration of updated information on the case.

General progress

In our report since 2014 on the specific case file “Windfarms in Balchik and Kaliakra – Via Pontica (Bulgaria)” - T-PVS/Files (2014) 40, we presented the results of in-depth analysis of the development of wind sector in Dobrudzha along the intensive Via Pontica migration route in light of the measures taken by the Bulgarian government to implement the Recommendation 130 (2007):

1. The SEA of the NAPDRES 2011-2020¹;
2. Changes in the Environmental Protection Law;
3. Elaboration of the Bird sensitivity map;
4. Elaboration of the Guidance document for wind farm construction and bird protection;
5. Approval of wind farms only through EIA procedure and better control on the process by rescinding improper decisions.

On a national level the analysis was presented in the report “Analysis of the development of energy sector in Bulgaria, Dobrudzha region, and its status by March 2014” (in Bulgarian), which was submitted officially to the Ministry of Environment and Water in November 2014 for comments, and updated in April 2015. Final results were officially presented to MoEW in May 2015.

As a result of the full analysis of the status of wind farm development in Dobrudzha region, made in 2014, we find that there is practically not a recommendation of the Bern Convention, from 10 ones, in Recommendation 130 (2007), which is implemented in full and / or timely. Some of the recommendations have been met almost entirely, but with great delay which renders their underlying effect. These are recommendations related to strategic decisions, legislative changes, which generally help to regulate the development of the sector (recommendations 4, 6, 7, 9.1, and 10.1). However, in relation to the quality of the EIA still most of the recommendations are not actually applied.

¹ National Action Plan for Development of the Renewable Energy Sources 2014 - 2020

Recommendations related to specific actions in the area of Coastal Dobrudzha (review of decisions dismantling of wind, moving the alternative sites) are not met. Three big wind farms that harm integrity of Kaliakra IBA/SPA are constructed and still operational, and continue to have negative impacts on birds and other biodiversity.

Generally where government really endeavors to deal with the problem, it achieves progress. But more and systematic effort is needed to be fully implemented the recommendation and it has a positive effect on biodiversity conservation in the development of the wind energy sector. We think that after almost 10 year after the case file is open, it is crucial to have the official opinion of the Bern Convention Standing Committee on the progress and quality of implementation of Recommendation 130 (2007) with further guidance what further efforts needs to be encouraged. We will appreciate any further efforts by the Convention to investigate the case in order to express its opinion (as for example on-spot appraisal), if the Bern Convention Standing Committee finds it necessary.

The **Table 1.** bellow presents a synthesis of the impact of the application or non-application of the recommendations of the Bern Convention, based on the analysis made in 2014 by the Bulgarian Society for the Protection of Birds. The examples and concrete facts related to the information in the table are presented in the report **T-PVS/Files (2014) 40**. In parallel the table includes also comments on the Governmental report **T-PVS/Files (2015) 22**, as it has relation to the conclusions made.

The **Table 2.** presents our recommendations how implementation of the specific requirements under the Recommendation 130 (2007) could become more targeted and efficient. These recommendations take into account also the requirements made by EC under the “Kaliakra” infringement procedure.

Table 1. Analysis of the implementation and the efficiency of the measures taken to meet Recommendation 130(2007) of the Bern Convention Standing Committee

Recommendation by Bern Convention	Measures taken by MoEW by March 2015	Evaluation of the effect
<p>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;</p>	<p>Until 2009 no measures are taken.</p> <p>In 2009 a Strategic Environmental Research of the status and impact of wind farms on biodiversity in Bulgaria is undertaken by the Ministry of Economy and Energy (financed by EBRD). In 2010 SEA of the NAPERS 2010-2020 is elaborated. It is adopted and come into force in 2012.</p> <p>Assessment of the status of development of the windfarms sector at regional level (Dobrudzha region, municipality level) is missing.</p> <p>Since the end of 2009 most (but not all; only bigger scale projects) of the new wind farm projects are subject of EIA, but in the most cases these are not complete, punctual, scientifically poor justified. Nevertheless these EIA reports and investment projects are adopted. In the Autumn of 2014 two wind farm projects were not adopted by RIEW Varna, but the investor complained in front of the court, so the outcome is unclear.</p> <p>Ex-ante evaluation of the EIA quality by independent is not applied. Quality assessment of EIA reports is made internally by the RIEW under non transparent procedure.</p> <p>MoEW 2015 report:</p> <p>improved EIA reports after 2009 – not correct</p> <p>considerably improved and methodological basis – correct, see bellow</p> <p>change in legislation – correct</p> <p>ban for new construction of WF in Natura 2000 – correct, but not for this recommendation</p>	<p>Effect: from the baseline status at the end of 2007 where there were 1761 wind turbines (operational, approved and planned) in Dobrudzha, from which 11 wind turbines were operational,</p> <p>to the current status in March 2014, where there are in total 2524 (operational, approved and planned) in Dobrudzha, from which 330 wind turbines are operational (majority of them are located in Coastal Dobrudzha);</p> <p>Conclusion: Total number of wind turbines in Dobrudzha increased by 140%; number of operational turbines increased by 30 times.</p> <p>Evaluation: Very incomplete implementation of this recommendation; significant delay in taking measures, which are sometime improperly or not fully implemented and thus to not achieve the goal set in the recommendation</p>

<p>2. Fully reconsider the development of approved wind farm projects in the Balchik and Kaliakra region situated within or nearby sites designated as important bird areas and special areas of conservation;</p>	<p>Projects approved by the end of 2007 are not subject of reconsideration!</p> <p>In mid of 2012 legislation is changed requiring expiration period of 5 years for all decisions taken under EIA Act, including these taken before the legislation amendment.</p> <p>In the beginning of 2012 RIEW Varna approve at least 60 wind turbines without EIA on a base of previously taken decisions for approval again without EIA. Above mentioned wind turbines should be automatically expired, if the measure for law amendment was taken much earlier. This action is taken by RIEW Varna just 2 months before the change of the legislation to come into force, but institution already knows about the planned law change.</p> <p>MoEW 2015 report:</p> <p>Amendments in legislation – correct</p> <p>90% of approved projects have been eliminated – not correct; 74% of the approved, but not realised projects in Dobrudzha (or 58% of all approved projects), related to 18% of the approved but not constructed turbines are eliminated due to law changes and cannot longer be build.</p>	<p>Effect: The decisions for a total of 537 wind turbines are announced by RIEW that are with expired validity and they cannot be longer constructed. These represents 25% of all wind turbines that are approved in Dobrudzha but not constructed yet. In total of 31 wind turbines are with unclear status, because these are not officially announced that are with expired validity, but their construction is not started yet. Rest of the wind generators, approved before 2009, but not constructed yet, are included in new projects which period of validity is not expired.</p> <p>Evaluation: effective, but very delayed measure. The delay of its implementation allows risky projects to be still constructed in Kaliakra and Balchik region.</p>
<p>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;</p>	<p>No measures are undertaken to implement this measure to the projects that were under construction or single-turbine projects approved without EIA in the time when Recommendation is issued. It would be applied to such projects as “Kaliakra” Windfarm with investor INOS1 / Mitsubishi for example, but it is not the case.</p> <p>MoEW 2015 report:</p> <p>“All wind generators, including single ones in Natura 2000 sites, have been subject to mandatory EIA / AA” – not entirely correct and do not respond to this recommendation which relates to “restoration of integrity),but not to future projects.</p>	<p>Effect: negative impacts on birds due to operation of wind farms in Kaliakra region are already document: birds killed by wind turbines, loss of foraging habitats for the Red-breasted goose, barrier effect, which cause still damaged site integrity.</p> <p>Evaluation: non-implementation of this recommendation caused real negative impacts on the biodiversity in the region.</p>
<p>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 by windfarm development;</p>	<p>In 2010 biodiversity sensitivity map to wind farms was elaborated under the framework of Strategic environmental research. This map shows the sites with high risk for the biodiversity, which have to be avoided when wind farms are planned. This map is not used by RIEW during decision making process.</p> <p>In 2012 as part of the SEA of the NAPERS 2010-2020 the regions were defined, where new wind farm projects must not be approved.</p> <p>At the end of 2013 bird sensitivity map in relation to wind farms is published. On a national level this map presents alternatives for wind farm construction in region with low or medium risk for birds, and good potential for generation of energy from wind. So far there is no evidence how this map is applied in the decision-making process.</p>	<p>Effect: By March 2014 г. there are 2524 wind turbines documented in Dobrudzha, which are operational, approved but not constructed or are under procedure for approval. None of the projects which by the end of 2007 were approved but not constructed or have been just planned (“future”), did not assessed any alternatives by location in areas of low-risk for birds outside of Dobrudzha geographical areas where the Via Pontica migration route. Some of small projects in western parts of Dobrudzha are located in areas with low risk.</p> <p>Evaluation: The measures taken could be effective if applied before 2007 or immediately after publication of the Recommendation 130(2007) of the Bern Convention. Today this measure (bird sensitivity map) is too delayed and nevertheless that since 2013 the Bird sensitivity map exists, it will not contribute to correct damage already done. It may have an effect in the</p>

		future in long term, including after 2020, when the validity of SEA of NAPERS 2010-2020 expires.
5. Assess the impact of the current operating turbines;	<p>By March 2015, the government did not take any targeted measures in order to implement this recommendation.</p> <p>Out of all operational wind farms, monitoring is carried out only at “St Nikola” wind farm (47 out of 330 wind turbines) in order to prevent conflicts. This monitoring is assigned and controlled by the investor and therefore cannot be considered independent.</p> <p>In the framework of a project, financed by LIFE+ programme of the European Commission, during the period 2011 – 2013 r. BSPB / BirdLife carried out targeted and methodologically justified study on the impacts of the operational wind farms in Coastal Dobrudzha on wintering geese. First results were published in mid 2014 and final results are available since end of May 2015. As long as MoEW support the project it is possible to accept the final results, but it will be not as fully implemented recommendation, because studies on impacts on migratory and breeding birds are still missing.</p> <p>MoEW 2015 report:</p> <p>“General targeted monitoring of the impact of wind turbines on birds has not been made. ... However, it can be said that no evidence of high mortality and behavioral response of birds to a possible barrier effect.” - not correct; the statement is made before the publication of final result of geese study, however the government was aware about the ongoing study, thus the statement is to certain extent curious.</p>	<p>Effect: Evidence about negative impacts of the operational wind farms on birds in Coastal Dobrudzha are collected since 2007 to now, even without special measures taken by the Government. However the worrying message from the last governmental report is that the Government still do not accept existence of significant negative impacts and that do not wish to know what is the real situation.</p> <p>Evaluation: The lack of targeted actions for implementation of the recommendation prevent the identification of the full scale of the operational wind farms, because most of the assessments are made just by NGOs, and nevertheless that NGOs apply scientific methods, their conclusions are neglected and ignored by the Government.</p>
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;	<p>The SEA of the NAPERS 2010-2020 is elaborated and published for public consultations in November 2010, but is officially adopted in August 2012. This delay of more than 1,5 years gave possibility for many wind farm projects to be initiated in Dobrudzha.</p> <p>The SEA set a moratorium for new projects in the geographical region of Dobrudzha, Burgas region, Eastern Rhodopes and around special protection areas until 2020, but this moratorium does not apply for the projects submitted to RIEW before August 2012.</p> <p>MoEW 2015 report:</p> <p>Ecological Assessment № 3-2/2010 of the Bulgarian Energy Strategy by year 2020 – information is not fully correct; the document is too general and do not have specific measures for each site. The only conclusion related to Coastal Dobrudzha is that the capacity of the area to hold wind farms is already exceeded in 2009.</p> <p>The SEA of the NAPERS – almost correct; however in the beginning of 2014 three new projects were approved in Coastal Dobrudzha; these were approved without EIA. Two of the projects were stopped due to complaints by BSPB, but the third one – not.</p>	<p>Effect: After 2012, no placement of new wind power projects in Dobrudzha. However, procedures are carried out and projects are approved for a large number of wind turbines, whose procedures have started before August 2012. Still 599 wind turbines are under EIA procedure and it is possible they to be approved soon. In addition 235 decisions for 235 wind turbines are rescinded, but they could be approved again. Thus the total number of wind turbines in Dobrudzha could reach 2542.</p> <p>Evaluation: effective measure, , but delayed a lot; postponement of the approval of the SEA of the NAPERS allowed big number of projects to be initiated because of the threat of future restriction.</p> <p>At the time the measure is not expected effect and does not allow already arisen problems; The effect is or long time, but not after 2020.</p>

<p>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;</p>	<p>In 2010, the government tried to impose a moratorium on the development of wind energy, but due to strong investor lobby moratorium was not adopted by the National Assembly.</p> <p>However, such temporary moratorium (until 2020) was imposed by the decision on strategic environmental assessment of the NAPERS 2010-2020 for some areas in Bulgaria, including almost the entire Black Sea coast.</p> <p>MoEW 2015 report:</p> <p>Order RD – 855/21.11.2008 – information is not fully correct in terms of real prevention achieved; despite of existence of this order the investor EVN (previously Universum) constructed its wind farm on strictly protected steppe habitats in 2012 and other steppe habitat was destroyed and turned into orchards in 2013 with approval given by RIEW Varna; the order itself cannot be treated as moratorium for windfarm development in Coastal Dobrudzha, because only specific site with relatively small area.</p> <p>SEA of the NAPERS 2010-2020 - correct</p>	<p>Effect: no effect has been achieved to limit future projects Pending the establishment of Strategic Environmental Assessment. The moratorium imposed by SEA stopped initiating of new projects in areas where a moratorium has been placed.</p> <p>Evaluation: the effect of the recommendation is not achieved due to non-implementation of the moratorium. The moratorium introduced by the SEA right but very delayed step. It is effective against future projects, as in force until 2020 or the new National Action Plan for the Development of Renewable Energy Sources.</p>
<p>8. Respect the need to focus on the avoidance of the impacts coming from outside having negative effects on areas of recognised conservation importance;</p>	<p>Applied EIA procedures do not ensure the implementation of this recommendation.</p> <p>In the period 2010 - 2014 MoEW repeals several decisions of the Regional Inspectorate for approved wind farms at risk near important bird areas, but not permanently discontinued projects. Some of the projects were approved anew, others are judicial procedures and practice may be approved again or decisions for approval to remain in force due to a judicial decision; The concrete case is that the biggest wind farm in Dobrudzha – “General Toshevo” can be constructed, because the Higher Administrative Court rescind the order of MoEW to stop this project. The other new very risky wind farm – “Smin” is stopped for now, but there is a court case initiated by the investor and it is quite possible this wind farm also to be approved by the Court, based only on administrative arguments.</p> <p>MoEW 2015 report:</p> <p>The government do not report on this recommendation.</p>	<p>Effect: suspension, postponement or delay in carrying out risky projects. In their further development depends largely on the stubbornness of the investor.</p> <p>Evaluation: a systematic approach is not applied to the implementation of this recommendation</p>
<p>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”:</p>		

<ul style="list-style-type: none"> 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, including those from NGOs, institutes and independent scientists; 	<p>Such studies are required to be carried out within the EIA procedures and in most cases, studies indeed take place, but the methods and correctness of their implementation is not controlled by the competent authority; there is no an external evaluation of the quality of the data; many of the studies are superficial; depth studies showing significance of the site for biodiversity in some cases are not incorporated in the EIA or data from such studies are not interpreted correctly. Most studies have been conducted for a period of one year and not sufficiently representative for the purposes of the EIA.</p> <p>MoEW 2015 report:</p> <p>“MoEW 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” – correct, but the problem is the control over the quality of implementation (see above)</p>	<p>Effect: Field studies are carried out at least for one year. Bulky EIA reports, where they the results of studies are discussed;</p> <p>Evaluation: There is progress in the implementation of this part of the recommendation, but there is no control over the quality of implementation.</p>
<ul style="list-style-type: none"> 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; 	<p>This recommendation has been implemented only in the development of the Strategic Environmental Assessment and a map of sensitive areas for birds at the national level. In some EIA for wind farms in the interior of Dobrudzha similar to that assessment was administered, but interpretation of the data is questionable.</p> <p>MoEW 2015 report:</p> <p>As above</p>	<p>Effect: No effect is documented in terms of placing the individual projects in low risk areas.</p> <p>Evaluation: At the project level or at regional level no progress has been made in implementing this recommendation.</p>
<ul style="list-style-type: none"> 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; 	<p>We are not aware of any measures taken to implement this recommendation. If, however, has developed such binding procedures on paper, they do not apply or are confidential.</p> <p>MoEW 2015 report:</p> <p>The government do not report on this recommendation.</p>	<p>Effect: quality of EIA reports is still unsatisfactory, although more voluminous and contain more analysis.</p> <p>Evaluation: non-implementation of the recommendation leads to a lack of progress in the quality of EIA reports</p>
<p>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:</p>		
<ul style="list-style-type: none"> initiate a broad debate on the precautionary principle regarding development projects in relation to sites with outstanding biodiversity values; 	<p>Such a discussion was held within the framework of the strategic environmental review in 2010 and during the discussions of the Strategic Environmental Assessment of NAPERS 2010-2020 in the period from 2010 to 2012 The results of these discussions are laid down later in the Bird Sensitivity map and in the Guide on windfarm development and birds, elaborated and published in 2013.</p> <p>MoEW 2015 report:</p> <p>Information presented is correct, but the government missed to report on all the specific actions related to discussions and broad debates, required by this recommendation; these are summarised shortly above.</p>	<p>Effect: A map of sensitive areas for birds because of the development of wind turbines is created; a moratorium until 2020 for the construction of wind turbines in sensitive areas is placed. Chaotic wind farm development is set under control.</p> <p>Evaluation: significant positive effect as the actions arising from the debates led to the limitation of spontaneous and risky for biodiversity development of the wind sector.</p>

<ul style="list-style-type: none"> take measures for the removal of turbines in case of unacceptable bird collisions where no alternatives exist; this requires the drafting of a set of mitigating and compensatory measures when biodiversity losses occur; 	<p>No such measures are taken; There is no mechanism of regular and objective monitoring of all operating wind turbines, therefore, no sufficient data on the risk of the individual wind turbines; if these do not exist, purely formal similar actions are not necessary to be applied (the principle “no data – no problem – no action” still works);</p> <p>MoEW 2015 report:</p> <p>The government do not report on this recommendation.</p>	<p>Effect: operating turbines continue to kill birds in Coastal Dobrudzha, without knowing the real scale of the impact.</p> <p>Evaluation: The actions of the institution are aimed at undermine the problem of many stages (and the EIA procedure and subsequent control) and, accordingly, the lack of grounds for its solution; the statement under point 5 of the government report (page 3) confirms this conclusion.</p>
<ul style="list-style-type: none"> 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), 	<p>Concrete steps for practical implementation of this recommendation are not taken. A guide that gives guidelines and describe best practices and opportunities for further scrutiny is developed;</p> <p>Some NGOs are taking steps to implement such control, but this is not supported by competent authority;</p> <p>Just one wind farm has its own system for monitoring and control, but it is not independent. Independent monitoring including this wind farm is not carried out.</p> <p>MoEW 2015 report:</p> <p>The government do not report on this recommendation.</p>	<p>Effect: lack / difficult control environmental consequences;</p> <p>Evaluation: Failure of the recommendation continues to enable risk turbines to operate, and to allow the approval of new wind risk.</p>
<ul style="list-style-type: none"> 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. 	<p>The government has not taken measures to implement this recommendation.</p> <p>MoEW 2015 report:</p> <p>The government do not report on this recommendation.</p>	<p>Effect: loss of livelihood opportunities of the small villages as Balgarevo and St. Nikola in Coastal Dobrudzha and probably still unexplored other effects, where there are already operating wind farms</p> <p>Evaluation: Te Government ignores the general likelihood of negative social impact and the need to take measures.</p>

Table 2. Recommendations by NGOs to facilitate the implementation Recommendation 130(2007) of the Bern Convention Standing Committee

Recommendation by Bern Convention	NGOs recommendations
<p>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;</p>	<p>1. BG government to report specifically how this recommendation is applied to the following wind farm projects in Dobrudzha: “St Nikola” windfarm and EVN wind farm in Kaliakra IBA/SPA; “Smin” wind farm near Durankulak Lake IBA/SPA; “General Toshevo” wind farm near Chairya IBA/SPA and the wind farms neighboring Shabla Lake Complex IBA/SPA, Balchik IBA/SPA and Suha reka IBA/SPA; evidence needs to be provided as well; provide information what further steps are planned.</p> <p>2. BG government to elaborate Ex-ante evaluation procedure for the EIA quality; incorporate this procedure in the legislation and start to implement it.</p>
<p>2. Fully reconsider the development of approved wind farm projects in the Balchik and Kaliakra region situated within or nearby sites designated as important bird areas and special areas of conservation;</p>	<p>1. BG government to report specifically how this recommendation is applied to the following wind farm projects: “St Nikola” windfarm, “Kaliakra” wind farm and EVN wind farm in Kaliakra IBA/SPA; and the wind farms neighboring Balchik IBA/SPA; evidence needs to be provided as well; provide information what further steps are planned.</p> <p>2. BG government to report annually on status of windfarm sector in Dobrudzha in terms of operational, approved and planned wind turbines, as well as on number expired projects (wind turbines) and new submitted project (turbines).</p> <p>3. BG Government to announce at its public registers all the decisions that are expired, once the competent authority following the legal procedure, document that certain decision is not longer valid.</p>
<p>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;</p>	<p>1. BG government to report specifically how this recommendation is applied to the following wind farm projects: “St Nikola” windfarm, “Kaliakra” wind farm and EVN wind farm in Kaliakra IBA/SPA; and the wind farms neighboring Balchik IBA/SPA; evidence needs to be provided as well; provide information what further steps are planned.</p>
<p>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 by windfarm development;</p>	<p>1. BG government to report specifically how this recommendation is applied to the following wind farm projects in Dobrudzha: “St Nikola” windfarm and EVN wind farm in Kaliakra IBA/SPA; “Smin” wind farm near Durankulak Lake IBA/SPA; “General Toshevo” wind farm near Chairya IBA/SPA and the wind farms neighboring Shabla Lake Complex IBA/SPA, Balchik IBA/SPA and Suha reka IBA/SPA; evidence needs to be provided as well; provide information what further steps are planned.</p> <p>2. BG government to report how the sensitivity map, published in 2013, is used in practice during decision-making process, providing also information how many projects are relocated from risky areas and which are the good examples.</p> <p>3. BG government to collect data for assessment on need of further actions to be taken to implement this recommendation after 2020</p>
<p>5. Assess the impact of the current operating turbines;</p>	<p>1. BG government to report specifically how this recommendation is applied to the following wind farm projects in Dobrudzha: “St Nikola” windfarm, “Kaliakra” windfarm, EVN wind farm and the single wind turbines in Kaliakra IBA/SPA and close to it; operating wind turbines in settlement areas of Seltse, Mogiliste, Shabla, Hrabrovo, Lyahovo; operating single wind turbines in Burgas region along the Black Sea Coast.</p> <p>2. BG government to conduct / support impact studies for migratory and breeding birds in area of Coastal Dobrudzha in a similar (comparable, detailed) manner as the impact study of wind farms on wintering geese. Report the results of these studies.</p>

<p>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;</p>	<ol style="list-style-type: none"> 1. BG Government to report how the restrictions of SEA are applied and if there are cases of non-implementation to explain the reasons. 2. BG government to collect data for assessment on need of further actions to be taken to implement this recommendation after 2020
<p>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;</p>	<ol style="list-style-type: none"> 1. BG Government to report how the restrictions of SEA are applied and if there are cases of non-implementation to explain the reasons. 2. BG government to collect data for assessment on need of further actions to be taken to implement this recommendation after 2020
<p>8. Respect the need to focus on the avoidance of the impacts coming from outside having negative effects on areas of recognised conservation importance;</p>	<ol style="list-style-type: none"> 1. BG government to report annually on the status of projects which are subject of court case and thus it is not clear if these are approved and can be constructed, or are permanently stopped; 2. BG government to report how the sensitivity map, published in 2013, is used in practice during decision-making process, providing also information how many projects are relocated from risky areas and which are the good examples. 3. BG government to elaborate Ex-ante evaluation procedure for the EIA quality; incorporate this procedure in the legislation and start to implement it. 4. BG government to strengthen implementation of EIA procedure by making the procedure more transparent, to apply more control on the quality of EIA and to ensure independent EIA report
<p>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":</p>	
<ul style="list-style-type: none"> • 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, including those from NGOs, institutes and independent scientists; 	<ol style="list-style-type: none"> 1. The competent authority to apply stricter control on the studies carried out for wind farm projects, similar to those applied for elaboration of sensitivity map. It should include providing of methodologies which should be followed; validation of data and reports before they to be used for assessment, as well as possibility for the competent authority to make on-spot control of the studies if finds it necessary. The study reports validated by the competent authorities should be public since the relevant EIA report becomes subject of public consultations. Such control mechanism should be officially elaborated by the government and made public. 2. BG government to elaborate Ex-ante evaluation procedure for the EIA quality; incorporate this procedure in the legislation and start to implement it. 3. BG government to strengthen implementation of EIA procedure by making the procedure more transparent, to apply more control on the quality of EIA and to ensure independent EIA report. 3. BG government to report what further steps are planned to implement this recommendation.
<ul style="list-style-type: none"> • 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; 	<ol style="list-style-type: none"> 1. BG government to report on how this recommendation is implemented for all the wind farms projects, that were subject to approval by the competent authority since the beginning of 2008; 2. BG government to report what further steps are planned to implement this recommendation.
<ul style="list-style-type: none"> • 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; 	<ol style="list-style-type: none"> 1. BG government to report on how this recommendation is implemented for all the wind farms projects, that were subject to approval by the competent authority since the beginning of 2008; 2. BG government to report what further steps are planned to implement this recommendation. 3. BG government to elaborate Ex-ante evaluation procedure for the EIA quality; incorporate this procedure in the legislation and start to implement it.

<p>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:</p>	
<ul style="list-style-type: none"> • initiate a broad debate on the precautionary principle regarding development projects in relation to sites with outstanding biodiversity values; 	<ol style="list-style-type: none"> 1. BG government to report how this recommendation has been implemented since 2008 2. BG government to keep the trend to set the wind farm issue on a public debate / consultation always when is needed.
<ul style="list-style-type: none"> • take measures for the removal of turbines in case of unacceptable bird collisions where no alternatives exist; this requires the drafting of a set of mitigating and compensatory measures when biodiversity losses occur; 	<ol style="list-style-type: none"> 1. BG government to report how this recommendation has been implemented since 2008 2. BG government to report what further steps are planned to implement this recommendation. 3. BG government to take actions to remove wind farms from the area of Kaliakra IBA/SPA in order to restore the integrity of site and prevent further mortality of migratory, breeding and wintering birds and loss of foraging habitats for wintering Red-breasted goose
<ul style="list-style-type: none"> • 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), 	<ol style="list-style-type: none"> 1. BG government to report how this recommendation has been implemented since 2008 2. BG government to report what further steps are planned to implement this recommendation.
<ul style="list-style-type: none"> • 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. 	<ol style="list-style-type: none"> 1. BG government to report how this recommendation has been implemented since 2008 2. BG government to report what further steps are planned to implement this recommendation.