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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

36th meeting
Strasbourg, 15-18 November 2016

Complaints on stand-by

**Possible impact
of wind-farm developments on bats
("the former Yugoslav Republic of Macedonia")**

- REPORT BY THE GOVERNMENT -

*Document prepared by
the Ministry of Environment and Physical Planning, "The former Yugoslav Republic of Macedonia"*

*The report has been tabled in the form it has been submitted by the national authorities, who are
responsible for its content*

REPORT OF THE GOVERNMENT OF REPUBLIC OF MACEDONIA
Government Response on the Request for Additional Information by the
Secretariat of the Bern Convention
in relation to Complaint No. 2015/2: Possible Impact on Bats of Wind
Farm Development near the Village of Bogdanci in Republic of
Macedonia

Date: 31/05/2016

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1. Background

In December 2015 the Secretariat of the Bern Convention advised the Government of Republic of Macedonia of the complaint for possible breach of the Convention related to the wind farm development near the village of Bogdanci in Macedonia. The Government of Macedonia on 2nd of February 2016 provided a report elaborating its position on the complaint.

On 19th of May 2016 the Bern Convention Secretariat advised the Government of Macedonia that the complaint has been assessed by the Bureau on 22nd of March 2016, and that the Bureau had decided to re-assess the complaint at its next meeting on 4-5 September 2016. The Secretariat requested the following additional information by 15th of July 2016 in support of further assessment by the Bureau:

- the ESIA (English version) prepared ahead of the wind-farm development
- the baseline bird/bat surveys that were undertaken for the purposes of the ESIA;
- specific clarification if bats were surveyed throughout their whole activity period, summer (reproduction) included;
- updated information on the post-construction monitoring activity which was expected to start in Spring 2016.

2. Government Response

ESIA in English language

The E(S)IA document in English language is provided together with this response.

Comments on baseline bird/bat surveys (points 2 and 3 above)

The findings of the baseline surveys – field records and observations – throughout the project's environmental and social appraisal are included in the E(S)IA Report.

A list of wild life species is attached to the E(S)IA Report as Annex 2 – Field Records and Observations. The detailed field surveys have been carried out during spring and autumn 2009, resulting in an assessment and description of the habitats and the state of the receiving biodiversity resources in broad context in the wider area affected by the proposed project. Based on the sensitivity of the biodiversity and the assigned impact magnitude from the proposed project, significance of each impact has been determined and appropriate mitigation has been proposed.

Update on the post-construction monitoring

The tender for selection of a Consultant for the three year post-construction avian and bat monitoring was initiated in 2015 by the wind farm owner/operator ELEM with support from the project lender KfW.

Currently the tender process is being finalized, selection of a consultant expected by end of June 2016.

A copy of the terms of reference for the post construction monitoring tender are provided together with this response, for reference.

3. Concluding Remarks

Based on information provided by the Government of Macedonia to the Secretariat to-date, the following need to be taken into consideration in regard to the current process related to the Complaint No. 2015/2:

- The E(S)IA clearly concluded that bird and bat fauna aspect does not present an obstacle for further project development and construction of the wind farm Bogdanci at the particular locality. The fact that, since the commissioning of the wind park in 2014, no incidents regarding birds and bats have been reported further supports the E(S)IA finding that the project does not possess significant potential for adverse impacts to the fauna of birds and bats in the area affected by the project.
- As any standard environmental and social appraisal, the E(S)IA for the wind park Bogdanci has been carried out prior to its physical development at a level of detail that corresponded to the project's technical design available at the time of its preparation. The E(S)IA report and the associated mitigation strategy has been approved by the competent Macedonian authorities without imposing a requirement for additional biodiversity surveys during further project design stage or prior to the project construction. By this, according to the Macedonian legislative procedures, the legal administrative procedure for the project's environmental appraisal has been closed and ELEM AD as project owner has been granted permission to proceed with further project's implementation by respecting the adopted mitigation strategy. Therefore, any further review of the ESIA methodology and/or its findings in a situation when the project is built and operational would not result in material benefits or added value to the further project activities.
- The proposed three-year operational monitoring of the wind park Bogdanci will provide a comprehensive and detailed physical and measurable evidence of actual effects of the project to the bird and bat fauna in the affected area, with an ultimate goal to appropriately address potential effects with corrective mitigation measures, if required, during the project's operational phase.

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Note by the Secretariat: The appendice can be found on the Bern Convention website:

Appendix 1 - [Environmental Impact assessment](#)

REPORT OF THE GOVERNMENT OF REPUBLIC OF MACEDONIA

Government Position on the Bern Convention Complaint No. 2015/2: Possible Impact on Bats of Wind Farm Development near the Village of Bogdanci in Republic of Macedonia

- 02/02/2016 -

4. BACKGROUND

In December 2015 the Secretariat of the Bern Convention advised the Government of Republic of Macedonia of the complaint for possible breach of the Convention related to the wind farm development near the village of Bogdanci in Macedonia.

The complaint has been submitted in February 2015 by the NGOs Bat Study Group/Bird Protection Macedonia, which, according to the Secretariat's letter to the Government, alleges that:

- the wind-farm development represents a threat to not less than 15 bat species occupying the area where the farm was built which are listed in Appendix II of the Bern Convention
- some of those bat species are also listed in IUCN's Red List
- a considerable number of migratory birds of prey also listed in the Bern Convention Appendices are equally threatened as the wind farm is situated only several kilometers from the main migratory pathway Morava-Vardar
- the ESIA prepared ahead of the wind-farm development does not mention bat species at all and that a number of protected bird species are not relevantly studied
- as a result, the operational monitoring of the impact of the wind farm on the fauna does not concern the bat species in particular, as they are not mentioned in the ESIA study

The Secretariat requested the Government to provide its position regarding this complaint, including:

- information on how the ESIA study implemented ahead of the development and launch of the Bogdanci wind-farm considers bat species
- what analysis was made on the possible impact of this development on the species protected through the candidate Emerald site Dojran lake, and
- information on the current operational monitoring of the wind-farm.

The reporting deadline for the Government had been set to 12th of February 2016 to enable the Bureau of the Standing Committee to assess the complaint at its next meeting, scheduled to take place in March 2016.

5. ESIA FOR THE WIND FARM BOGDANCI

Bogdanci Wind Farm is a 36 MW facility near the town of Bogdanci in Macedonia, placed in operation in September 2014. The project is first of this kind in the region and was developed with support of the Western Balkans Infrastructure Facility, a component of the European Union programme CARDS.

A brief timeline of the environmental approval process is provided in the table below. The environmental approval process was in accordance with the national legislation, which has transposed the EU's EIA Directive requirements.

Event	Date
Notification of intention to implement the project, including EIA Scoping checklist (EIA screening and scoping), submitted by ELEM to the Ministry of Environment and Physical Planning (MoEPP)	February 2009
Decision that an EIA is required to be carried out for the proposed project and EIA scoping opinion, issued by the MoEPP.	May 2009
Submission of the EIA Study from ELEM to the MoEPP	April 2010
Stakeholders and public consultation process	September 2010
Announcement of the decision granting consent to the application for the project implementation, issued by the MoEPP	January 2011
Strategic Environment Assessment (SEA) Report on the urban planning documentation, submitted by ELEM to the MoEPP	October 2012
Opinion in regard to the SEA Report, issued by the MoEPP	September 2012

2.1 ESIA

Full and thorough environmental and social impact assessment (ESIA) for the proposed ELEM's wind park was performed during the project's planning stage, in accordance with the national legislation and international donor/lender requirements.

This ESIA exercise, inter alia, included comprehensive baseline investigation with respect to the avian fauna and bats, as vulnerable groups to operational wind farm developments.

Based on thorough field surveys performed throughout the ESIA process as well as available relevant scientific literature which is considered as internationally recognized, the ESIA Report and its associated documents clearly identified likely ecological effects on these two groups and the need for mitigation measures. In that context, detailed and structured environmental management and monitoring plan has been developed and adopted by ELEM as part of project development documents.

During the ESIA process, a pre-survey assessment was conducted based on broad scale approach to identify the species as well as the landscape features used by bats that are potentially at risk within the selected wind park area, to help ELEM in its decision whether a more detailed bat survey is required. This assessment included desk and field surveys and took place in spring and autumn seasons in 2009. The ecological assessment identified, through surveys, a comprehensive list of bats species existing adjacent to the Project site including Serotine, greater horseshoe, lesser horseshoe, and pipistrelle. Potential impacts are recognized as disturbance and displacement during construction. However, it is considered that all species affected would experience short term disruption and would have capacity to adapt to such changes without significant affects. It is considered, with respect to bat species, that the "richness in species and number of bats within the territory is low and any potential negative effects would be within the admissible limits due primarily to the avoidance behavior of the species."

A project's Environmental Management and Monitoring Plan (EMMP) consisting of the set of mitigation and monitoring measures, criteria for their successful implementation and institutional measures to be taken during project implementation to eliminate adverse environmental and social impacts, offset them, or reduce them to acceptable levels has been developed as part of the ESIA process. It has been prepared to ensure that main project stages (construction and operations) are implemented in compliance with applicable Macedonian laws and regulations and KfW's Sustainability Guideline as well as in accordance with the results of the stakeholder consultations.

It should be emphasised that whole ESIA package was publically disclosed in 2010 in line with Macedonian EIA legislation and public hearing was organised and held in Bogdanci municipality as part of the consultation process. Upon the disclosure period and consultations performed, and taking into consideration all received written comments, the Macedonian EIA competent authority has reviewed the ESIA package and has issued a decision for approval of the implementation of the

proposed wind farm project. In that respect, it should be stressed that during the public disclosure period no written reaction or comment on the ESIA findings in relation with the avian fauna and bats has been received by any interested party or by any non-governmental organisation.

2.2 Emerald Site Considerations

A range of baseline bird / bat surveys were undertaken for the purposes of the ESIA, in the spring and autumn seasons of 2009 from several points around the Project site, including Dojran Lake.

The results of the surveys showed that both breeding and migratory bird species occur within the site boundaries of the Project. With respect to the breeding birds, it is considered that the species composition overall is poor, with species primarily associated with either the grass / shrubland areas or agricultural fields on the margins of the village Bogdanci. Species associated with these areas include skylark, yellow wagtail, grey partridge flycatchers, warblers and whitethroats.

Due to its sensitivity, the EMERALD site Dojran Lake, also designated as Important Bird Area (IBA) and Ramsar Site, was taken into consideration during environmental appraisal of the wind farm Bogdanci. In fact, the area of the wind farm is located between two important migratory routes for birds from Northern Europe passing along Vardar Valley and via Dojran Lake to the east. During the surveys at the Dojran Lake – migrant species that were recorded include great white and Dalmatian pelicans, white storks, marsh, pallid, and Montagu's harriers. Large number of migrants is known to pass through the area although the migration volume is highly variable, both in terms of total numbers and the routes used. However, the agricultural areas, including Project's site, are considered as not characteristic habitats for them and not important to them during migration.

Impact in relation to breeding bird species is predicted as unlikely to be significant both in terms of disturbance during construction and operation. However, migration is considered the time of highest risk to bird species from the Project, due primarily to collision risks. In this regard, an assessment of the potential for collision with the wind turbines predicts that the key bird groups recorded during the surveys were reported as flying mostly above 150 meters (the maximum rotor height), and thus exhibiting avoidance behavior.

The assessment of the project was also undertaken in accordance with EU Guidance on the Assessment of plans and projects significantly affecting Natura 2000 sites (Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive). As the wind farm Bogdanci does not lie within the boundaries of the EMERALD site Dojran Lake, and impacts upon breeding bird species and migrating species were considered not likely to be significant, no significant impact on this site is anticipated.

6. POST-CONSTRUCTION MONITORING

Following the ESIA approval and subsequent receipt of respective construction permit according to the relevant Macedonian legislation, ELEM has constructed and officially commissioned the Wind Farm Bogdanci in September 2014.

The project's EMMP foresees a three-year post construction / operational monitoring programme to assess actual bird and bat mortality due to collision with the new structures in the project affected area – the wind turbines or to assess other specific impacts (effect on specific sites or areas of birds / bats importance). This monitoring is to be conducted by qualified specialists according to adopted and approved methodology in order to fulfill legal and environmental requirements thus ensuring that actual conflicts will be identified and appropriately addressed with mitigation measures during the project's operational phase.

For this purpose, ELEM, financially supported by KfW, has initiated International Open Tender for selection of qualified consultant to develop a Post-construction Monitoring Programme, based on suitable methodology and best international practice and to perform specific habitat surveys as well as birds and bats surveys, in order to:

- Estimate actual direct impacts of the operating project in terms of mortality rates of birds (target species) and bats caused by collisions.

- Determine actual specific impacts/disturbance effects of the operating project on birds and bats (e.g. effect on a specific nest site or breeding area, breeding success, barrier effect, disturbance of bat roosts, etc.).
- Document relevant indirect impacts of the project operation in the form of disturbance/avoidance behaviour of birds and bats in the project area.
- Propose additional mitigation strategy to address the actual impacts (if required).

This Tender was published on 21.10.2015; commencement of this activity is planned in spring 2016.

7. EUROBATS – NATIONAL REPORTS FOR MACEDONIA

Republic of Macedonia is a member of EUROBATS - the Agreement on the Conservation of Populations of European Bats (Bats Agreement) which is set up under the Convention on the Conservation of Migratory Species of Wild Animals.

The EUROBATS focal points for Macedonia are responsible for preparation of the national reports for implementation of the Agreement on Bats. The latest three reports from June 2008, July 2010 and June 2014, prepared over the project planning and construction period, made no mention of the project nor raised any concerns relating to the Bogdanci wind farm. The reports can be found at the following website: http://www.eurobats.org/about_eurobats/parties_and_range_states/macedonia_fyr.

The complainant Mr Branko Micevski, from Bat Study Group Macedonia, was the national scientific focal point for EUROBATS over the project planning and construction period, and has been involved in the preparation of the national EUROBATS reports.

8. SUMMARY

Pre-construction surveys of birds and bats have been carried out in 2009 as constituent part of the environmental and social appraisal during the project's planning process. These surveys concluded that "richness in species and number of bats within the territory is low". The ESIA does not conclude "that no bats are present in the area" as stipulated in the respective Complaint, item 1, para 2.

No evidence is given in the respective Complaint, item 1, para 3, in which particular area / region - 15 species of bats were found. This may lead to vague generalisation and misinterpretation of the results of the mentioned investigations ("Micevski at all, 2014"). If these investigations included the particular area affected by the project, it would be of wider public interest to know if any direct adverse effect / collision risk, etc. to bats and birds were identified during these investigations having the fact that in 2014 the Wind Farm Bogdanci was already commissioned. So far, no reports for such events have been made available to Macedonian Government or the operator (ELEM).

Wind Farm Bogdanci is an operational energy production facility in service since September 2014. No incidents related to birds or bats have been reported since its commissioning.

Project's EMMP document is approved by the Macedonian ESIA competent authority (the Ministry of Environment and Physical Planning) that foresees a necessity of three-year post-construction / operational monitoring.

ELEM in its capacity as the wind farm operator and supported by KfW has initiated the procedure for selection of qualified consultant to perform the requested three-year post-construction / operational monitoring. Indicative commencement of this activity is expected in spring 2016.

All reports prepared in the course of the foreseen three-year post-construction / operational monitoring and findings of the birds and bats surveys will be submitted to the Macedonian competent authorities and made available to all interested stakeholders, including both organisations that submitted the Complaint – the Bat Study Group Macedonia and the Bird Protection Macedonia.

No complaints related to bats and birds have been received during the project planning stage by the complainant or other parties. In addition, the national reports for EUROBATS over the project planning and construction period, which are co-prepared and co-signed by the complainant, make no mention of the project nor raise any issues regarding the Bogdanci Wind Farm.

The ESIA package that served to approve the construction of the wind farm was prepared in the official language in the country (Macedonian language) as legally required according to the administrative procedures and is to be considered as finalized and closed in administrative and any other context. No requirement exists in the relevant Macedonian legislation that any ESIA related document (report, etc.) should be prepared and disclosed in English (as noted in the respective Complaint, item 1, para 2 and item 6, para 1) or any other language, except in projects with potential trans-boundary impacts, which is not the case with the Bogdanci Wind Farm. The project has prepared an English version of the ESIA document, however to meet the lender's requirements.

9. ADMINISTRATIVE ISSUES

Title of the complaint is incorrect – it refers to development of wind farms in Macedonia, while the complaint is specific to the Bogdanci wind farm development.

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