

Convention on the Conservation
of European Wildlife and Natural Habitats

Standing Committee

Recommendation No. 213 (2021) of the Standing Committee, adopted on 3rd December 2021, on the presumed threat to Emerald Network site “Polonina Borzhava” from wind energy development (UA0000263) (Ukraine).

The Standing Committee to the Convention on the Conservation of European Wildlife and Natural Habitats, acting under the terms of Article 14 of the Convention,

Having regard to the aims of the Convention to conserve wild flora and fauna and their natural habitats;

Recalling that Article 3 of the Convention provides that each Contracting Party shall take steps to promote national policies for the conservation of the habitats of wild flora, wild fauna and natural habitats, with particular attention to endangered and vulnerable species, especially endemic ones, and endangered habitats;

Recalling that Article 4, paragraph 1 of the Convention provides that each Contracting Party shall take appropriate and necessary legislative and administrative measures to ensure the conservation of the habitats of the wild fauna species, especially those listed in Appendix II to the Convention;

Recalling that Article 4, paragraph 2 further stipulates that Contracting Parties, in their planning and development policies, shall have regard to the conservation requirements of the areas protected under the preceding paragraph, so as to avoid or minimise as far as possible any deterioration of such areas;

Recalling that Article 4, paragraph 3 further provides that the Contracting Parties undertake to give special attention to the protection of areas that are of importance for the migratory species specified in Appendices II and III and which are appropriately situated in relation to migration routes, as wintering, staging, feeding, breeding or moulting areas;

Recalling that Article 4, paragraph 4 further states that Contracting Parties undertake to co-ordinate as appropriate their efforts for the protection of the natural habitats referred to in this article when these are situated in frontier areas;

Recalling that Polonina Borzhava has been officially adopted as an Emerald Network site in 2016, in accordance with national legislation, and as such, it is subject to Recommendation No. 157 (2011, revised in 2019) on the status of candidate Emerald sites and guidelines on the criteria for their nomination, requiring national authorities to “take the necessary protection and conservation measures in order to maintain the ecological characteristics of the candidate Emerald sites” until their full inclusion in the Emerald Network;

Recalling Recommendation No. 208 (2019) on detecting, reporting, assessing and responding to changes in the ecological character of Emerald Network sites;

Recalling Recommendation 109 (2004) on minimising adverse effects of wind power generation on wildlife;

Recalling other relevant guidelines on wind farms and biodiversity including the Bern Convention/Birdlife report on “Wind farms and birds: an updated analysis of the effects of wind farms on birds, and best practice guidance on integrated planning and impact assessment”, the recent EU Guidance document on wind energy developments and EU nature legislation (2020), and resources of the Energy Community Treaty;

Considering that Polonina Borzhava and its surroundings contain rare and endemic species and habitats as well as migratory species of European importance that are conservation priorities and which Ukraine has undertaken to protect under, among others, the Bern and Bonn Conventions;

Noting the rapid response in the form of new development (proposed and actual) by the wind energy and other renewables sectors to the Government approved Energy Strategy of Ukraine until 2035 which stipulates that renewable sources will provide 25% of the country's electricity by 2035;

Taking note of the report of the online advisory mission (document T-PVS/Files(2021)77) carried out by independent experts on 20-23 September 2021;

Recommends to the Government of Ukraine to:

Concerning the planned wind farm:

1. Cancel the plans for the development. It is clear that there will be significant impact on the biodiversity interest; thus alternative sites should be sought where the impact would be much less and would not impinge on an Emerald Network site, but would allow a similar contribution to be made to Ukraine's renewable energy targets.
2. If the development is to proceed, repeat the environmental impact assessment using current methodology that is agreed between the developer, the regulator and the complainants; in doing so this will mean that the results are less likely to be challenged and can potentially form a better basis for decision-making in relation to ‘go and no-go areas’ for the development.

Concerning environmental assessments:

3. Produce country-wide ‘opportunity maps’ with ‘go and no-go areas’ that show where windfarms could be placed without significant impact on environmental, social or cultural aspects.
4. Implement a programme of awareness raising of the legislation and how it should be implemented for key officials including private developers, through the provision of simple written advice and guidance and targeted training.
5. Develop common standards in relation to the collection of biodiversity data and information for the EIA process.

Concerning the creation of a nature reserve:

6. Initiate a multi-stakeholder process in order to: i) define a vision and high-level conservation objectives for the site; ii) identify the critical issues (opportunities, threats, conflicts, relating to the various uses, ecosystem services and other features); iii) set objectives for the resolution of those issues; and iv) agree on costed actions and the timescale for the delivery in order to achieve those objectives.
7. Translate the above process into an integrated management plan for the site.

8. Use the above process to determine the most appropriate designation for the site in order to achieve its management and protection and, in particular, to provide the basis for staffing and the provision of resources for actions to be taken.
9. Accompany the process with the development of a communications plan to raise general awareness of users and the general public in relation to the correct behaviour required to maximise the enjoyment that can be achieved from recreating on the site whilst at the same time protecting its fragile and valuable natural resources.

Concerning overall progress in the implementation of the Emerald Network:

10. Adopt legislation related to environmental protection and in particular the Law on the Emerald Network as soon as possible.
11. Initiate a multi-stakeholder process in order to: i) identify key issues that constrain progress, ii) identify key organisations with responsibility for these, iii) identify mechanisms which would allow the effective and timely detection, reporting, assessment and resolution of potential conflicts before they threaten international biodiversity obligations and iv) identify a timeline to secure and monitor progress.
12. Assess the quantification of the contribution of the Emerald Network to carbon sequestration and storage.