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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

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File open

**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

Wind farms planned near Balchik and Kaliakra – Via Pontica (Bulgaria) – Progress since December 2017

23 October 2018

1. INTRODUCTION

The Case „Windfarms planned near Balchik and Kaliakra – Via Pontica (Bulgaria)“ 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.

At its 37th meeting, taking into account the Judgment issued on 14th January 2016 by the Court of Justice of the European Union (CJEU) on Case C-141/14 (‘Court of Justice’s Decision/ECJ Decision’), the Standing Committee decided to „leave the file open“ and, on the proposal by the complainant NGO with the consent of the country, instructed the Secretariat to organise an on-the-spot appraisal (OSA) to the area during the wintering time of the geese.

As decided by the Committee, the mandate of the OSA will be to provide support to the authorities in implementing Recommendation No. 130 (2007). The mission was carried out between 14 and 17 May 2018 after the wintering period of the geese.

The present report provides the information requested on the progress made in the implementation of the ECJ Decision and how it relates to the operational part of Recommendation 130 (2007) of the Standing Committee of the Bern Convention.

In this regard, and given the upcoming 38th Standing Committee meeting, we provide up-to-date information about the progress made since December 2017 in the implementation of the OSA recommended actions, before being examined and adopted by the Committee.

2. REPORT OF THE ON-THE-SPOT APPRAISAL (OSA).

2.1 The Terms of Reference for the OSA.

The OSA was asked by the Standing Committee and the Bureau to review the situation concerning existing constructed windfarms in the Kaliakra area, and to examine planning procedures and SEA/EIA standards used in Bulgaria and assessment for future developments, with a view to assessing the actualization needs of Recommendation No. 130 (2007). It was further asked to collect information on the state of development and implementation of measures developed in response to the ECJ decision and to the list of actions specified several years earlier in Bern Convention Recommendation No. 130 (2007); and to discuss the issues with relevant competent authorities at national and local level, including also the NGOs, local stakeholders and citizen groups. Meetings were held with the Bulgarian authorities and a range of other stakeholders, and windfarms were visited in the field.

2.2 Positive elements of progress.

Positive elements of progress noted by the OSA include the following:

- The Kaliakra European Special Protection Area has been extended to cover the full original area that was identified for it.
- The early warning system and protocols for turbine shutdown, operated jointly by the Kaliakra windfarms, represents a significant investment in efforts to mitigate potential bird mortality from collisions against moving turbine blades. Monitoring data suggest that levels of this kind of mortality to date have been low.
- As required by law, associated new powerlines have been undergrounded, further reducing risk to birds.
- A Strategic Environmental Assessment (SEA) and a Habitats Directive Appropriate Assessment (AA) were completed for the National Renewable Energy Action Plan in 2012, and environmental measures and a monitoring plan have been appended to it. It is reported that further developments to meet the national wind energy generation target could now achieve that objective wholly from areas judged to be low risk for birds.
- Aspects of relevant impact assessment processes appear to have advanced in some positive ways, and guidance documents have been produced.
- State subsidies are no longer given for windfarm developments in sensitive locations (although they perhaps still apply through electricity pricing).
- After 2012, unimplemented wind energy development consents became subject to a five-year expiry clause, and no such consents now remain in effect in the Kaliakra area.
- Under the National Renewable Energy Plan, further wind energy developments (after August 2012) are prohibited in Natura 2000 sites and some other sensitive locations, at least until 2020 (when the Plan is due for renewal).
- In the Dobrudzha coastal region, each individual Special Protection Area's Designation Order also includes a prohibition on wind energy developments within the site.

2.3 Recommendations from the OSA.

The mission report concludes with recommendations for ten main priority actions to be pursued over the next 12 months. Some of them concern defining actions/for taking action (shorter) or providing information on actions, and the other is about a timeframe for being able to assess the ultimate outcomes of action (longer), not necessarily bringing all the actions to completion in 12 months.

3. IMPLEMENTATION OF THE OSA RECOMMENDATIONS.

MoEW provide the following information regarding the implementation of the OSA recommendations, before being examined and adopted by the Committee.

3.1 1st OSA recommendation.

The comprehensive independent assessment of the impact of operational windfarms in the Kaliakra area which was recommended by the Bern Standing Committee in 2015 (amplifying paragraph 5 of Recommendation No. 130 of 2007) should be undertaken without delay, according to scientifically appropriate methods to be agreed in advance. It should include information from the current collision mortality monitoring but should also address other impacts such as displacement, barrier effects, disturbance and habitat change; and it should arrange to draw on collaborative sharing of information between windfarm operators, regional authorities, NGOs, academic researchers and others. An interim report of the results should be transmitted to the Bern Convention Bureau before February 2019, and a final report before August 2019.

Implementation approach:

It should be reported that a number of projects, approved by RIEW-Varna, have been objects of consideration from EC and The Court of Justice of the European Union

By decision from 14.01.2016 of (CJEU) the claim of the Commission is partially respected and it is determined that the Country has not fulfilled some of its obligations under The Habitats Directive, The Birds Directive, The EIA Directive and some violations are detected exactly in the area of action of RIEW-Varna. The scope of the judgment is reduced to **overall 10 projects, 3 of which unrealized**. The rest part of the **Commission's claim is rejected**.

In the implementation of Decision from 14.01.2016 of C JEU the Country has taken **a number of measures** for recovering and improving the conservation status of habitats in the area of RIEW-Varna, respectively for long-term protection and sustainable management of the areas in Kaliakra region of, in order to protect the existing habitats and species in this territory. For example, already in 2012 the Country have adopted National Renewable Energy Action Plan.

The fully independent Impact assessment from all existing Wind energy parks (WEP) in the area of Kaliakra as required by the recommendation is made within SEA and AA of the National Action Plan for Renewable Energy Sources (NAPRES 2011-2020). and exactly for whole Dobrudzha, which fulfills the given recommendation. During the assessment not only the planned, but also the existing WG are covered, especially for the area of Kaliakra, where all capacities are already operational. The assessment is covered all possible impacts like risk of collision, displacement, barrier effect, disturbances and changes in habitats, etc. Exactly as a result of this assessment the Plan includes measures which forbid implementation of projects for RES is in general from 2012 to the future within the borders of all areas protected under both directives and in certain buffers zones around some areas, in which more vulnerable species are preserved, incl. some entire administrative-geographic areas of the country. This is not a preventive measure, but a result of a real assessment, based on real post-operational conditions. Actually, this measure is up to the Plan period (end of 2020), but it should be taken into account that the proclamation orders for SPA „Kaliakra“ and SAC „Complex Kaliakra“, as well as all protected areas for birds in the region of Dobrudzha, in which vulnerable to WG species are protected there are prohibitions for construction of new RES and they are not limited in time.

Also the additional assessment and analysis of the projects, covered by CJEU Decision in the area of Kaliakra, are made and provided to the EC, as a result of the country's efforts to implement the decision.

The fact that should be taken into account is that a second independent assessment will be carried out in the scope of a new procedure for SEA and AA to the new NAPRES. In the process of elaboration of this assessment the present recommendation will be also taken into account, as well as will be required all the information collected from the current monitoring of bird mortality as a result of collision with WG to be include. The other possible impacts like displacement, barrier effect, disturbances and changes in birds` habitats also will be review. For the purposes of this assessment there will be an exchange of the present information and data between the operators of wind energy parks, regional and local authorities, NGOs, academic researchers and other stakeholders. In this assessment will be taken in mind not only available European, but also existing international guidelines and standards about EIA and AA, agreed on international fora like The Convention on Biological Diversity, Ramsar Convention, Convention on Migratory Species, etc.

In view of the above and the arguments set out below and the detailed measures taken and agreed upon, we believe that this recommendation should not be endorsed.

3.2 2nd OSA recommendation.

A broader regime for on-going monitoring and assessment of potential impacts of the Kaliakra area windfarms during their operation should be developed, ensuring that it inter alia: follows scientifically appropriate methods agreed in advance; addresses all types of potential impacts, including collisions, disturbance, displacement, barrier effects and habitat changes; includes observations at both windfarm sites and comparable areas with no windfarm developments, so as to provide "control" comparisons; is coordinated across

all the Kaliakra installations; is undertaken in conjunction with research by NGOs, supported by data-sharing agreements; takes the opportunity to undertake related research where it would be appropriate and cost-effective to associate this with the field efforts already being made on monitoring and assessment; makes information about the methods and systems used available in a form which would allow these to be replicated at other windfarm sites elsewhere; feeds results and insights (through the authorities) into national processes for planning and assessment of future developments.

Implementation approach:

Since spring 2018, an Early Warning System (EWS) has been set up and operates in the Kaliakra area (112 wind generators), where bird mortality risk studies are carried out as a result of the risk of collision with wind generators and the effect of this application is monitored.

EWS consists of three specialized high-tech radars: Bird Scan MS1, Deltatrack Radar System and Radar Robin having different features, and in a combination ensure efficient radar coverage and monitoring. Another key component is the Meteorological data: wind speed and direction, visibility and barometric conditions. The third main section is the Experienced Field Ornithologists team presented by a Senior field ornithologist (SFO) and the field Ornithologists. The EWS is supported by the wind farms operational staff.

Radar (please note that EWS uses a very powerful tool of 3 different radar systems) offers unique possibilities to analyse bird movement on large special scales and on system wide level, increasing our ability to understand general movement patterns and making predictions for the future (Kelly & Horton, 2016). Nocturnal bird migration over Europe is dominated by small passerines (Bloch et al. 1981, Rabenold 1993).

The ornithologist team can order the operator to stop turbines during the daytime. The operational staff of the windfarms works 24h. In case of observed birds' collision risk movements during night-time, the duty personnel can stop turbines. One of the windfarms is automatically stopped 24/7 by the site radar software.

The average altitude of nocturnal bird migration is between 500 and 600 meters above the ground level being above the zone of collision risk with the existing turbines in Kaliakra SPA, confirmed by the collected radar data relative to Kaliakra SPA. In addition to this scientifically based approach, the long-term monitoring of Saint Nikola wind farm over the last 10 years does not indicate bird collisions of nocturnal migrants with a conservation value.

The operator of the EWS has a binding agreement in case a wind farm is not following the shutdown orders to notify the Ministry of Environment and (MOEW) which have the authority to impose the measures for suspension.

The efficiency of EWS is evaluated in accordance with the above main targets in frequent intervals of time and is based on broad statistically representative data analyses and the below principles: Follows the methodology developed in the United States (Morrison 1998) for monitoring bird collision with the turbines and will apply to all Wind Farms included or joined to IEWS; Independent third party experienced field ornithologist's team presented by the senior field ornithologist and the field ornithologists; Periodically performs assessment of the effectiveness of the search for victims of collision to determine the actual mortality; Annual assessment of the efficiency at the Population Level defined as the ratio of collision birds of the species concerned and the number of the population of that species for a given migration period passing through territory.

The observations, including assessments of efficiency, are reported weekly, monthly, seasonally and annually at the EWS website <https://kaliakrabirdmonitoring.eu>.

If the EWS is proven to be ineffective, the Minister order stipulates that the wind farms should follow the suspension orders issued by the Minister of Environment and Water.

These methodologies are described in the seasonal and annual reports of the EWS being made public at EWS website <https://kaliakrabirdmonitoring.eu>. The Technical Rules for the operation of the EWS are compliant with the Ministry instruction for setting EWSs and have been provided to MOEW.

Furthermore the advising broader regime for monitoring and assessment of potential impacts of the windfarms during their operation has already been done during „Integrated management plan“ scientific work.

Also, no reference to any publication showing displacement and barrier effect has been provided in the mission report - no indicated pages where it is shown in the mentioned publications. The document does not represent any confirmed negative impact.

The document states that „...*Other research conducted in the framework of the same EU project, and cited in the NGO report to the 2017 Bern Standing Committee, appears to show the barrier effect being manifest for Red-breasted Geese at the EVN windfarm, with the geese there tending to fly significantly higher after construction compared with the heights recorded before construction (and compared with a no-turbine control site where no change was observed over the same period).....*“

The referred study „*Harrison AL & Hilton GM (2014): Fine-scale distribution of geese in relation to key landscape elements in coastal Dobrudzha, Bulgaria. Preliminary report, WWT, Slimbridge. Research undertaken as part of the EU LIFE-funded project “Conservation of the Wintering Population of the Globally Threatened Red-breasted Goose (Branta ruficollis) in Bulgaria”; LIFE09/NAT/BG/000230*“, is an evidence of fine-scale turbine-related displacement which scientifically cannot be classified as a displacement of the geese. Fine scale effect indicated in the referenced study is about preferences of geese of fields without shelterbelts, roads and powerlines and wind turbines and it find no defence between the effect of roads, power lines, shelterbelts and wind turbines. With other words the study does not find difference in the behaviour of geese in respect to roads and wind turbines.

With regard to mentioned „*Report by the complainant (Bulgarian Society for the Protection of Birds/BirdLife Bulgaria) to the 37-th meeting of the Bern Standing Committee, 5-8 December 2017. Document T-PVS/Files (2017)*“ that the period covered in the study is one winter only and should not be considered representative for any conclusions. It does not take in consideration any of the published impact reports and published studies which clearly find no displacement or barrier effect.

In parallel, there is a number of studies (number of impact monitoring reports in St Nikola Wind Park (<http://www.aesgeoenergy.com/site/Studies.html>) as well as publication in the scientific journal (<http://www.acta-zoologica-bulgarica.eu/downloads/acta-zoologica-bulgarica/2017/69-2-215-228.pdf>) has demonstrated no evidence for displacement and barrier effect.

In view of the above and the relation of this recommendation to recommendation 1 of the OSA, we believe that this should not be approved.

3.3 3rd OSA recommendation.

Windfarm operators and other land owners, managers and authorities should explore options for creating conservation gains for migratory birds and habitats in or around the Kaliakra area (e.g. through habitat creation/restoration and management investments, designation of additional protected areas, etc.), as a way of aiming partially to offset the risks and/or damage introduced by the completed windfarm developments, and/or in any event to contribute to agreed conservation priorities.

Implementation approach:

All the options suggested in the recommendation have been implemented.

Expanding the Natura 2000 network:

- Inclusion of breeding and food habitats of target species of birds and of supplemental areas with priority natural habitat 62CO * "Ponto-Sarmatian steppes";
- In 2009 and 2012 have been issued proclamation orders for SPAs “Kaliakra” (BG0002051) and “Belite skali” (BG0002097), providing prohibitions related both to the realization of construction sites and the way of use of agricultural land;
- Increasing the area of SPA “Kaliakra” (BG0002051) in 2014 with 5272 ha to the boundaries of defined as Important Bird Area (IBA - Kaliakra)

- Approved by the order new SPA “Bilo” (BG0002115) in 2014 with an Order of MOEW, with a total area of 8620,61 ha. The aim of the new zone is to provide safety and food resources for wintering red-breasted geese next to lakes (Shablensko and Durankulashko lake), determining their winter territorial distribution;
- In 2014 the area of SAC “Complex Kaliakra” (BG0000573) is expanded with 48,5 ha, the area of protected zone for habitats “Kraymorska Dobrudzha” (BG0000130) is increased with 140 ha and is determined completely new SAC “Devnenski halmove” (BG0000635) with total area of 297,12 ha.
- In 2017 the Minister of Environment and Water issued an order pursuing Art. 19 of Biological Diversity Act, for temporary ban of certain activities to be carry out in the territory of SAC “Complex Kaliakra” (BG0000573), which may lead to damage on natural habitat 62C0* "Ponto-Sarmatian steppes". The order aimed to create protection of the habitat within the protected area until its final announcement.
- In 2017 were issued orders for amendment in the list of of prohibitions in SPAs “Kaliakra” (BG0002051), “Belite skali” (BG0002097) and “Bilo” (BG0002115), which imposed prohibitions for hunting and introduction of crops different from the traditional ones for the region.
- In 2017 is issued an order for approval of SAC “Complex Kaliakra” (BG0000573), in which are defined the aims for protection and are introduced strict prohibitions to achieve them.
- The orders to declare SACs “Kraymorska Dobrudzha” (BG0000130) and “Devnenski halmove” (BG0000635) are in a process of in-house coordination and it is expected by the end of October 2018 to be promulgated and publicly available.

Bird risk studies

- Within the framework of a MOEW project in 2013 the following actions are taken: study of breeding birds, migratory birds and wintering waterfowl; giving recommendations and a map of the sensitivity of birds to wind turbines; guide to the conservation of wild birds.
- The projects in Kaliakra region, which are object to CJEU Decision from 14.01.2016 are analyzed with a view to be defined expected types and areas of impact on bird species and their habitats in SPAs “Kaliakra” (BG0002051) and “Belite skali” (BG0002097), which overlap with SAC “Complex Kaliakra” (BG0000573), in order appropriate binding actions to be taken by the Country, which will ensure that its obligations arising from the judgment will be fulfilled in its entirety.
- Measures are identified as a result of the "Analysis of potential negative impacts" on bird habitats of or the species themselves, and specific mitigation measures, intended for their prevention, reduction and possible removal are proposed. Measures take into account specificities of the projects - subject to the CJUE Decision, to the protected area concerned and the conservation objectives, and are considered against the identified impacts, incl. cumulative effect.

Management of the Priority Natural Habitat 62C0 * "Ponto-Sarmatian steppes"

- Supporting and maintenance of the key habitats of conservationally significant bird species associated with steppe biome.
- Implementation of active management of affected habitats of steppe bird species - by mowing, grazing, etc
- Implementation and concrete actions to maintain and management of the habitat are listed in the approved by an Order of the Minister "Recovery Plan for Priority Natural Habitats 62C0 * "Ponto-Sarmatian steppes ", which is assigned to be implemented by the Mayor of Kavarna Municipality, within the boundaries of the SAC BG0000537 „Complex Kaliakra“.The plan also includes activities to restore the habitat

- Our country is ready to provide the necessary funding for implementation of the "Recovery Plan" of a natural habitat 62C0 * "Ponto-Sarmatian steppes" within the boundaries of the SAC „Complex Kaliakra“ (BG0000537) through the national and municipal budgets, if the application of the municipality of Kavarna for a LIFE project is not approved for funding.
- The aim of the measure is to provide improvement of the conservation status of steppe habitats through the restoration of areas with destroyed habitats of bird species.

Action Plan for the Red-breasted Goose

- The Action Plan for the Protection of the Red-breasted Goose (*Branta ruficollis*) in Bulgaria for the period 2018 – 2027, was approved by Order No. ПД-355/04.06.2018 of the Minister of Environment and Water.
- Our country is committed to provide the necessary financial resources for the implementation of the measures under the Action Plan and to start the implementation of those measures for which no funding is required as soon as possible.
- Providing the necessary food base for the Red-breasted Goose. The aim of suggested measure is in the territories that are key to the feeding of the Red-breasted Goose agri-environmental activities to be carried out, so that adequate crop rotation (suitable cereal crops) and land use can be ensured. This will provide the winter grazing and will limit disturbance and displacement of the geese from these territories. This measure, together with the imposition of a complete ban on hunting in these territories, will increase the survival of birds during the winter and will accordingly contribute to the increase of the population, wintering in Bulgaria.

Communication activities

- The aim of suggested measure is to increase awareness and capacity of the responsible administrations, owners and users of territories occupied by natural habitats and species, with a view to achieve better conservation of priority natural habitats and the bird species inhabiting these territories during nesting, migration and wintering, as well as ensuring the effective implementation of identified measures.
- The activities will be realized within a project BG16M1OP002-3.006-0001-C02 "Knowledge for Natura 2000", funded through the Operational Program "Environment 2014-2020".
- The main activities of the project will be carried out within the framework of the following public procurement:
 - Creating and implementing an integrated communication platform and a digital campaign, through which to ensure the identity and effectiveness of awareness-raising activities, capacity and motivation of stakeholders to achieve the Natura 2000 objectives ";
 - Updating of National Prioritized Action Framework (NPAF) and conducting campaigns to increase the support and awareness for management of the Natura 2000 network in Bulgaria;
 - Planning and holding three annual international fora on topic issues related to Natura 2000.
- At present, a contract has been signed for "Updating the NPAF and conducting campaigns" and for the other two procedures contractors have been selected and contracts are expected to be concluded by the end of October 2018.

In view of the above arguments and the detailed measures taken and agreed upon, we consider this recommendation as implemented.

3.4 4th OSA recommendation.

The conservation impact achieved by measures undertaken in response to recommendation (3) above should be thoroughly evaluated, and if judged in any way to be less successful than hoped, or if the exploration of options itself has not advanced significantly within one year of the date of the present report, then alternative options for removal of existing

operational wind turbines from Kaliakra should be investigated and implemented as appropriate.

Implementation approach:

Bulgaria has taken a number of measures in implementation of the CJEU Decision, part of which are described in the information on the above draft recommendations, as these measures have been communicated to the EC.

The reference to “one year” does not refer to research results, it refers to the “exploration of options”; and if the exploration of options has not advanced significantly within one year, then alternatives should be investigated and implemented as appropriate.

Given the fact that Recommendation 3 of the OSA is implemented, this one irrelevant.

3.5 5th OSA recommendation.

The successor plan to the Bulgarian National Renewable Energy Action Plan 2011-2020 should re-confirm (and enhance where necessary) the latter’s prohibition on wind energy developments in sensitive locations.

Implementation approach:

NAPRES is a strategic document which defines the achievement of certain aims for a certain period of time (by 2020) and the same has been a subject to the EIA and AA. From this perspective it can not be expected that certain constraints, identified in connection with the implementation of the NREAP for a period of 10 years will be automatically relevant to the next planning period, which could include the achievement of other objectives, to be "transferred" mechanically. In our opinion, such an approach would`t be neither legally qualified, nor worldly justifiable. Adequate management could be achieved through reporting changes at each level in public relations, in strategic objectives and policies, and also in the certain condition of the environment and measures, that follows to be undertaken in that direction.

Also the new RES Plan will be a subject of SEA and AA in frame of which will be determined the actual conservation measures need.

More over, that the approval orders for SPA „Kaliakra“, SPA “Belite skali” and SAC “Complex Kaliakra”, incl. many more protected areas in the country where the prohibitions for construction of new RES are in place and they are not limited in time, which is a definite guarantee, that prohibitions are imposed as a preventive measure where it is necessary, without waiting for the assessment of a strategic document.

In view of the above, it is not possible for the country to be firmly committed to such recommendations at this stage.

3.6 6th OSA recommendation.

The Bulgarian authorities should provide the Bern Convention Bureau with a short report by September 2018 on the specific ways in which the legal provisions, policy requirements, standards, established practices or other aspects of environmental assessments (SEA/EIA/AA) in Bulgaria meet each of the individual points in paragraphs 1, 4, 8 and 9 of Recommendation No. 130 (2007) or will do so in future (with an indication of the expected timeframe), giving particular attention to the points in the Recommendation concerning cumulative assessment and peer review.

Implementation approach:

In accordance with the national legislation there are number of procedures, which examines the impact (effect) of a given “**plan or project**” on the environment and Natura 2000 sites, depending on their specific characteristics.

An assessment of the cumulative effect is provided in the Environmental Protection Act (EPA), which regulates environmental impact assessment (EIA) and environmental assessment (EA) procedures. In accordance with EPA, EIA and EA are conduct for plans, programs and investment

proposals for construction, activities and technologies or their modifications or extensions, with whose realization **significant environmental impacts** are possible. In that respect, the EPA also contains an explicit definition of "cumulative impacts".

In the EIA procedure, investment proposals for construction, activities and technologies are assessed at the earliest possible stage for supposed significant environmental impacts that their implementation may entail. The EIA determines, describes and assesses in appropriate way and case by case direct and indirect impacts on human, biodiversity and its components, including flora and fauna, soils, waters, air, climate and landscape, earth bowels, material and cultural and historical heritage, as well as the interaction between them.

EPA determines two groups investment proposals, depending on the possibility of them to have a significant impact on the environment and respectively the EIA procedure applicable to them:

- The Investment proposals (IP) listed in Appendix 1 of EPA, for which an EIA is obligatory (i.e. Environmental Impact Assessment Report is made (EIAR)); and
- IP, subject to an assessment of the need to carry out an EIA (i.e. assessment of the need to carry out an EIA, which have to be presented in the formal report - EIAR).

The cumulative effect is a subject for assessment in number of stages in the EIA procedure, incl. at the stage of assessing the need to carry out an EIA (for IP, subject to such an assessment), when presenting the information about assessing the need for an EIA, when preparing an EIA assignment, as well as in the preparation and assessment of EIAR quality. The cumulative effect is assessed also in the EA procedure, which evaluates the environmental impacts of plans, programs and sector policies, which form the framework of planning of investment proposals. Similar to the EIA procedure, the cumulative effect in EA is assessed both in the assessment of the need for the EA and in the preparation of the EA report.

For plans, programs and investment proposals, which fall under the scope of the EPA, the Appropriate Assessment procedure (AA) is combined through EA and EIA procedures, i.e. the AA procedure is carried out through EIA and EA procedures. All the rest plans, projects and investment proposals are subject to an independent procedure in accordance with the provisions of the Biodiversity Act (BDA) and the AA Ordinance, where the probability of a significant negative impact of the plan or project concerned on Natura 2000 sites is assessed. For the purposes of the AA procedure, the AA Ordinance contains a separate definition for "cumulative impacts".

Therefore, sufficient safeguards have been put in place at national level to assess the cumulative effect. Nevertheless, as of 2009, the MOEW's Letter No 91-00-99 / 09.02.2009 provides "**Guidelines for assessing the likely impact of investment proposals for the construction of wind generators on particular habitats and / or species subject to conservation measures in protected areas**", which, although targeting specific IPs, are also applicable to other species. The guidelines includes specify the main negative impacts on the species subject to protection in the protected areas, including possible cumulative impacts - with a detailed description of the project elements against which the cumulative effects are to be assessed. The guidelines explicitly state that the cumulative impacts of an investment intention are considered at a strategic level with some factors that need to be taken into account for designing the EIA at project level may differ from those for the SEA.

By letter Ref. 05-08-2450 / 23.04.2009 of the Minister of Environment and Water sent to all RIEWs "Methodical guidelines for practical application of the environmental regulation". The guidance provides requirements (to the RIEW) for in-depth control on the relevance, adequacy, actuality and reliability of the information presented to the RIEW by the contractors; precise analysis of cumulative impact; avoiding the fragmentation of projects by one contractor and handling them separately. The letter also provides guidance on the detailed reasoning of the decisions "not to carry out the EIA", as well as the use of the methodological documents published on the MOEW official website in order to unify the practice of the RIEW.

By Letter Ref. 91-00-30 / 21.11.2016 of the Minister of Environment and Water has given **instructions to the director of RIEW-Varna concerning the investment interest in the territory of "Kaliakra Complex" (BG0000573)** until the adoption of the Integrated Management Plan

including: attention to the implementation of the co-ordination procedures under the EPA and the BDA; developing a coordination mechanism with the territorial state and municipal authorities for permitting and controlling the construction and other activities with a direct or indirect impact on the subject of conservation in the protected areas; notification to MOEW in case of irregularities / actions that would pose a threat to the habitats and species. The purpose of these guidelines is to strengthen the controls on the enforcement of the prohibitions and restrictions imposed in the protected areas.

The Environmental Protection Act (EPA) was adopted in 2002, with a number of amendments and additions to its text being made in the period 2002-2018, such as: a change in the EPA was introduced in 2012, introducing a 5-year term retroactive limitation. This limitation refers to administrative acts (decisions), stipulating that the IP will not have a significant negative impact on the environment including on Natura 2000 protected sites, and with a dispositive do not carry out an EIA. The result of this measure is the canceling of approved investment proposals which (practice) started as early as 2012. Thus the decisions issued for assessing the need for an EIA (with an imperative of not carrying out EIA), by which a number of projects which have been approved in 2007, lose their effect when the measure is introduced in 2012. Legislative changes in the EPA were also made in 2015, introducing limitation period for ecological assessments of plans and programs as well as for decisions "not to perform ecological assessment". In this way, all investment proposals approved before 2007 under these conditions, which have not been implemented within the five-year period, have been phased out.

The Biological Diversity Act (BDA) was adopted in 2002, with a number of amendments and additions to its texts being made in the period 2002-2017, such as: a limitation period for the AA decisions, introduced in 2012.

Also, the process of developing Plans for the management of protected areas for the conservation of wild birds that do not overlap with protected areas for the conservation of natural habitats and wild fauna and flora has been initiated. To the present moment seven Management Plans have been approved by the Minister environment and water.

The National Wetland Conservation Plan in Bulgaria for the period 2013-2022 was adopted in implementation of the national biodiversity and wetland management priorities including for those which have been designated as Natura 2000 sites as well. It provides for horizontal measures for the protection and rational use of wetlands within Natura 2000 sites.

Recommendation No. 130 (2007) of the Standing Committee on the windfarms planned near Balchik and Kaliakra, and other wind farm developments on the Via Pontica route (Bulgaria), recommends the Bulgarian Government in each of the individual points in paragraphs 1, 4, 8 and 9, the following:

- *1st Recommendation No. 130 (2007). 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;*

For the period after the adoption of the Recommendation No. 130 (2007) to the Bern Convention Standing Committee, significantly improved the EIA and AA Reports, thanks to the development of knowledge, methodology, capacity and corresponding policy in this area. During these years, MOEW increase the quantity and quality of available information and also requirements to the scope, content and quality of the reports.

Were implemented several projects targeted at species and habitats of the Birds and Habitats Directives. The role of NGOs and scientific organisations to provide access to their information increase too.

It was considerably improved and methodological basis related to the preparation and evaluation of the EIA and AA Reports, and training of people involved in the proceedings.

The change in the legislation allowed to repeal several decisions for wind power generation building, and another in - to lose its legal effect. In practice this means that will be realised very few number of projects that have been granted.

Been put in place, the precautionary principle and the assessment of cumulative effects in the planning, authorisation and implementation of the projects. Appropriate assessment has become an integral part of the procedures preceding the issuing of the authorisation for the project.

Most important for reducing the impact of wind farms have introduced by NAPRES, prohibitions on the construction of such facilities in the most important for birds areas of the Natura 2000 network, as well as in neighbouring areas, forming practically buffer zones around it.

- **4th Recommendation No. 130 (2007).** *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 from windfarm development;*

In 2013 was completed two years project for „Mapping and Determination of the Conservation Status of the Habitats and Species (Phase 1)“, conducted by the MOEW and financed by Environment Operational Program 2007-2013.

Part of this project was separated position 7 - Determination and Minimisation of the Risks to the Wild Birds, conducted by ECONECT venture, part of which is The Bulgarian Society for Protection of Birds. The project objective is to minimise the risk for the wild birds by identifying the delineations of the main migratory routs and the most important sites for them in order to ensure their conservation and to minimise the risk caused by realisation of new investment proposals and projects in these territories. The outputs of the project are developing of: methodology for monitoring of birds for Environmental Executive Agency; guidance for conservation of the wild birds during the wind farms development in Bulgaria; system for early warning which will regulate the works of the wind turbines; a map and GIS model with the territories at high risk for birds caused by wind farms development; Zoning map for wing power generation capacity and Guidance for planning.

By the project 9 regions of the country have been determined to be suitable for construction of WPG based on the wing power generation capacity, the current state of the national power grid and the plans for its development until 2020, forecasts for electricity consumption, as well as evaluating different scenarios for limiting the construction of WPG.

There is public access to the guidance on the internet site of the MOEW-
<http://natura2000.moew.government.bg/Home/Reports?reportType=OtherBirdDocuments>

These documents are the good basis for the strategic planning of the territory of the region and assessing its carrying capacity order to protect the birds and their habitats.

- **8th Recommendation No. 130 (2007).** *Respect the need to focus on the avoidance of the impacts coming from outside having negative effects on areas of recognised conservation importance;*

In 2012, by the National Action Plan on Energy from the Renewable Energy Sources 2011-2020 were introduced bans, for the period of duration of the plan, on holding new coordination procedures under the Environmental Protection Act and Biological Diversity Act for wind generators located within the boundaries of Natura 2000 network as well as in designated areas outside the boundaries of Natura 2000 network, including in Dobrudzha and other Areas around Black See.

- **9th Recommendation No. 130 (2007).** *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”:*
 - *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, included those from NGOs, institutes and independent scientists;

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.

According to the prescriptions in the permits issued by RIEW Varna the monitoring has been conducted in the area of the windfarms and 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 impacts such as displacement, barrier effects, disturbance and habitat change.

- *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;*

With Letter Ref. 91-00-99 / 09.02.2009 the Minister of Environment and Waters issued "**Guidelines for assessing the likely impact of investment proposals for construction of wind generators on habitats and / or species, subject to conservation measures in protected areas**". The guidelines set out the main negative impacts on species subject to conservation in protected areas, possible cumulative impacts - with a detailed description of the project elements against which the cumulative impact is to be assessed.

The guidelines explicitly state that the cumulative impacts of an investment intention are first considered at a strategic level, with some factors that need to be taken into account for designing the EIA at project level may differ from those for the SEA. It has been pointed out that the impact on the natural habitats and habitats of species, including birds, must be considered as a percentage of the lost (damaged or destroyed) habitat in relation to its own area in the NATURA 2000 zone as well as throughout the whole NATURA 2000 protected area network, for the time of construction and for the whole operation period. Both direct and passive habitat loss is recorded including also taking into account the cumulative effect. The best available techniques and methods are used to assess the impact of the plan or project on the biological integrity of the site(s) likely to be affected (damaged or destroyed). The cumulative effect assessment is also performed when the site is outside the boundaries of a protected site.

- *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;*

In the course of the EIA procedure, the contractor carries out consultations on the scope and content of the EIA with the competent authorities as well as with stakeholders including citizens and NGOs which states their positions on the topic.

In assessing the quality of EIA report MoEW / RIEWs consult the Executive environmental agency (ExEA), the Basin directorates, the Ministry of Energetics, the National Institute for Cultural Heritage, the Ministry of Health / Regional health inspectorates, the Directorate General Fire Safety and Protection of the Population, the National Police Directorate and others.

3.7 7th OSA recommendation.

The Bulgarian authorities should promote the dissemination (including translation where necessary) and use within the country of the guidance on windfarms and birds developed under the auspices of the Bern Convention (Gove et al. 2013), and the international standards and best practice guidance on EIA/SEA adopted under the Conventions on Biodiversity, Migratory Species and Wetlands, together with related materials produced by the International Association for Impact Assessment.

Implementation approach:

The MOEW website includes not only the existing European guidelines but also the existing environmental impact assessment and strategic environmental assessment international guidelines and standards agreed in international fora such as the Convention on Biological Diversity, the Convention on Wetlands, the Convention on Migratory Species as well as their advisory bodies. The MOEW will translate these documents into Bulgarian language.

The documents can be found at the following link:

<https://www.moew.government.bg/bg/priroda/natura-2000/natura-2000-v-bulgariya/druga-polezna-informaciya/>

3.8 8th OSA recommendation.

Options should be explored for developing a proposal (which could be submitted to potential funders) for a project to build enhanced capacity in Bulgaria on knowledge exchange and best practices in the assessment and management of wind energy impacts on wildlife.

Implementation approach:

In the period 2009-2010 the MoEW implemented the following projects:

- "Implementation of European legislation in Germany: Natura 2000 - Management and Financing", under bilateral cooperation between Bulgaria and Germany, funded by the Federal Minister for the Environment, Nature Conservation, and Nuclear Safety through the Federal Environment Agency (UBA). The scientific coordination of the project is carried out by the Federal Environmental Protection Agency (BfN). The project aims to assist the competent authorities in the Republic of Bulgaria in accelerating the implementation of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, and in particular in planning, management and financing through the EU Cohesion / Structural Funds of the national Natura 2000 network - by transmitting Germany's experience in these areas.

This was achieved through a series of workshops, seminars and on-site visits with the participation of experts from the central administration and the regional structures of the MOEW, as well as other interested institutions and organizations, including NGOs and other environmental organizations.

Twinning project BG07/IB/EN/06 "Strengthening institutional capacity to implement EU nature protection legislation" financed under the Transition Facility. The twinning partner organization of the project is the Castile and León Natural Heritage Foundation, an authorized body of the autonomous government of the Castilla y León region, the Kingdom of Spain. The project aims to contribute to improving the implementation of the Habitats and Birds Directives, in particular to optimize the management of Natura 2000 sites and to increase the institutional capacity of the responsible institutions. This was achieved through a series of workshops, seminars and on-site visits with the participation of experts from the central administration and the regional structures of the MOEWs as well as other interested institutions and organizations including NGOs and other environmental organizations, financial institutions and business associations, farm, tourism, hunting and fishing associations.

Bulgaria is willing to exchange experience with the EC and to adopt good practices from other EU Member States. We state the intent and readiness to use the mechanisms introduced by the EC to

exchange such good practices and experiences through the Peer2Peer tool, and a project on the mechanism is being prepared, including the exchange of knowledge and best practices in the evaluation and managing wind power to protect wildlife.

3.9 9th OSA recommendation.

The Conservation Action Plan for the Red Breasted Goose population in Bulgaria should be funded and implemented without delay, and periodic summary reports on its implementation should be transmitted to the Bern Convention Standing Committee, beginning with a first report in November 2018. Those responsible for the Plan should ensure that thorough and coordinated monitoring of the species' population status and trends receives sustained high priority attention.

Implementation approach:

- The Action Plan for the Protection of the Red-breasted Goose (*Branta ruficollis*) in Bulgaria for the period 2018 - 2027, approved by Order No. ПД-355 / 04.06.2018 of the Minister of Environment and Waters.
- The country is committed to provide the necessary financial means to implement the Action Plan measures and to start as soon as possible the implementation of those measures that are not required funding.

3.10 10th OSA recommendation.

The findings of this on-the-spot appraisal should be shared with the Secretariats of the AEWA and Eurobats Agreements, the Convention on Migratory Species and the European Commission, given that all of these bodies have shared interests in the issues it covers.

Implementation approach:

We do not object the sharing of the mission report.

4. CONCLUSIONS.

Our understanding is that the State has a consistent management stance and through its actions there is an overall vision on the sustainable development and effective management of Natura 2000 sites. The toolbox the State is working on is comprehensive and includes measures related to legislation development, strategic planning and evaluation, development of the Natura 2000 network, designation of new areas with status of protected zones and increase of the area of existing ones, updating the management regimes, elaboration of guidelines, methodological guidelines and recommendations monitoring, monitoring and control of administrative acts, etc.

Bulgaria has taken numerous conservation measures for species and habitats not only by strictly enforcing EIA and AA procedures but also by imposing a number of prohibitions and restrictions at zones level as well as at regional and national levels.

The proposed measures demonstrate in a clear and categorical way the position of the country to fulfill its commitments to comply with international and European legislation, and in particular for the conservation of habitats and species in the Kaliakra region.

The state considers the measures taken, proposed and agreed with the EC to implement the CJEU Decision as sufficient. They fully address the problems in the Kaliakra region, requiring both time and significant financial resources for their realization. In this sense, Bulgaria expects the members of the Standing Committee to take into account the measures taken and the commitments already made to the EC by not approving recommendations for actions that will repeat already taken or unjustifiably aggravating the process both financially and in time.

Bulgaria confirms that will continue to make efforts through legislation and its implementation to meet the objectives of both the Berne Convention and the EU nature protection directives and is willing to exchange experience with the EC and adopt best practices from other Member States.