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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

39th meeting
Strasbourg, 3-6 December 2019

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Specific Sites - Files open

Wind farms in Balchik and Kaliakra –Via Pontica (Bulgaria)

- REPORT BY THE GOVERNMENT -

Document prepared by
The Ministry of Environment and Water, Bulgaria

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- November 2019 –

Wind farms planned near Balchik and Kaliakra – Via Pontica (Bulgaria) – Progress since February 2019

8 November 2019

1. Introduction

The Case "Windfarms planned near Balchik and Kaliakra – Via Pontica (Bulgari)" 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 held in 2017, taking into account the judgment of the Court of Justice of the European Union, delivered on 14 January 2016 on case C-141/14 (Kaliakra), the Standing Committee decided to "leave the dossier open" and following the proposal of the NGO – complainant, assigned to the Secretariat to organize an on-the-spot appraisal (OSA) to assess the need to update Recommendation 130 (2007).

At its 38th meeting held in 2018, the Standing Committee examined the above-mentioned "opened dossier" on this case, which resulted in the adoption of Recommendation No 200 (2018) on planned wind farms near Balchik and Kaliakra and other wind farms on the Via Pontica (Bulgaria) route", which is based on the results and the recommendations formulated by the on-site mission held in May 2018, and which complements Recommendation 130 (2007) by providing of guidance on concrete steps which have to be taken in order to improve its implementation.

The meeting of the Bureau to the Bern Convention, which took place on 9-10 September 2019 instruct the Secretariat to request authority to submit a report for the upcoming Standing Committee meeting and to indicate how NGOs are involve into the Recommendation implementation process.

2. Implementation of Recommendation No 200 (2018).

Recommendation to the Bulgarian Government:

1. The comprehensive independent assessment of the impact of operational windfarms in the Kaliakra area which was recommended by the Bern Convention 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;

2. 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:

In order to comply with the Recommendation the Ministry of Environment and Water (MoEW) signed a contract No Д-30-45 from 10.06.2019 with independent expert with professional qualifications and practical experience in analysing available data on bird species and expertise in field studies of bird species, processing, summarizing and validating of their results, and making evaluations as a result of the analyses.
The specific purpose of the contract is to ensure fulfilment of points 1 and 2 of Recommendation 200 (2018) of the Bern Convention.
The main Activities under the contract of this independent assessment on the operational windfarms in the Kaliakra area are as following:

Activity 1: Collecting, processing, collating and analyzing accessible information – available information, as well as information, provided by the Contracting entity:

- Recommendation No 130 (2007) of the Standing Committee of the Bern Convention; Report of "on-the-spot" mission, carried out on 15-16 May 2018; Recommendation No 200 (2018) of the Standing Committee of the Bern Convention; Judgement of the Court of Justice of the European Union (CJEU) of 14 January 2016 on case C-141/14 (Kaliakra); Analysis of the impact of the projects, covered by the Judgement of the CJEU; Data from implemented projects on the construction of wind farms in the region of Kaliakra; Data from studies of birds, which have been conducted in the region of Kaliakra; Published results and data.

- Determining the potential impact of wind turbines on the populations of bird species – theoretically anticipated impacts of constructed and operating wind turbines on the birds in the region of Kaliakra;
- Establishing the available up-to-date information and determining the consequences from the impacts observed on bird species for the landscape, climate and the environmental conditions in the region of Kaliakra;
- On-site visits, studies and information exchange;

2. Activity 2: Proposal for appropriate scientific methods for impact assessment of the exploitation of existing wind farms in the region of Kaliakra.

- Drawing up a proposal for appropriate scientific methods for assessments of impacts such as: displacement, barrier effects, disturbances change/loss of habitats;
- Drawing up a proposal for a "regime" of ongoing monitoring and monitoring on potential impact assessment both of places of exploitation of wind energy farms in the region of Kaliakra and of comparable zones, free of wind turbines;
- Presenting the proposals to stakeholders.

3. Activity 3: Drawing up a final report with the results from the analysis, containing an assessment, conclusion and proposals.

- Basic structure of the assessment:
  - Historical information about the process of determining an Important Bird Area (IBA) and Special Protection Area (SPA) "Kaliakra" – state of the territory and the process of establishing IBA; A list of SPAs in Bulgaria and the place of SAC Kaliakra on the list; assessments of the data and the species in the process of establishing IBA "Kaliakra"; Maps of the habitats of bird species in IBA "Kaliakra"; Process of identifying SPA Kaliakra;
  - Constructed wind turbines in the region of Kaliakra – description of the constructed wind turbines in the municipality of Kavarna, within the territory of SPA "Kaliakra", within the scope of the early warning system; comparison of built capacities to those in other member states /along migratory routes, in proximity to sensitive areas and other/;
  - Characteristics of the migration route "Via Pointica" in Bulgaria – nature, range, species composition, specificities;
  - Methods for studying the impacts of wind energy farms built so far (existing) – ornithological appraisal of data, methods and results from impact studies of operating wind parks on the birds in the region of Kaliakra.

The time table of the implementation:

Description of the activity	Term of execution	Term for approval
Activity 1: Collecting, processing, collating and analyzing accessible information – available information, as well as information, provided by the Contracting entity:	31 July 2019	14 days after submission of the report
Activity 2: Proposal for appropriate scientific methods for impact assessment of the exploitation of existing wind farms in the region of Kaliakra.	31 October 2019	14 days after submission of the report
Activity 3: Drawing up a final report with the results from the analysis, containing an assessment, conclusion and proposals.	30 April 2020	9 days after submission of the report

The first draft of the report was received in MoEW on 31 July. The Ministry has provided to the independent expert comments and additional information requested. The final report is not yet available along with the proposal for appropriate scientific methods for impact assessment of the exploitation of existing wind farms.

On 3 September 2019 in the Municipality building of Kavarna a meeting was held on request of the independent expert contracted with the representatives of MoEW, NGOs and Windfarm operators. The participants have informed the independent expert about their view on the present situation in the area. The expert has visited also the radar operation office which coordinates the Integrated Early Warning System of the windfarms and had opportunity for additional meetings, to visit the area and to get information from the all stakeholders during next days.

3. Conclusions.

Bulgarian authorities are fully committed to implement Recommendation No 200 (2018) and to create common understanding in all stakeholders about the concerted actions undertaken and maintained to prevent bird mortality in the area of Kaliakra. Their effectiveness of the Integrated Early Warning System in please will be subject to periodic assessment.

Bulgaria reconfirms that will continue to make efforts through legislation and its implementation to meet the objectives of both the Bern Convention and the EU nature protection directives and is willing to exchange experience with other interested parties and stakeholders.

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- February 2019 -

REPUBLIC OF BULGARIA

MINISTRY OF ENVIRONMENT AND WATER

WIND FARMS PLANNED NEAR BALCHIK AND KALIAKRA

– VIA PONTICA (BULGARIA) –

PROGRESS SINCE NOVEMBER 2018

28 February 2019

4. Introduction

The Case „Windfarms planned near Balchik and Kaliakra – Via Pontica (Bulgari)“ 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 held in 2017, taking into account the judgment of the Court of Justice of the European Union, delivered on 14 January 2016 on case C-141/14 (Kaliakra), the Standing Committee decided to "leave the dossier open" and following the proposal of the NGO – complainant, assigned to the Secretariat to organize an on-the-spot appraisal (OSA) to assess the need to update Recommendation 130 (2007).

At its 38th meeting held in 2018, the Standing Committee examined the above-mentioned "opened dossier" on this case, which resulted in the adoption of Recommendation No 200 (2018) on planned wind farms near Balchik and Kaliakra and other wind farms on the Via Pontica (Bulgaria) route", which is based on the results and the recommendations formulated by the on-site mission held in May 2018, and which complements Recommendation 130 (2007) by providing of guidance on concrete steps which have to be taken in order to improve its implementation.

5. Implementation of Recommendation No 200 (2018).

Recommendation to the Bulgarian Government:

1. The comprehensive independent assessment of the impact of operational windfarms in the Kaliakra area which was recommended by the Bern Convention 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;

2. 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:

The main objective set by the MoEW is to choose an independent Contractor with professional qualifications and practical experience in analysing available data on bird species and expertise in field studies of bird species, processing, summarizing and validating of their results, and making evaluations as a result of the analyses. At present the Ministry is about to finish the tender procedure and expect to sign the contract with the chosen contractor by middle of March 2019.

The specific purpose is to ensure the fulfilment of points 1 and 2 of Recommendation 200 (2018) of the Bern Convention.

Activities and expected results of the comprehensive independent assessment of the impact of operational windfarms in the Kaliakra area are the following:

- Activity 1: Collecting, processing, summarizing and analyzing of the accessible information - available information and provided by the windfarm operators, regional authorities, NGOs, academic researchers and others;
- Activity 2: Proposal for appropriate scientific methods for assessing the impact of the operation of the existing wind farms in Kaliakra region.
  - Elaboration of a proposal for appropriate scientific methods for assessment of impacts such as: displacement, barrier effects, disturbance and habitat change/habitat loss;
  - Elaboration of a proposal for a "regime' for on-going monitoring and assessment of potential impacts, both at the sites of the operating wind farms in Kaliakra region and in comparable areas without development of wind power;
  - Presentation of the proposals in front of stakeholders.
- Activity 3: Elaboration of a final report with the results of the analysis, assessment, conclusions and proposals.



Indicative schedule for the implementation of the activities:

Description of the activity	Term of execution	Term for approval
Activity 1: Collecting, processing, summarizing and analyzing of available information	31 May 2019	14 days after submission of the report
Activity 2: Proposal for appropriate scientific methods for assessing of the impact of the operation of the wind farms in Kaliakra Region	16 September 2019	14 days after submission of the report
Activity 3: Preparation of final report with the results of the analysis, evaluation, conclusions and the proposals.	28 February 2020	9 days after submission of the report

The qualitative, accurate and timely implementation of the activities will allow timely provision of the necessary information for progress reporting about the implementation of points 1 and 2 of Recommendation No 200 (2018) to the Standing Committee.

In order to make possible the qualitative and timely implementation of the envisaged activities that require specific expertise, it is necessary for the Contractor to have appropriate capacity, to work in close cooperation with the Contracting Authority, as well as with all other stakeholders - wind farm operators, regional authorities, NGOs, academic institutes. Interaction and cooperation between the parties is crucial for the progress and the successful implementation of the planned activities.

The implementation of the activities will assist the MoEW in the implementation of points 1 and 2 of Recommendation 200 (2018) of the Bern Convention and the timely reporting to the Standing Committee.

The area of the abovementioned activities covers SPABG0002051 “Kaliakra”, which partially overlaps with territory of SACBG0000573 “Kaliakra Complex” - within the administrative scope of municipalities Kavarna and Shabla, Dobrich region.

3. 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;

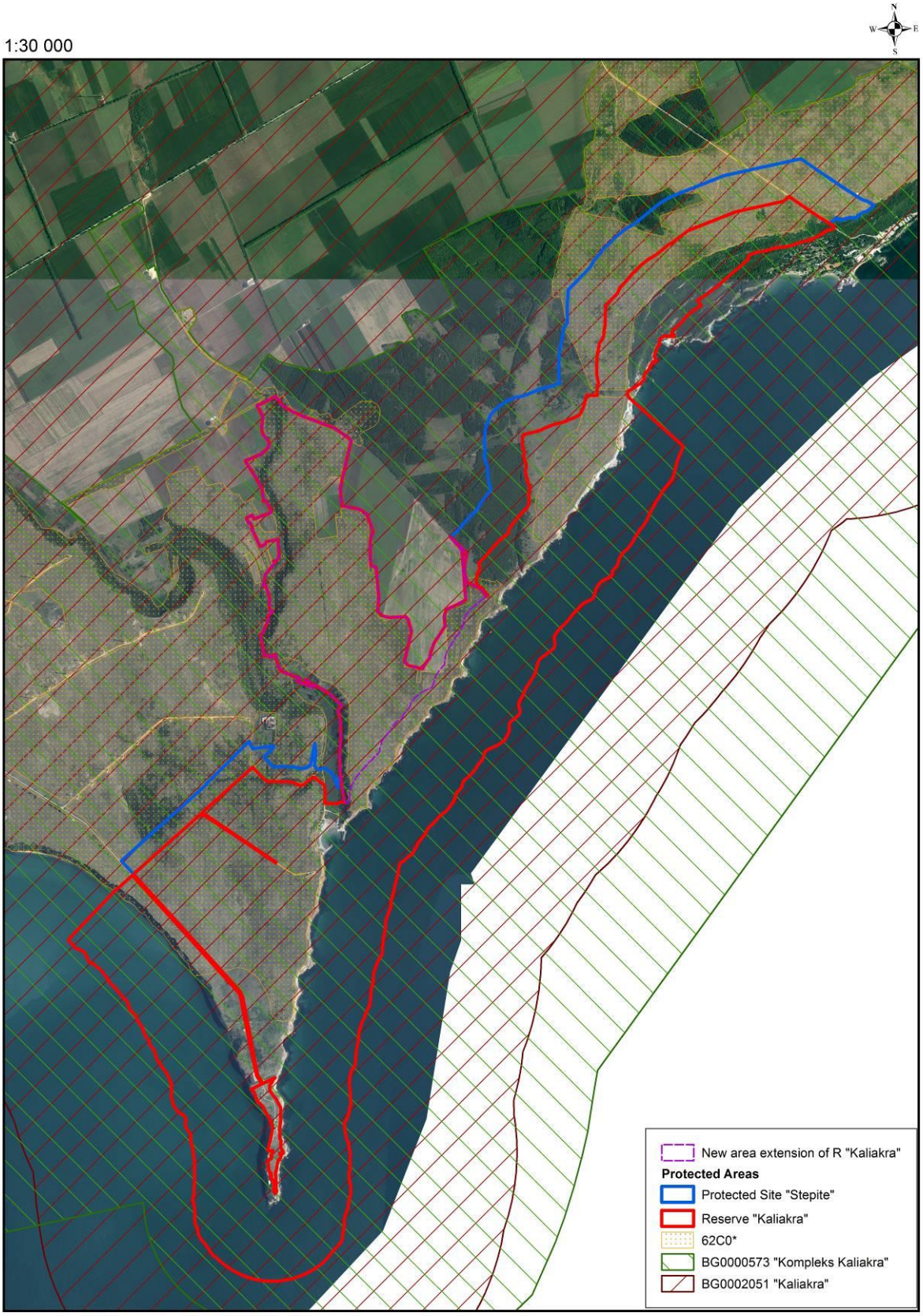
Implementation approach:

Measures taken and implemented:

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 proclamation orders for SPAs “Kaliakra” (BG0002051) and “Belite skali” (BG0002097) were issued, providing prohibitions related both to the realization of construction sites and the way of use of agricultural land;
- Enlargement of SPA “Kaliakra” (BG0002051) in 2014 with additional 5272 ha to the boundaries of defined as Important Bird Area (IBA - Kaliakra);
- New SPA “Bilo” (BG0002115) with a total area of 8620,61 ha was approved in 2014 with an Order issued by the Miniter of the Environment and Water,. The purpose of the zone is to provide safety and food resources for wintering red-breasted geese next to Shablensko and Durankulashko lakes, acording their wintering distribution;
- In 2014 the area of SAC “Complex Kaliakra” (BG0000573) was expanded with 48,5 ha, the area of protected zone for habitats “Kraymorska Dobrudzha” (BG0000130) was increased with 140 ha and completely new SAC “Devnenski halmove” (BG0000635) with total area of 297,12 ha was determined.
- 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 carried out on the territory of SAC “Complex Kaliakra” (BG0000573), which may lead to damage to natural habitat 62C0* "Ponto-Sarmatian steppes". The order aimed to preserve the habitat within the protected area until its final announcement.
- In 2017 orders for amendment in the list of prohibitions in SPAs “Kaliakra” (BG0002051), “Belite skali” (BG0002097) and “Bilo” (BG0002115) were issued, which introdused prohibitions for hunting and planting crops different from the traditional ones for the region.
- In 2017 an order for approval of SAC “Complex Kaliakra” (BG0000573) was issued, which defined the aims for protection and introduced strict prohibitions to achieve them.
- With Ministers Order No RD - 634 of 24.10.2018 the area of Kaliakra Reserve was enlarged with 157.2 ha, adding a territory of priority natural habitat 62CO for self-restoration.



- The orders to declare SACs “Kraymorska Dobrudzha” (BG0000130) and “Devnenski halmove” (BG0000635) are issued in January and February 2019. They defined the aims for protection and introduced strict prohibitions to achieve them.

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 analysed with a view to define the 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 and binding actions to be undertaken. It will ensure that the state obligations arising from the judgment will be fulfilled in their entirety.
- Measures are identified as a result of the "Analysis of potential negative impacts" on bird habitats or the species themselves, and specific mitigation measures for prevention, reduction or possible removal of negative impacts 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 maintanance and management of the habitat are listed in the "Recovery Plan for Priority Natural Habitats 62C0 *" Ponto-Sarmatian steppes", approved by an Order of the Minister, 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. The implementation of the plan is financed through the national and municipal budgets and in March 2019 starts its implementation within the next 3 years. 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.

Communication activities

- The aim of suggested measure is to increase awareness and capacity of the responsible administrations, owners and users of territories with existing natural habitats and species, with a view to achieve better conservation of priority natural habitats and the bird species inhabiting these territories during breeding period, migration and wintering, as well as to ensure 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 all contracts are already signed and the implementation is started.

4. The conservation impact achieved by measures undertaken in response to point (iii) 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 Recommendation, 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 concerning the above recommendations, as these measures have been communicated to the EC.

We expect a response from the EC as a result of the assessment of the proposed measures.

5. 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;

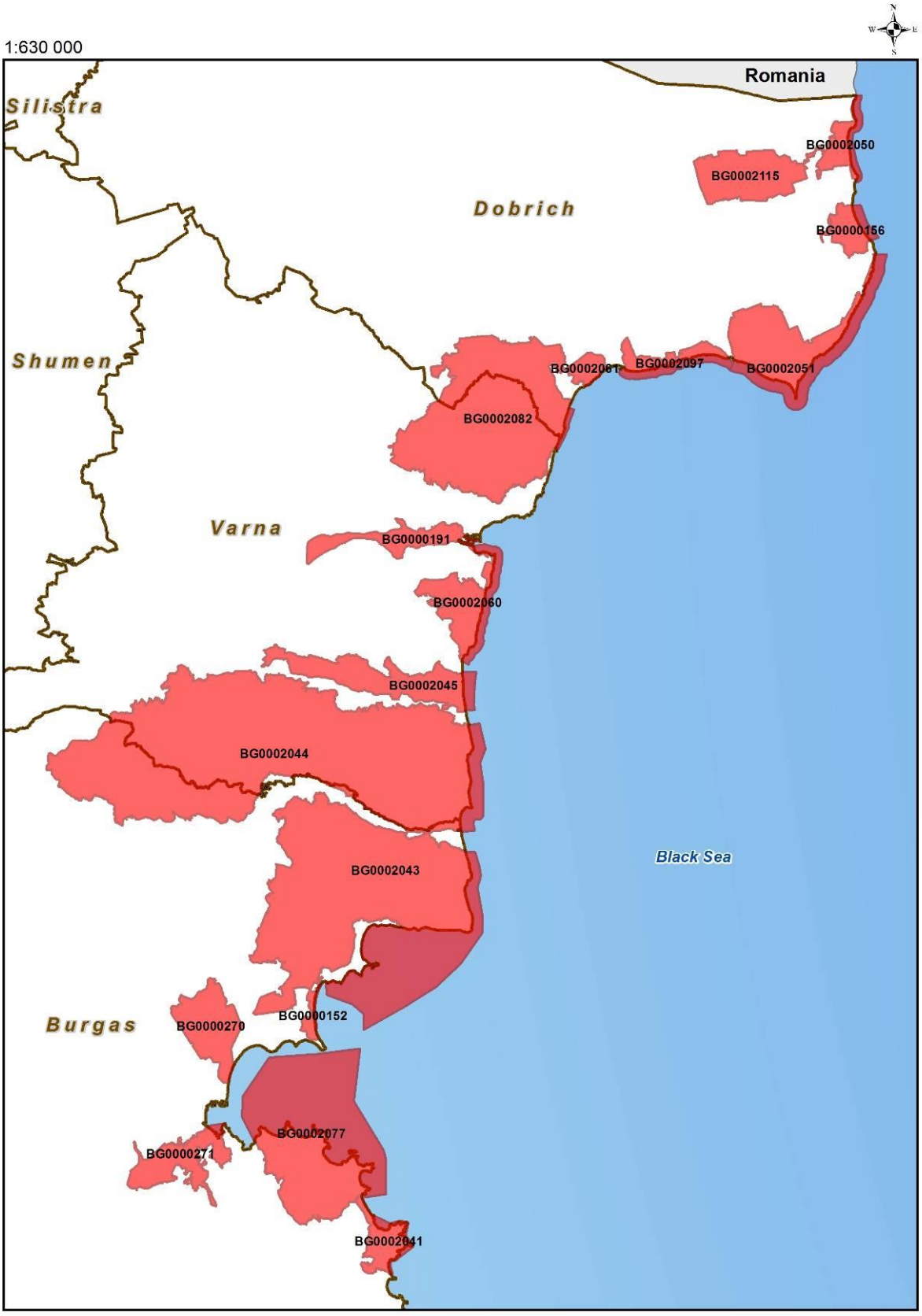
Implementation approach:

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 Environmental Impact Assessment (EIA) and Appropriate assessment (AA). From this perspective it cannot 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 wouldn'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 to be undertaken in that direction.

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

Moreover, the designation orders for SPA „Kaliakra", SPA "Belite skali" and SAC "Complex Kaliakra", incl. many more Natura 2000 sites in the country where the prohibitions for construction of new WG 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.

6. The Bulgarian authorities should provide the Bern Convention Bureau with a short report by March 2019 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 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, bowels of the earth, material and cultural and historical heritage, as well as the interaction between them.

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

- The IP listed in Appendix 1 to 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 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 assessment), when presenting the information about assessment of the need for EIA, when preparing the EIA itself, as well as in the process of 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 EA and the EA report preparation.

For plans, programs and investment proposals, which fall under the scope of the EPA, the AA is combined with the 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 independent procedure in accordance with the provisions of the Biodiversity Act (BDA) and the AA Ordinance, where there is probability of a significant negative impact on Natura 2000 sites. 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 address 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 specify the main negative impacts on the species subject to preservation 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) adopted in 2002, has a number of amendments and additions 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 not to carry out EIA. The result of this measure is the cancelation of approved investment proposals which (in practice) started as early as 2012. Thus the decisions issued for assessing the need for EIA (with an imperative of not to carrying out EIA), by which a number of projects approved in 2007 lost their effect when this measure was introduced in 2012. Amendments in the EPA were also made in 2015, introducing limitation period for Ecological Assessments (EA) of plans and programs as well as for decisions "not to perform EA". In this way, all investment proposals approved under these condition before 2007, which have not been implemented within the five-year period, have been phased out.

The Biological Diversity Act (BDA) adopted in 2002, has a number of amendments and additions 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 of 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 those which have been designated as Natura 2000 sites. It provides for horizontal measures for the protection and wise use of wetlands within Natura 2000 network.

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, Bulgaria 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.

During the period several projects targeted at species and habitats of the EU Birds and Habitats Directives were implemented. The role of NGOs and scientific organisations to provide access to their information has been also increased.

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

Several amendments in the legislation allowed repealing of a number of decisions for wind power generation constructions, or to lose their legal effect. In practice this means that very few projects that have been approved in the past will be implemented.

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

The most important step for reducing the impact of wind farms have been introduced by NAPRES. It is the prohibition on the construction of such facilities in the most important birds areas in 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 Executive Environmental Agency (EEA); guidance for conservation of the wild birds during the wind farms development in Bulgaria; early warning system 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.

As result of 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 evaluation of 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 in order to preserve 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 a ban was introduced, for the period of duration of the plan, on holding new coordination procedures under the EPA and BDA for construction of wind generators within the boundaries of Natura 2000 network as well as in designated areas outside Natura 2000 network, including Dobrudzha and other areas along Black Sea coast.

- ***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 is carried out by bats experts 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 the 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;*

Referring to the guidelines for assessing the likely impact mentioned in respect to item 6 of Recommendation No 200 (2018) here should be 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 comparing to its total area in the NATURA 2000 zone as well as throughout the NATURA 2000 network as a whole, for the time of construction and for the entire operation period. Both direct and passive habitat losses are recorded taking into account also 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 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 EEA, 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.

7. 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 contains not only the existing European guidelines but also the existing EIA and SEA, international guidelines and standards agreed by 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 documents can be found at the following link:

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

The MOEW is assigned the translation of these documents into Bulgarian language and expect all of them to be uploaded to the ministry website by the end of April 2019.

8. 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 of 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.

9. 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;

As was reported to 38th Standing Committee the Action Plan for the Protection of the Red-breasted Goose (*Branta ruficollis*) in Bulgaria for the period 2018 – 2027, was approved by Order № РД-355/04.06.2018 of the Minister of Environment and Water.

In April 2019, a competitive procedure for the selection of project proposals under Operational Program "Environment 2014-2020" will be launched to finance measures of the Action Plan of the species.

10. The findings of the 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,

We do not object the sharing of the mission report.

6. Conclusions.

We reiterate that 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 State is working on legislation development, strategic planning and evaluation, development of new management scheme for Natura 2000 network, designation of new comprehensive areas for the status of protected zones and no some enlargements of the 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 measures toward implementation of Bern Convention recommendations. 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 requirements, 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.

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

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