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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

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Strasbourg, 8-12 December 2025

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8-10 April 2025
Strasbourg

Stand by File: 2018/1
**Presumed threat to Emerald Network site “Polonina Borzhava” from wind
energy development (UA0000263) (Ukraine)**

- REPORT BY THE GOVERNMENT -

Document prepared by
Ministry of Ecology and Natural Resources of Ukraine



**МІНІСТЕРСТВО ЗАХИСТУ
ДОВКІЛЛЯ ТА ПРИРОДНИХ
РЕСУРСІВ УКРАЇНИ**

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Mikaël Poutiers
Secretary of the Bern Convention
Council of Europe, Avenue de l'Europe
F-67075 Strasbourg Cedex, France

Dear Mr. Mikaël Poutiers,

The Ministry of Environmental Protection and Natural Resources of Ukraine (hereinafter referred to as the Ministry) expresses its respectful regards to the Secretariat of the Bern Convention and has the honor to submit reports in response to your letters dated October 11, 2024. These reports address the complaints related to the following cases:

1. Case No. 2018/1 – «Presumed threat to Emerald site 'Polonina Borzhava' (UA0000263) from wind energy development»;
2. Case No. 2018/5 – «Alleged threats to the Emerald Network sites: Skhidnyi Svydovets, Marmaroski and Chyvchyno-Hryniavski Hory, and the Carpathian Biosphere Reserve».

The Ministry reiterates its commitment to the principles of the Bern Convention and takes this opportunity to extend to the Secretariat the assurances of its highest consideration.

Annex: two reports on 7 pages.

Sincerely,

Olha Yukhymchuk
Deputy Minister for European Integration



UB
Міндовкілья
№25/4-11/521-25 від 13.01.2025
КЕП: Юхимчук О. Ю. 13.01.2025 18:19
3FAA9288358EC003040000005F373A004B82DA00
Сертифікат дійсний з 22.10.2024 00:00 до 21.10.2026
23:59

Annex 1:

Case no. 2018/1 «Presumed threat to Emerald site «Polonina Borzhava» (UA0000263) from wind energy development»

a progress report structured according to the 12 points of Recommendation 213(2021) on the presumed threat to Emerald Network site «Polonina Borzhava» from wind energy development (UA0000263)

1. Cancel the plans for the development. It is clear that there will be significant impact on biodiversity interest; thus alternative sites should be sought where the impact would be much less and would not impinge on an Emerald Network site, but would allow a similar contribution to be made to Ukraine's renewable energy targets.

In June 2019, the NGO International Institute of Human and Global Studies Noosphere filed a lawsuit with the court, in which it requested the cancellation of the conclusion on the environmental impact assessment of the planned activity «Construction of a 120 MW wind power plant on the territory of the Volovets village community, Volovets district, and on the territory of the Bereznykivka, Dusyn, Nelipyn and Tybav village communities (outside settlements) of the Svalyava district, Zakarpattia region», issued on 07.03.2019 by the Department of Ecology and Natural Resources of the Transcarpathian Regional State Administration under No. 07/02-02 to Limited Liability Company «Atlas Volovets Energy».

Following the court proceedings in the cassation court in case No. 260/771/19, the environmental impact assessment conclusion was not cancelled. By the decision of the Supreme Court of 10.08.2023, the cassation appeal of the NGO International Institute for Human and Global Studies «Noosphere» was dismissed, and the decision of the Eighth Administrative Court of Appeal of 23.08.2022 in case No. 260/771/19 was upheld.

In turn, we draw attention to the fact that the Transcarpathian District Administrative Court was considering case No. 260/1058/19 under the claim of the NGO International Institute of Human and Global Studies Noosphere against the State Architectural and Construction Inspectorate of Ukraine, with the participation of a third party that does not claim any independent claims regarding the subject matter of the dispute - Atlas Volovets Energy Limited Liability Company - to declare unlawful actions and cancel the construction permit dated 18. 09.2019 IY112192611915, issued by the State Architectural and Construction Inspectorate of Ukraine for the construction project 'New construction of a 120 MW wind power plant outside the settlement on the territory of the Volovets village council of Volovets district and outside the villages of Bereznyky, Dusyno, Nelipyno and Tybava of Svalyava district, Zakarpattia region (Phase I)', the customer - Atlas Volovets Energy Limited Liability Company.

The decision of the Transcarpathian Regional Administrative Court of 23 January 2020 in case No. 260/1058/19 dismissed the claims.

By the decision of the Eighth Administrative Court of Appeal of 02.09.2020 in case No. 260/1058/19, the decision of the court of first instance of 23.01.2020 was cancelled and a new decision was made, by which the administrative claim of the NGO International Institute of Human and Global Studies «Noosphere» was partially satisfied, in particular, the construction permit of 18. 09.09.2019 IY112192611915, issued by the State Architectural and Construction Inspectorate of Ukraine for the object «New construction of a 120 MW wind power plant outside the settlement on the territory of the Volovets village council of Volovets district and outside the villages of Bereznyky, Dusyno, Nelipyno and Tybava of Svalyava district, Zakarpattia region (I stage of construction)».

By the decision of the Supreme Court of 24.04.2024, the cassation appeal of Atlas Volovets Energy Limited Liability Company was partially satisfied. The decision of the Eighth Administrative Court of Appeal dated 02.09.2020 in case No. 260/1058/19 was amended in terms of the reasons for satisfying the claims, otherwise left unchanged.

In point 14 of the notification of the planned activity, the business entity stated that the decision to carry out the planned activity is a permit for construction works.

In view of the above, it appears that the final decision on the «Construction of 120 MW wind farm on the territory of Volovets village, Volovets district, and on the territory of Bereznykivka,

Dusyn, Nelipyn and Tybava village (outside settlements), Svalyava district, Zakarpattia region» has now been revoked.

In view of the above, the State Inspectorate of Architecture and Urban Development of Ukraine complied with the court decision of 24.04.2024 in case No. 260/1058/19 by entering the relevant information into the Register of Construction Activities regarding the cancellation of the permit for construction works dated 07.01. 2025 under registration number IY112192611915 for the construction project «New construction of a 120 MW wind power plant outside the settlement on the territory of Volovets Village Council, Volovets District and outside the villages of Berezhnyky, Dusyno, Nelipyno and Tybava, Svalyava District, Zakarpattia Region (Phase I)», the construction customer is Atlas Volovets Energy Limited Liability Company (EDRPOU 41074414), i.e. the said construction permit has been cancelled.

The second paragraph of part two of Article 35 of the Law of Ukraine «On Regulation of Urban Development» stipulates that it is prohibited to carry out preparatory works without submitting a notice of commencement of preparatory works, a notice of commencement of construction works or obtaining a permit for construction works.

Please also be informed that by the decision of the Supreme Court of Ukraine dated 12.11.2024, the consideration of the cassation appeal of Atlas Volovets Energy Limited Liability Company against the decision of the Western Economic Court of Appeal dated 10.07.2024 in case No. 907/801/20 until 03.12.2024 to declare unlawful actions, invalidate and cancel orders to change the designated purpose of land and lease land plots, invalidate lease agreements with a total area of 42.2247 hectares.

2. If the development is to proceed, repeat the environmental impact assessment using current methodology that is agreed between the developer, the regulator and the complainants; in doing so this will mean that the results are less likely to be challenged and can potentially form a better basis for decision-making in relation to 'go and no-go areas' for the development.

As stated in the response to the previous point, it appears that the final decision regarding the «Construction of a 120 MW wind power plant on the territory of Volovets village council of Volovets district and on the territory of Berezhnykivka, Dusyn, Nelipyn and Tybava village councils (outside settlements) of Svalyava district of Zakarpattia region» has now been cancelled.

Permit for construction works dated 07.01. 2025 under the registration number IY112192611915 for the construction object «New construction of a 120 MW wind power plant outside the settlement on the territory of Volovets village council, Volovets district and outside the villages of Berezhnyky, Dusyno, Nelipyno and Tybava, Svalyava district, Zakarpattia region (Phase I)», the construction customer - Atlas Volovets Energy Limited Liability Company (EDRPOU 41074414) was cancelled.

3. Produce country-wide «opportunity maps» with «go and no-go areas» that show where wind farms could be placed without significant impact on environmental, social or cultural aspects.

Ukraine's energy system and natural ecosystems have suffered enormous losses as a result of Russia's full-scale armed aggression against Ukraine. «Opportunity maps» with «permitted and prohibited zones» showing where wind farms can be located without significant impact on environmental, social and cultural aspects can only be developed after the end of hostilities and an inventory of all the damage caused by Russia.

4. Implement a programme of awareness raising of the legislation and how it should be implemented for key officials including private developers, through the provision of simple written advice and guidance and targeted training.

The Ministry of Environmental Protection and Natural Resources of Ukraine ensures continuous maintenance of the Environmental Impact Assessment Register, which contains detailed information on the legislation and how it should be implemented (<https://eia.menr.gov.ua/>).

In addition, leading higher education institutions have developed and taught the subject of Environmental Impact Assessment, and organized trainings for representatives of state and local authorities and self-government, business and the public.

5. Develop common standards in relation to the collection of biodiversity data and information for the EIA process.

In order to establish and ensure the functioning of the state environmental monitoring system, to improve the legal regulation of information on the state of the environment (environmental information) and mechanisms for ensuring access to it, and to establish the legal basis for information support of environmental management, the Law of Ukraine 2973-IX of 20.03.2023 «On Amendments to Certain Legislative Acts of Ukraine on the State Environmental Monitoring System, Information on the State of the Environment (Environmental Information) and Information on the State of the Environment (Environmental Information)» was adopted (hereinafter - the Law).

According to the Law, monitoring of biological and landscape diversity is a component of the state environmental monitoring system and is carried out in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

In order to implement the provisions of the Law, the Cabinet of Ministers of Ukraine has developed a draft Resolution «On Approval of the Procedure for Monitoring Biological and Landscape Diversity» (hereinafter - the draft Resolution), which defines the basic requirements for organizing of monitoring of biological and landscape diversity, exchange of information by monitoring entities in the process of its implementation and providing public authorities and local governments with information for making decisions on the state of conservation of biological and landscape diversity. The draft resolution is currently under consideration by the Government.

In addition, in order to systematize all the information on the geographical distribution of animal species (groups of species), their number and condition, characteristics of their habitat and current economic use, as well as other data necessary to ensure the protection and rational use of wildlife, the Cabinet of Ministers of Ukraine adopted by Resolution No. 772 of November 15, 1994 the Regulation on the Procedure for Keeping the State Wildlife Cadastre.

To form a unified system of information and documents on the presence of flora, their quantitative and qualitative characteristics and economic assessment within the land plots owned or used (including leased), division of natural plant communities into categories, other data on natural plant resources necessary to ensure their sustainable use, reproduction and effective protection, the Cabinet of Ministers of Ukraine approved the Procedure for Maintaining State Accounting and Cadastre of Flora by Resolution 195 of 22.02.2006.

In addition, the Ministry of the Environment is actively developing and implementing methodological guidelines for environmental impact assessment in various industries, including approaches for collecting data and information on biodiversity. To date, the following guidelines have been approved:

Methodological Recommendations on Post-Project Monitoring - Order of the Ministry of Environmental Protection and Natural Resources of Ukraine of 15.03.2024 No. 291;

General Methodological Recommendations on the Content and Procedure for Preparing an Environmental Impact Assessment Report - Order of the Ministry of Environmental Protection and Natural Resources of Ukraine of 15.03.2021 No. 193;

Guidelines for the preparation of an environmental impact assessment report in the field of forestry - Order of the Ministry of Environmental Protection and Natural Resources of Ukraine of 02.03.2020 No. 136.

6-9. Concerning the creation of a nature reserve

The Ministry of Environmental Protection and Natural Resources of Ukraine has considered and approved the request of the NGO «Ukrainian Nature Conservation Group», sent by letter dated 12.09.22 No. 591/2022, to declare a landscape reserve of national significance « Slopes Borzhava» with a total area of 2,242 hectares.

The Ministry also approved the request of the NGO «Ukrainian Society for the Protection of Birds», sent by letter No. 163/12-21 dated 06.12.2021, to change the boundaries (expansion) of the territory of the National Nature Park «Enchanted Land» by increasing its territory by 28237.2 hectares at the expense of lands that are in permanent use of the state enterprises Volovets Forestry, Dovzhanske Forestry, Mizhhirske Forestry, Svalyava Forestry, and lands outside the settlements of Svalyava city, Volovets village, Keretsky, Nelipynsky, Pylypets village councils.

According to national legislation, these applications must be approved by land managers and other stakeholders. To date, the Ministry of Environmental Protection and Natural Resources has not received such approvals.

10-11. Concerning overall progress in the implementation of the Emerald Network

As a part of the «Conservation of Natural Heritage for Life in Ukraine» project, acronym ConNaturLIFE Ukraine (101148569 – LIFE23-PRE-CZ-ConNaturLIFE Ukraine) during 2024-2026 the following measures are planned to be implemented:

developing the Plan of legislative changes covering the Emerald network that will contain an appropriate period of actions determining the sequence of legislative action and define competent authorities. The plan will cover the stages of long-term legislative processes needed for complete harmonisation of the Ukrainian legislation with the provisions of the Nature Directives.

facilitating discussions of planned/proposed changes contained in the analytical materials and the plan of legislative changes with relevant stakeholders and the public in the course of preparation of the legal changes covering the Emerald network.

preparing proposal of concrete legislative changes in the form of drafts of amended/new legislation with packages of documents including Regulatory impact assessment, explanatory notes etc required in accordance with Ukrainian legislation covering the Emerald network. In line with the analytical part, the draft Law «On the territories of the Emerald Network» shall be finalized, respective by-laws for its implementation proposed and selected by-laws shall be drafted.

proposed legislative amendments covering the Emerald network will be discussed with key stakeholder groups and results of the discussion will be taken into account when finalising them.

12. Assess the quantification of the contribution of the Emerald Network to carbon sequestration and storage.

Given the devastating consequences of full-scale russian armed aggression against Ukraine, it will be possible to quantify the Emerald Network's contribution to carbon sequestration and storage only after the cessation of hostilities and an inventory of the damage caused to the biodiversity of these areas.