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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee
45th meeting
Strasbourg, 8-12 December 2025

Bureau of the Standing Committee
8-10 April 2025
Strasbourg

Possible file: 2022/06

**Possible negative impact of mining activities in Bosilegrad
and in the Homolje Mt region (Serbia)**

- COMPLAINANT REPORT -

Document prepared by King's College Legal Clinic, Harj Narulla of Doughty Street Chambers, Earth Thrive, Eko Krajiste and Balkanka organisations

Dear members of the Bureau,

18th February 2025

Bern Convention - Complaint No. 2022/06 - Possible negative impact of mining activities in Bosilegrad and in the Homolje Mt region

Fourth report

Thank you for the opportunity to contribute with our Report on the latest status of the mining activities in Bosilegrad and in the Homolje Mt region in Serbia

Please find below our 2 joint reports for the Spring 2025 meeting of the Bureau:

Bosilegrad case: King's College Legal Clinic, Harj Narulla of Doughty Street Chambers, Earth Thrive, Eko Krajiste and Balkanka organisations

(1) Summary

The Complainants welcome the opportunity to provide an updated report on the Complaint for the attention of the Bureau following the opportunity to present at the 44th Standing Committee Meeting on 2-6 December 2024. We consider that elevation of the matter to an open file would match the severity of the breaches of the Convention and assist in encouraging more proactive engagement by the Serbian Government. We attach at Annex I a proposal for themes to be covered in an event to be held for the benefit of the parties.

(2) Status of the mine

The Complainants seek confirmation from the Serbian government that mining activities will not be resumed. While local environmental defenders report that the mine does not currently appear operational, it is unknown whether this is temporary or permanent. Toxic tailings and waste deposits remain at the mine as no remediation process has been carried out, in violation of local environmental law. This leads to continued water pollution from the tailings in breach of Article 4(1) of the Convention.

The Complainants consider that there is a clear need to initiate an inspection procedure to establish the conditions on site and to take steps to minimise the environmental impact of waste and tailings in accordance with Article 3(2) of the Convention. The absence of clear Government monitoring and reporting makes international accountability difficult. The Complainants recall our earlier communications regarding the limitations of the Environmental Impact Assessment ("EIA") and note that more than six months have passed since public objections to the EIA were made by various stakeholders. The Ministry of Environmental Protection is yet to make a decision on the EIA, and we would encourage the Ministry to reject the EIA as it will lead to further breaches of the Convention and local environmental laws.

(3) Scientific analysis of new expert report

(a) Professor Michael Chadwick's report

As the Complainants noted at the 44th Standing Committee Meeting, we commissioned an updated expert report on conditions near the mine. Professor Michael Chadwick visited the affected rivers and waterways on 11 November 2024 to obtain additional water samples and conduct sedimentary assessments to analyse their heavy metal content and determine the extent of pollution at affected areas. He provided a report on 26 November 2024 which detailed his methodology and findings.

- i. Professor Chadwick reported low levels of water metal concentrations (Al, Ba, Fe, Mn and Pb) upstream of the Bosil Metal mine to the levels downstream of the mine (at 4.6).
- ii. Professor Chadwick reported lower sediment metal concentrations of As, Cd, K, Mo, Pb, Rb, Sb, Sc, TH, U and Zn at the upstream site compared to the concentrations at the downstream site (at 4.13).
- iii. The upstream measurements were generally similar to concentrations at the nearby Below Ford site, which is also upstream of the Bosil Metal mine (at 4.5 and 4.12)
- iv. At the downstream site, fine sediments were observed at the bottom of the stream, which were absent at the upstream site (at 4.15 - 4.16). Professor Chadwick reported this to be “unusual” (at 5.1).
- v. These results strongly indicate a pollution source between the upstream and downstream sites (at 6.1). For the avoidance of doubt, we note the Bosil Metal mine is in between the upstream and downstream measurement sites.
- vi. Professor Chadwick reported that downstream Pb levels greatly exceed all reported guidelines; Cd levels were higher than Standard Organisation of Serbia and World Health Organisation guidelines for all sites; and Zn levels were greater than European Commission levels at all sites (at 5.3).
- vii. These findings were compared to a Serbian pollution classification scheme (Dević, et al. 2016 for Cu, Zn, and Pb). At all sites, the values were greater than those reported for “low pollution zones”, and the downstream levels for Pb were much higher than values reported for the “high pollution zones” (by Dević, et al. At 5.4).
- viii. Professor Chadwick concluded that the increased fine sediments at the downstream level and the elevated Pb levels are of concern and have the “significant potential to negatively impact the aquatic biodiversity of the stream” (at 6.2). He commented it is “clear that the processes/sources responsible for the transport of fine sediment located between the upstream and downstream sites should be identified and curtailed” (at 6.5).

In summary, the Complainants have shown that significant ongoing pollution is present at the site, in breach of the Convention and contrary to the February 2024 EIA assessment and statements of the Serbian Government. We invite the Standing Committee to open the file as a proportionate response to these ongoing breaches of the Convention.

Annex I – Proposed Event Themes and Venue

Following the 44th Meeting of the Standing Committee of the Bern Convention, the Secretariat reiterated its recommendation that the parties engage in an event focused on working towards respect for the Bern Convention. The Complainants repeat their offer to support the organisation of an event in Serbia with collaboration from King's College London and the University of Oxford by hosting an event where suitably qualified legal, environmental and scientific experts could present and arrange a workshop on a number of issues central to the case.

The Complainants note the lack of progress on bringing an event forward to date and invite the Standing Committee to set a timetable for an event to be held by the end of 2025.

It is suggested that the proposed event could cover the following topics:

- I. Rights of Nature: The Complaint alleges breaches of the Rights of Nature, and as such the parties may benefit from suitably qualified experts providing further information on the topic. The Government has received four Rights of Nature focused complaints and would stand to benefit from a greater understanding of its operation in the context of the Convention.
- II. Criteria for Issuing Exploration Licenses: Serbia has no fewer than 150 exploration licenses for mining, 96 for minerals and 54 for other purposes. Many of these licences directly infringe upon protected natural areas. It is suggested that the event discuss the need for more rigorous EIA processes governing the granting of such licences, and adequate planning and infrastructure regulations that enforce compliance with EU environmental obligations.
- III. Consistent Monitoring and Remediation Measures: The event could also aim to discuss how the Serbian Government can implement measures that allow for the monitoring and reporting of environmental damage as well as processes for remediation. The Serbian Government has been unable to prove compliance with its environmental obligations, suggesting an absence of such measures.
- IV. Environmental Defenders and Public Participation: Given the ongoing threats to environmental defenders, journalists and activists, the event may benefit from a focus on the importance of public participation in environmental decision making, anti-SLAPP laws, and best practice for protection of environmental defenders.

We welcome dialogue and engagement from the Standing Committee and the Serbian Government on potential topics to be covered in the event.

Homolje Mt Region case: Earth Thrive, Cuvri Homolja, Mlavaska Vojska & Earth Law Center organisations

18th February 2025

Breaches of the Bern Convention**Article 3.2 breach**

In Serbia currently there are 150 mining exploration licences covering the length and breadth of the country. Given the high biodiversity of Nature throughout Serbia, it is highly likely that those licences

and possible mines are heavily impinging on the protected species and habitats. Especially as the impacts of the mining activities, under which exploratory drilling very much falls, do not stop at the boundaries of those activities but are felt very far afield. Furthermore, at the 43rd Meeting, noting the Complainant's concern with the expansion of the mining in Serbia, the Bureau asked the authorities to provide a brief and clear explanation of which measures were in place under the Serbian legislative framework for Nature protection with reference to EIAs and if a nationwide strategy on the usage of mineral resources existed. In their reply, the government never addressed the first question, and with regard to the national mining strategy - the response was - 'We do not have one'

We would like to argue that such practice and the apparent laissez-faire attitude by the relevant governmental bodies go against Article 3.2 which states: *Each Contracting Party undertakes, in its planning and development policies and in its measures against pollution, to have regard to the conservation of wild flora and fauna.*'' as it is clear that the Serbian government not only does not have a mining strategy and policy as the basis upon which the licences are issued and which would include and ensure the measures or protection of the wild flora and fauna and against pollution, but is obviously not paying regard to the conservation requirements of the areas protected under the Bern and many other conventions and laws that the Serbian government has committed to, illustrated by such high number of exploration licences and without the apparent, or any legal or environmental criteria for the issuing of the same.

On the same basis we would like to argue potential breaches of Article 4.2 as well.

Further potential breaches of the Articles 3.2 and 4.2 in the points below.

Update and developments of the DPM exploration operations:

In their Pre Feasibility Study - PFS of December 18, 2024, Dundee Precious Metals had addressed, albeit superficially, some environmental issues regarding the Coka Rakita project. DPM's chosen mining method for this project is 'sublevel long-hole open stoping', whereby 'most stopes will be filled with paste, but cemented rock fill and uncemented rock fill will be used where the sequence permits.'¹ DPM has also resumed drilling on their Potaj Cuka licence.

The threat of pollution to surface water and groundwater due to karstic character of the stone hosting the ore deposit

The PFS states that the 'host rock of the deposit is a calcareous clastic sedimentary rock, with mineralisation occurring in skarn-altered calcareous sandstone'.² This represents a serious threat to Mlava River, a strictly protected category I natural monument and proposed Emerald site river, and to Tisnica River canyon, which is part of the Mlava River watershed, as well as part of the National Park Kučaj – Beljanica, a future Emerald site. Elaboration on this point is in Annex II point 1

In 2024, DPM commissioned baseline surveys of the project area which confirms the relevance of the

¹ [NI 43-101 Technical Report, Čoka Rakita Project, Pre-Feasibility Study, Eastern Serbia, Effective Date: December 18, 2024, Report Date: January 30, 2025, p. 13](#)

² [NI 43-101 Technical Report, Čoka Rakita Project, Pre-Feasibility Study, Eastern Serbia, Effective Date: December 18, 2024, Report Date: January 30, 2025, p. 13](#)

area for biodiversity (**the list of species could be found here**). The surveys established that the presence of IUCN Red List Vulnerable species and species listed in Annex II and Annex IV of the Habitat Directive meet the current criteria for EBRD priority biodiversity features and critical habitat.³ These habitats are already seriously threatened due to the exploration activities as the Serbian government has not put any effective mechanisms and resources in place to ensure the species are protected. Apart from the Conditions for the protection of Nature during exploration activities (the latest we are aware of is document number 03 021-171/5 from 9 February 2023) issued by the Institute for Nature Conservation of Serbia, the government has not applied any other mechanisms to protect the natural habitats of the area.

Continual governmental lack of monitoring and control

Even when the government is forced to intervene due to local activists' reporting the infringement of the aforementioned Conditions to the police, the legal procedures are slow and there is no meaningful communication with the parties of interest as to their progress. For instance, the legal procedures regarding the discharge of the drilling slurry in the environment that took place in August 2024 (please see our 3rd report for details), have not progressed. The last communication from the Ministry for Protection of the Environment took place on 25/11/2024 stated that the procedure halted because DPM has not yet submitted the soil and sample results of the areas affected by the spillage.

In the meantime, DPM continues to infringe the Conditions for the protection of Nature during exploration activities as documented by recent visits to the exploration sites. There is evidence of drilling slurry discharge in the environment, but also other infringements like changing the morphology of the water bodies banks or leaving general waste such as hundreds of meters of plastic pipes behind.

Furthermore, according to the Serbian Law on mining and geological exploration, a geological inspector is required to regularly conduct an oversight and inspect whether the geological/mining explorations are conducted in line with the law. Meaning, that if Dundee / Avala / Crni Vrh had been exploring in Homolje since 2006, there would have had to have been a series of inspection oversight and visits to the sites till now.

If the inspections were carried out correctly, and given that the illegal disturbances of protected Nature have already been recorded by the activists, the inspection reports could potentially show disturbances of the wild fauna species under the special protection specified in Appendix II- potentially resulting in breaches of **Articles 6.b and 6.c** - possibly in relation to the migratory birds, in particular white goose whose presence in the region was especially noted in our previous Report - which could also potentially be in breach of **Article 4.3**, but also other protected species - also mentioned in our previous Report, as evidenced by the local activists.

As that information is not readily available, we have asked the Ministry of Mining to furnish us with the information on how many and on what dates did the inspector conduct the oversight, and to send us the records of those inspections so we can have an insight of the results and conclusions of those inspections. As the Ministry of Mining failed to respond within the legal timeframe of 15 days, which they were required to do, we have now written to the Ombudsman to instruct the Ministry to respond to our request. The Ombudsman has 60 days to reply to us.

³ [NI 43-101 Technical Report, Čoka Rakita Project, Pre-Feasibility Study, Eastern Serbia, Effective Date: December 18, 2024, Report Date: January 30, 2025, p. 31](#)

ANNEX II

1. The water bodies of the area consist of a complex and interconnected karst underground aquifers and karst groundwater features which are still not fully investigated and understood. The pollution of karst water bodies as a result of mining activities is inevitable, as shown by a study of karst springs near Majdanpek mine (owned by the Chinese ZiJin), which is situated about 20 km north in a straight line distance from the Coka Rakita project. The study ‘confirmed very poor and even hazardous water quality’ of surveyed springs and it ‘registered concentrations of some ions, such as Fe²⁺, Mn²⁺, Ca²⁺, SO₄²⁻, high above maximal permitted level for potable water in Serbia.’

High turbidity rate also confirmed impact of colloidal suspensions from the tailing.⁴ As a karst spring, the Mlava spring is already under serious threat from global warming: a recent study estimates that by the end of the century, the spring will be dry for most of the year.⁵ The Serbian government should put measures in place to protect the watershed of the River Mlava, which is one of the major rivers in the area and a tributary of the river Danube, rather than allowing mining projects which further threaten its survival.

Broader environmental risks: habitats and species

The mine will have a negative impact on the broader water system of the area and its biodiversity affecting the watershed of the River Pek, another tributary of the river Danube. The PFS states that the constructed sitewide water balance indicates that the site will have ‘positive water balance even during dry years’, and that this is ‘primarily due to the expected large volume of water influx to the underground workings’.⁶ However, it also recognises likely negative impacts on local water system as ‘rivers may potentially be impacted by dewatering, diversions and discharges, and permanent infrastructure will overlie several hundred metres of river channel within the headwaters of the Ogašu Lu Gjori and Dumitrov Streams and adjacent tributary valley, within the Lipa River catchment.’ As well as this, ‘the key risks are around surface water and groundwater during operation and especially in the closure phase, the impact from loss of several hundred metres of riverine habitat and consequently on biodiversity, dewatering and diversions during operations affecting springs, wells and streams, including in adjacent catchments to the south [...]’⁷

The negative effects due to dewatering, noise and air pollution are inevitable within the National Park Kučaj – Beljanica (future Emerald site) given its proximity to the project: 3 km southwest of the mineral resource (at surface) and 5 km from the nearest project infrastructure.

2. Evidence of governmental failure to comply with international environmental laws which is also having an impact in the Homolje region:

⁴ [Zoran Stevanović, Veljko Marinović, Branislav Petrović, Hazardous substances in karst aquifer waters - one of the results of the operational monitoring of groundwater in Serbia GEOLOŠKI ANALI BALKANSKOGA POLUOSTRVA Volume 81 \(2\), December 2020, 49–61, p.49](#)

⁵ [V. Vakanjac, S. Milanović et al. UTICAJ KLIMATSKIH PROMENA NA VODNE RESURSE: PRIMER SLIV REKE MLAVE, ZBORNIK RADOVA III Kongres geologa Bosne i Hercegovine, September 2023.](#)

⁶ [NI 43-101 Technical Report, Čoka Rakita Project, Pre-Feasibility Study, Eastern Serbia, Effective Date: December 18, 2024, Report Date: January 30, 2025, p. 22](#)

⁷ [NI 43-101 Technical Report, Čoka Rakita Project, Pre-Feasibility Study, Eastern Serbia, Effective Date: December 18, 2024, Report Date: January 30, 2025, p. 30](#)

“The lack of harmonization of domestic regulations with the European Union legislation is evident in the example of the protection of species in accordance with the Birds Directive. Additional efforts are necessary to permanently protect a large number of bird species that are now considered wild game, and whose populations in Serbia are threatened.”⁸

“The lack of harmonization of domestic regulations with EU legislation can be illustrated by the protection of species in accordance with the Birds Directive. Additional efforts must be made to permanently protect a large number of bird species that are now considered hunting game⁹, and whose populations in Serbia are threatened. Among them are the white-breasted goose (lat. *Anser fabalis*^{10 11}), whose global population has experienced a decline of almost 80%, and is designated as a critically endangered species (CR) on the national Red List. Permanent protection is also needed for the red-headed duck (lat. *Aythya ferina*) and the mallard (lat. *Anas querquedula*), whose numbers are declining globally and regionally. In Serbia they both have the status of an endangered species (EN)”¹² ‘

3. Recommendation of the Carpathian Convention

At the 7th Meeting of the Conference of the Parties to the Carpathian Convention, which was held in Belgrade in October 2023, the Ministerial Declaration¹³ was adopted, as well as a series of decisions that would facilitate the implementation of this framework convention. The Republic of Serbia will preside over the Convention for the next three years.¹⁴

Forest ecosystems represent a valuable resource in the Carpathians, which preserves a wealth of ecological, economic and cultural values. At the meeting, the Risk Assessment of Climate Change and Opportunities for Adaptation of Carpathian Forest Ecosystems and Their Services was presented. Another event that marked COP7 was the establishment of the Inventory of Carpathian virgin forests, which the ministers described in their official declaration as "a key step towards strengthening the protection of some of the remaining primeval forests in Europe", further calling for the "expansion of the Inventory so that, in addition to virgin forests, it includes other forests of similar status".¹⁵

It is also vital to note that the members of the Carpathian Convention, which includes Serbia, adopted the Carpathian Biodiversity Framework (CBF) in October 2023. The Carpathian region is the first convention to adopt a regional biodiversity framework. It is vital to the local-level implementation of

⁸ Coalition 27. “Shadow Report on Chapter 27.” April 2023.- April 2024.
<https://www.koalicija27.org/wp-content/uploads/2024/12/K27-izvestaj-2024-EN.pdf> Page 133.
27.01.2025. 10:30

⁹ <https://pticesrbije.rs/wp-content/uploads/Detlic-12-umanjena-verzija.pdf> page 8. 27.01.2025.

¹⁰ http://demo.paragraf.rs/demo/combined/Old/t/t2015_06/t06_0283.htm DURATION OF THE HUNTING SEASON ON THE HUNTING SEASON OF PROTECTED GAME SPECIES

¹¹ Mentioned in the following international legal instruments and agreements: EU Birds Directive, Bern Convention (III), Bonn Convention (II), AEW

¹² Coalition 27. “Shadow Report on Chapter 27.” April 2022.- April 2023.
<https://www.koalicija27.org/wp-content/uploads/2023/10/K27-izvestaj-2023-EN-web.pdf> page 87.
27.01.2025.

¹³ https://view.officeapps.live.com/op/view.aspx?src=http%3A%2F%2Fwww.carpathianconvention.org%2Fcop7%2Fdocs%2Fofficialdocuments%2FCC%2520COP7%2520DOC7_Carpathian%2520Biodiversity%2520Framework_FINAL.docx&wdOrigin=BROWSELINK

¹⁴ Coalition 27. “Shadow Report on Chapter 27.” April 2023.- April 2024.
<https://www.koalicija27.org/wp-content/uploads/2024/12/K27-izvestaj-2024-EN.pdf> page 138

¹⁵ <https://serbia.un.org/sr/249186-karpatska-konvencija-obele%C5%BEava-20-godi%C5%A1njicu-novim-okvirom-za-biodiverzitet-i-progla%C5%A1njenjem>

the Kunming Montreal Global Biodiversity Framework and will serve as a model for other regional mechanisms.

Given that the proposed gold mine and the already occurring mining activities - exploratory drillings, currently standing at above 1,500, with all the associated operations and resulting disturbances to Nature, are situated within the Carpathian bioregion and therefore covered by the Carpathian Convention, and given the fact that the proposed mine would lead to the widespread cutting of trees and vast forest and other regional ecosystems disturbances, it is clear that the allowing continuation and/or expansion of the mining activities flies in the face of the provisions in the Carpathian Convention, the recommended expansion of the Inventory in the said region and does not allow for the real implementation of the KM GBF