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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
16-18 September 2025
Strasbourg

New File: 2024/2
Deforestation in an Emerald Network site (UA0000338) in
Kyiv Region
(Ukraine)

- REPORT BY THE COMPLAINANT -

Document prepared by Markhalivka. Support

Update Report, dated 15 September 2025

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Mikaël POUTIERS
Secretary of the Bern Convention
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Kyiv, 12 September 2025

**Subject: Progress report: Complaint No. 2024/02: Ukraine: Deforestation
in an Emerald Network site (UA0000338) in Kyiv Region**

Dear Mr. Mikaël POUTIERS,

The environmental PUBLIC ORGANIZATION "MARKHALIVKA. SUPPORT" continues to monitor the consideration of the subject Complaint, submitted by a member of our organization, a citizen of Ukraine, Ms.Viktoria Chechenkova (Complaint No. 2024/02: Ukraine: Deforestation in an Emerald Network (UA0000338) in Kyiv region).

Previously, within the specified Complaint No. 2024/02, Ms.Chechenkova Victoria, as well as PO "MARKHALIVKA. SUPPORT", had repeatedly addressed the Secretariat of the Bern Convention with relevant explanations, other additional statements and messages regarding the destruction of species and habitats on the territory of the Ukrainian part of the Emerald Network of Europe (number UA0000338 Pryirpinnya and Chernechy Forest) in connection with the construction of the National Military Memorial Cemetery.

In continuation of the practice as mentioned above, and to provide the Secretariat with updated information and additional circumstances regarding the current situation, **we inform you of the following.**

In addition to our previous referring to the conclusions of national courts regarding illegal actions and decisions of the Government of Ukraine on the destruction of forests on the territory of the Emerald Network of Europe (the court case № 320/33830/24), the applicants also reported on the initiation of other court cases related to the construction of a cemetery on the subject nature conservation area.

In connection with the above, we inform you that the Resolution of the Sixth Administrative Court of Appeal dated August 5, 2025, in court case № 320/25649/24 rejected the appeals of the interested State organization. This Resolution also supported the legality of the decision of the court of first instance, and found the governmental decision to change the purpose of the land plot of the Emerald Network UA0000338 and transfer it for the construction of a large-scale development project to be unlawful.

The court, in justifying its decisions in this case, undeniably confirmed that the specified territory, being protected by the Berne Convention, belongs to the lands of nature protection purpose. This makes it impossible to use it for any other purposes, except for nature conservation. In addition, the court has established a number of violations of land, forestry, and urban planning legislation when making decisions on the transfer of valuable territories for development. Currently, these court decisions have become legally binding and are subject to enforcement.

According to the provisions of Article 129-1 of the Constitution of Ukraine, the court makes its decision in the name of Ukraine. Thus, the court decision is absolutely binding.

Despite the specified provision of the Constitution of Ukraine, certain representatives of the state authorities of Ukraine take actions aimed at ignoring and, moreover, preventing the execution of court decisions that confirmed the illegality of the construction of a cemetery on the territory of the Emerald Network.

Pressure is thus exerted by government representatives on the officers of state registration authorities, local residents, and journalists who cover the events related to the construction.

In spite of a number of court decisions that have entered into legal force, against the background of mass protests by local residents, despite the consideration of the Complaint by the Secretariat № 2024/02, on August 29, 2025, the first burials of fallen soldiers took place, with the participation of the first persons of the state.

Such a situation indicates the absolute contempt of the authorities for both national legislation and international treaties, to which Ukraine is a party, and requires an appropriate response from international institutions.

Please, take into account the mentioned information when considering Complaint No. 2024/02: Ukraine: Deforestation in an Emerald Network (UA0000338) in the Kyiv Region and to take measures aimed at preventing the destruction of the Emerald Network site, in particular, by stopping the implementation of the National Military Memorial Cemetery project on the territory of the Emerald Network (number UA0000338 Pryirpinnya and Chernechy Forest).

Update Report dated July 2025

Mikaël POUTIERS

Secretary of the Bern Convention

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Kyiv, 30 July 2025

**Subject: Progress report: Complaint No. 2024/02: Ukraine: Deforestation
in an Emerald Network site (UA0000338) in Kyiv Region**

Dear Mr. Mikaël POUTIERS,

The environmental PUBLIC ORGANIZATION "MARKHALIVKA. SUPPORT" continues to monitor the consideration of the subject Complaint, submitted by a member of our organization, a citizen of Ukraine, Ms.Viktoria Chechenkova (Complaint No. 2024/02: Ukraine: Deforestation in an Emerald Network (UA0000338) in Kyiv region).

Abstract:

Deforestation continues to this day;
construction of the National Military Memorial Cemetery is in progress;
state bodies ignore numerous official appeals from nature protection organizations and public opinion;
state bodies are taking manipulative actions to artificially delay/prolong court proceedings

Previously, within the specified Complaint No. 2024/02, Ms.Chechenkova Victoria, as well as PO "MARKHALIVKA. SUPPORT", had repeatedly addressed the Secretariat of the Bern Convention with relevant explanations, other additional statements and messages regarding the destruction of species and habitats on the territory of the Ukrainian part of the Emerald Network of Europe (number UA0000338 Pryirpinnya and Chernechy Forest) in connection with the construction of the National Military Memorial Cemetery.

In a letter dated 15 May 2015, signed by the Secretary of the Bern Convention and addressed to Nature Reserve Fund Department of the Ministry of Environmental Protection and Natural Resources of Ukraine, with a copy to the applicant, Ms. Victoria Chechenkova, the Ukrainian authorities, as well as the applicant, were invited to send to the Secretariat a Progress report and any other relevant updates related to the consideration of Complaint No. 2024/02 not later than 31 July 2025.

In order to implement the above-mentioned invitation of the Secretariat of the Bern Convention, we hereby inform you of the following.

As previously brought to the attention of the Secretariat, the Resolution of the Sixth Administrative Court of Appeal dated January 16, 2025 in court case No. 320/33830/24 had supported the position stated in the Statement of Claim of the environmental charitable organization "Charitable Fund of the Dniprovsky District of Kyiv "Kyiv Ecological and Cultural Center" to the Cabinet of Ministers of Ukraine on the recognition of the Resolution of the Cabinet of Ministers of Ukraine dated March 1, 2024 No. 225 as unlawful and invalid. It is on the basis of this specified Resolution that the destruction of valuable flora take place in connection with the implementation of the project to build a cemetery on the nature conservation area - the Emerald Network of Europe (number UA0000338 Pryirpinnya and Chernechy Forest).

Subsequently, in accordance with the Resolution of the Supreme Court of May 23, 2025, case No. 320/33830/24 was sent for a new consideration to the court of first instance. At the same time, the Supreme Court pointed out the correctness of the conclusions of the courts of previous instances regarding the non-compliance of Resolution of the Cabinet of Ministers of Ukraine No. 225 with the provisions of the Berne Convention; the re-consideration of the case is justified only by the procedural need to involve third parties in the consideration of the case. Thus, today the consideration of case No. 320/33830/24 is being carried out once again.

At the same time, we draw attention to the conclusions of the Supreme Court, set out in its Resolution of May 23, 2025, which are binding for courts reviewing the case again: the land plots on which Resolution of the Cabinet of Ministers 225 is being implemented belong to the territory of the Emerald Network, which, in turn, "belongs to nature conservation areas and objects that have special ecological and scientific value, belong to lands of nature protection importance and are objects of comprehensive protection" (paragraph 62 of the Resolution of the Supreme Court of May 23, 2025). Clause 59 of the Supreme Court Resolution dated 05/23/2025 says that the state, having undertaken the obligation to preserve and support species and habitats protected by the Bern Convention, must identify and assess potential negative impacts on such territories and establish environmental requirements that allow preventing the possible destruction of valuable natural objects.

Thus, the Supreme Court's findings indicate the illegality of the destruction (deforestation) of trees and green spaces on the land plots with cadastral numbers 3222481200:05:002:0457 and 3222481200:05:002:0458 that take place on the basis of the contested Resolution 225.

In addition, we bring to the attention of the Secretariat information about the unscrupulous actions of state bodies and organizations - participants in a number of court cases related to deforestation on the territory of the Emerald Network (UA0000338).

Thus, in addition to the above-mentioned lawsuit challenging Resolution No. 225, law enforcement organizations have filed other lawsuits with judicial authorities, in particular, related to the transfer of the territory of the Emerald Network for the construction of a cemetery, the recognition of actions to build a cemetery on the specified territory as illegal, etc. In some cases, court decisions have been made that confirm the validity of the arguments and demands of ecologists.

In connection with the above, in the absence of a proper legal position in the relevant court cases, state bodies are committing unscrupulous procedural actions aimed at deliberately delaying the consideration of court cases. According to the applicant, such actions are due to the desire to prevent the timely adoption of final court decisions which may declare the actions and decisions of the said bodies as illegal, as well as to stop illegal construction.

Thus, the decision of the Kyiv District Administrative Court dated 05.03.2025 (case No. 320/25649/24), satisfied the claim of the PUBLIC ORGANIZATION "MARKHALIVKA. SUPPORT" to the Kyiv

Regional State Administration to cancel the order of the specified body on the transfer of a land plot of the Emerald Network territory (UA0000338) for the construction of a military memorial cemetery. The court's decision, among other reasons, was justified by the fact of violation by the specified order the provisions of the Bern Convention regarding the actual deforestation of valuable forest in the specified territory. Disagreeing with the specified decision, the defendant, as well as a third party, filed appeals. However, such an appeal is intentionally carried out with procedural errors, in connection with which the consideration of the specified case by the appellate court is actually blocked.

Similar procedural errors and delays aimed at delaying legal proceedings are committed by state bodies and other organizations controlled by them in other cases as well. Meanwhile, the construction of the cemetery continues, which is accompanied by further felling of valuable forest plantations on the territory of the Emerald Network, which is under special protection in accordance with environmental legislation.

qThus, a situation has arisen in which there is a real risk that even in case of final court decisions, which will recognize the illegality of the destruction of natural resources in connection with the implementation of the construction project, their actual implementation will become impossible due to the completion of construction work and the irreversible destruction of valuable forest resources.

In addition, as previously reported to the Bureau of the Standing Committee of the Bern Convention, the state bodies of Ukraine, in particular, the Ministry of Environmental Protection and Natural Resources of Ukraine, had reported to the judicial authorities and the Secretariat that "...the construction of the cemetery will not have a significant impact on the conservation status of species and natural habitats, for the preservation of which the Emerald Network was created." Also, in such manipulations, the Ministry of Environment notes that it seems, supposedly, that "...not all of the Emerald Network sites may contain habitats important for the conservation of nature or species of plants and animals that require protection."

However, during June-July 2025, the territory of the Markhalivka Forest was surveyed by experts from the national public environmental organization "Ukrainian Society for the Protection of Birds", a partner of the international environmental association BirdLife International, in order to identify rare habitats, flora and fauna (birds) in current conditions.

As can be seen from the content of survey's Conclusions dated 07/29/2025 "ASSESSMENT OF THE CURRENT STATUS OF RARE HABITATS, FLORA AND FAUNA (BIRDS) OF THE "MARKHALIVKA FOREST" SITE OF THE EMERALD NETWORK OF UKRAINE UA0000338 "PRYRIPINNYA AND CHRENECHY FOREST", among the plant species, reliably identified within the Markhalivka Forest, some belong to the category of rare and endangered. The Red Data Book of Ukraine (2009) includes 5 plant species whose locations were discovered in this territory at different periods of time; 2 species are included in the appendices of the Bern Convention; 5 species are included in the European Red List (2011) under various categories of rarity; 4 species are regionally rare within the Kyiv region. Thus, in total, at least 10 species of rare plants grow in the Markhalivka Forest. Also, among the 43 bird species reliably identified in the Markhalivka Forest, 36 are protected by international conventions.

During this scientific research conducted on the territory of the Markhalivka Forest, the following main negative factors were identified that affect the condition and further existence of rare natural plant groups, flora and fauna: the current unauthorized logging of old-growth forests, planning and leveling of the territory for construction activities, destruction of grass cover in wasteland areas, violation of the hydrological regime of the site .

These negative actions will destroy the places of growth of the rare plant species and rare habitats indicated here and, in fact, all 4 identified particularly valuable, in botanical aspect, natural environment places, will promote the spread of ruderal species (including adventitious ones), worsen the general

ecological situation, and affect the settlement and migration of typical and rare animals, in particular birds.

Large-scale logging of old-growth forests and development of the Markhalivka Forest will reduce living space and impoverish the feeding conditions of birds, which will lead to a decrease in their diversity and abundance.

Summarizing all circumstances related to the deforestation actions in an Emerald Network Site UA0000338 in Kyiv Region, the following facts are apparent:

- despite a number of court decisions that define the Emerald Network territories as nature conservation areas under special state protection, illegal activities to destroy valuable forests continue;
- state bodies ignore numerous official appeals from nature protection organizations and the public opinion, demonstrating inaction and actual non-interference in a situation that requires an prompt and urgent response;
- the Conclusion of the nature protection organization “Ukrainian Society for the Protection of Birds” refutes the statements of the Ministry of Environment that the construction of the cemetery will not have a significant impact on the conservation status of species and natural habitats;
- illegal actions are committed by state bodies and organizations aimed at artificially delaying lawsuits filed by nature protection organizations;
- contrary to the recommendations of the Secretariat, despite the conclusions of the courts that there is no evidence of a preliminary assessment of the compliance of the norms of the decisions taken on the construction of a cemetery on the territory of the Emerald Network with the provisions of the Bern Convention and Directive No. 92/43/EC, the state authorities of Ukraine continue to implement the project to build a cemetery on the territory of the Emerald Network.

Please, take into account the mentioned information when considering Complaint No. 2024/02: Ukraine: Deforestation in an Emerald Network (UA0000338) in the Kyiv Region and to take measures aimed at preventing the destruction of the Emerald Network site, in particular, by stopping the implementation of the National Military Memorial Cemetery project on the territory of the Emerald Network (number UA0000338 Pryirpinnya and Chernechy Forest).

Annexes:

- 1) copy of the Conclusions dated 07/29/2025 “ASSESSMENT OF THE CURRENT STATUS OF RARE HABITATS, FLORA AND FAUNA (BIRDS) OF THE “MARKHALIVKA FOREST” SITE OF THE EMERALD NETWORK OF UKRAINE UA0000338 “PRYRIPINNYA AND CHERENCHECHY FOREST”. [link]
- 2) Photography:









Update Report dated February 2025

Mikaël POUTIERS

Secretary of the Bern Convention

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**from PUBLIC ORGANIZATION "MARKHALIVKA.
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Dear Mr. Michael!

THE PUBLIC ORGANIZATION "MARKHALIVKA. SUPPORT", which is an environmental organization, found out that in August 2024, a citizen of Ukraine, Viktoriia Chechenkova, filed a complaint with the Secretariat of the Bern Convention, reporting that a valuable forest was being destroyed on the territory of the Ukrainian part of the European Emerald Network (number UA0000338 Pryirpinnya and Chernechy Forest with a total area of 6094.7 hectares).

Later it became known that these actions are taking place in connection with the implementation of a pilot project for the design and construction of the National Military Memorial Cemetery (NMMC). Thus, on the land plots with cadastral numbers 3222481200:05:002:0457, 3222481200:05:002:0458 with a total area of 266.7 hectares, which are part of the Emerald Network, large-scale construction works are being carried out, the territory is being cleared, access roads are being arranged, which involves massive deforestation of valuable forest plantations.

In connection with the acceptance of the aforementioned complaint for consideration, the Secretary of the Bern Convention officially addressed the Department of Nature Reserve Fund and Biodiversity of the Ministry of Environmental Protection and Natural Resources of Ukraine with a notice that the above-mentioned deforestation actions contradict the terms of the Bern Convention, and proposed to provide appropriate explanations before the discussion of the complaint, which is scheduled for spring 2025.

Taking into account the mentioned above, we consider it necessary to inform the Secretariat of the Bern Convention of the following information that is relevant for the consideration of the complaint.

When Viktoriia Chechenkova appealed to the Secretariat of the Bern Convention, the applicant noted that a number of environmental organizations had filed lawsuits with the court aimed at declaring illegal the actions and decisions of the Ukrainian state authorities regarding the destruction of natural resources in the Emerald Network in connection with the construction of the cemetery.

We would like to inform you that the Resolution of the Sixth Administrative Court of Appeal dated 16.01.2025 in court case No. 320/33830/24 upheld the position set out in the statement of claim of the environmental Charitable Organization "Charitable Foundation of Dniprovskyi District of Kyiv 'Kyiv Ecological and Cultural Center'" against the Cabinet of Ministers of Ukraine on the recognition

of the Resolution of the Cabinet of Ministers of Ukraine dated March 1, 2024 No. 225 as unlawful and invalid.

It is on the basis of the said Resolution of the Cabinet of Ministers No. 225 that valuable flora is being destroyed in connection with the implementation of a project to build a cemetery in a protected area – the Emerald Network of Europe (number UA0000338 Pryirpinnya and Chernechy Forest).

In particular, during the consideration of this case, the courts established that the land plots where natural resources are being destroyed belong to the territory of the Emerald Network and, accordingly, to the lands of the nature reserve fund.

In addition, the courts stated that the fact that the territory is part of the Emerald Network makes it impossible to use this territory for any purpose other than as land of the nature reserve fund. At the same time, the courts found that the adoption of the unlawful Resolution No. 225 on the destruction of natural resources contravenes the provisions of the Bern Convention.

Thus, the courts have recognized the unlawfulness of the actions and decisions of the highest executive body of Ukraine – the Cabinet of Ministers of Ukraine, and found violations of obligations under an international agreement.

At the same time, we would like to draw your attention to the fact that the main entity responsible for such violations of environmental legislation by Ukraine is the relevant ministry - the Ministry of Environmental Protection and Natural Resources of Ukraine.

In particular, it was the Ministry of Environmental Protection that approved the abolished Resolution No. 225 of the Cabinet of Ministers, which has resulted in the destruction of almost 30 hectares of valuable forest.

To sum up, the current status is as follows:

- Despite the valid courts' decisions of the higher judicial authorities of Ukraine, strictly prohibiting any deforestation in these areas of the Emerald Network, such activities are actively continued;
- The Ministry of Environment does not respond to numerous appeals from environmental organizations and holds a passive-observational position;
- More than 30 hectares of the Emerald Network have been completely logged;
- Many kilometers of drainage systems have been laid in this area, thus severely disrupted the natural water balance;
- Heavy construction machinery constantly runs through the territory, which finally destroys wildlife;
- The construction of capital buildings has begun on the site, engineering communications are actively being laid;
- The area of deforestation, despite the active resistance of numerous environmental organizations, continues to increase.

Please take this information into account when considering the complaint of Victoria Chechenkova and take measures to prevent the destruction of the Emerald Network site, in particular, by suspending the implementation of the project of the National Military Memorial Cemetery on the territory of the Emerald Network (number UA0000338 Pryirpinnya and Chernechy Forest).

Each day of delay causes additional damage to the territory of the Emerald Network.

Best regards,
