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T-PVS/Files(2024)23

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Bureau of the Standing Committee

18-19 March 2024
Strasbourg

Complaint on stand-by: 2022/06

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

- COMPLAINANT REPORT -

*Document prepared by
Earth Thrive*

Joint Complaint No. 2022/06 - Possible negative impact of mining activities in Bosilegrad and in the Homolje Mt region (Serbia)

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

The Complaint concerns two distinct Cases, one relates to an existing mine in Bosilegrad, South-East Serbia, and the other the proposed gold mining project in Homolje Mt region in East Serbia.

In our joint Complaint dated 4th October 2022 we complained that Serbia had violated Articles 2, 3.2, 4.1, 4.2, 4.4 and Articles 3.2, 3.3, 4.1, 4.2, 5 respectively, of the Bern Convention by failing to take the appropriate measures to protect wild flora and fauna, and the natural habitat from destructive impacts of a mine operated by Bosil-metal d.o.o. (subsidiary of Mineco Ltd, London) as well as from the current impacts of the exploratory phases of the proposed gold mine by the Canadian mining corporation Dundee Precious Metals in the Mt Homolje region of Eastern Serbia and potentially from the huge future impact if the operating licence should be eventually granted.

I. Update on the Bosilegrad mine

The Government Report prepared by the Ministry of Environmental Protection, Serbia as a response to Complaint 2022/06, dated 19th of January 2023 did not fully address the complaint and in particular did not refer to the relevant species and we therefore reiterate all the grounds in our initial complaint.

Comments on Serbian government response

The government report prepared by the Serbian Ministry of Environmental Protection as a response to Complaint No. 2022/06, dated 19 January 2023, did not fully address the substance of our claim, and failed to refer to the affected species identified in our complaint.

The Serbian government claimed that Bosil Metal was operating pursuant to legally valid decisions of the Serbian executive, in accordance with the Supplementary Mining Project. The government claimed that the mine was granted approval for operations, along with regular inspections carried out by the Republic Environmental Protection Inspection.

The government similarly contested our claims regarding the endangerment of wild flora and fauna, and stated that the area in question was not “an area of special interest for preservation of favourable conservation status” for most species listed in the complaint: p 12, Serbian Ministry of Environmental Protection Response.

The government additionally claimed that some species have no special status, and, without evidence, that the survival of other species was not threatened. These arguments were fundamentally made in error, as they were developed by reference to incorrect species not identified in our original complaint. However, this response was based on the incorrect species for this particular Complaint.

Within the 29 species listed in question 2 of the complaint form, *What are the specific specie/s or habitat/s included in one of the Appendices of the Bern Convention potentially affected?*, only three species have been mentioned in the Government Response - the semi-collared flycatcher (*Ficedulasemitorquata*), the dice snake (*Natrixessellata*), and the grass snake (*Natrixnatrix*). 26 other species of strictly protected fauna species and protected fauna species remain unmentioned.

Further, recent information from one of the signatories of this Complaint evidences the impact on the surrounding habitat as a rare local species of trout, (*Salmo macedonicus*) has recently disappeared from a nearby river. In Bulgaria, people from the organisation Balkanks who regularly fish in the said river, have noted its absence, see Annex I.1- Mr Koumanov Witness Statement. This disappearance is possibly connected to the impacts of the mine.

Our understanding is that some activities at the mine have been continuing and workers have been present on the mining premises in the last months (see photo in Annex I.2). The activity seems to focus on the shafts and the infrastructure. We would like to request confirmation of the exact current activities at the mine since the local people are too intimidated to go and get the evidence themselves.

There are tentative reports of the ore being transported from Bosilegrad to Jagodina for partial processing of the most useful components of the ore and the remains of the ore are then sent back to the empty halls of the former Pharmaceutical Manufacturing Plant Leskovac in Bosilegrad. We would be grateful if the Bureau could ask the Serbian Government for the clarification on this point.

We would also like to ask the Bureau to request from the Government the results of the legally obligatory inspections of the site and impact on Nature, as we understand that they have actually not been conducted in line with the law. The Government has recently asphalted the road to the mine, suggesting planned activity. Again we seek an explanation.

We also enclose our requests for the Information of the public importance for which we have received no reply even though the legal deadline has passed a long time ago - Annex I.3

II. Update on Dundee Precious Metals - DPM gold project in Homolje Mt. region

Related to the DPM's gold mine project in Homolje mountains, the second case which is part of the joint Complaint:

We would like to report that the additional changes in licensing took place regarding the Potaj Cuka Tisnica licence. The original Potaj Cuka Tisnica licence has now been split up in three new exploration licences: Potaj Cuka Tisnica, Coka Rakita and Pester Jug – all now granted **brand new exploration rights** (see Annex II.1).

The new Potaj Cuka Tisnica, Coka Rakita and Pester Jug licences are all owned by DPM's subsidiary company 'Crni Vrh Resources doo', while 'Umka' exploration licence is owned by Avala doo, the 'old' DPM subsidiary company.

From July 2021, the 'original' Potaj Cuka Tisnica licence was under 'reservation/retention for exploration' status. This status is granted for the duration of two years to allow the company to prepare the required documentation for the application for exploitation permit, without the possibility for a renewal; the retention/reservation status also forbids further exploration activities¹. However, by registering a new subsidiary company ('Crni Vrh Resources doo'), Dundee Precious Metals (DPM) is now able to obtain fresh exploration rights that, with extensions the legislation allows for, could last additional eight to ten years. Without an intention to speculate - we would like to point out that this neverending cycle of (re)granting licences and rather invasive exploratory activities are very damaging to the nearby Nature - which alone is in potential breach of this Convention as explained below.

The latest renewal of exploration rights will have a catastrophic impact on the environment of Homolje as it *allows the company to drill additional holes on top of the existing c.a. 1300 drill holes that have been drilled since 2006*. The drilling of each hole implies significant soil disturbance and vegetation destruction, loud noise and light pollution, as well as the possibility of surface water bodies' pollution. DPM has paused any further work on their Feasibility Study of the 'original' Potaj-Cuka Tisnica mine in order to focus on additional exploration activities.² The FS was first announced for June 2022, but has since been repeatedly delayed due to their decision to expand exploration activities. This change of plan is indicative of DPM's commitment to expand its mining activities in the area, posing an even more extensive threat to the surrounding Nature.

¹ [Zakon o rudarstvu i geološkim istraživanjima | Paragraf](#), Article 40. 06.02.2024. 13:34h

² <https://dundeeprecious.com/assets/exploration/timok-gold-project/>

We would like the Serbian Government to explain how is this in line with the obligations they have under the Bern Convention??

In the Serbian Government's Report to the Committee (T-PVS/Files(2023)14), they state that an inspection on Potaj Cuka Tisnica exploration licence was carried out in 2021. However, **no** inspections were carried out since, although according to the instructions regulating the inspection procedure in the area of geology and mining ("Sl. glasnik RS", br. 106/2018), 'medium risk' projects (such as Potaj Cuka Tisnica) ought to be inspected at least once a year (art.4).³

The Government also stated that since 2006 to date, the Institute for Nature Conservation of Serbia issued 'seven acts which prescribe Nature protection conditions for geological exploration and prospecting in Homolje region.' We obtained some of these Acts.⁴ However, the DPM persistently disregards these in their exploration work on Potaj Cuka Tisnica and Coka Rakita, without facing any consequences, as far as we are aware.⁵ Namely, DPM performed drilling during night-time, sourced water for exploration from surrounding water bodies, generated general waste pollution, left behind drilling debris and material, failed to restore the solid and close the drill holes properly - all contrary to the conditions issued by the Institute (photo proof please see Footnote 5).

III. Comments on the Government report
In its response to the Ministry of the Environment, the Institute for Nature Protection, states that:

1. On pages 5. and 14. so they refer to both areas "*Amphibian and reptile species are indeed potentially endangered as they are dependent on the aquatic environments, i.e., the water bodies, where wastewater is planned to be discharged; reptiles are dependent on the mentioned water bodies for food (grass snake and dice snake), while amphibians are dependent on these aquatic environments because of their reproductive cycle. In addition to habitat destruction, important endangering factors include intersection of migration routes due to infrastructure construction (traffic-related deaths), as well as habitat fragmentation which results in the isolation of certain groups of the species population in smaller enclaves (metapopulations), thus potentially endangering their survival in the long term period.*"
2. On pages 13⁶. and 15. "*Certainly, the species golden eagle (Aquila chrysaetos) and peregrine falcon (Falco peregrinus) are among the most endangered species in the wider area surrounding Homolje region...*" as well as in the region of Bosilegrad.. "*Local populations or parts of populations of all species found in the area in question are potentially threatened, given the fact that many habitats populated by these species will disappear if the mine is opened....Furthermore, one should be careful when assessing species threat status, since some of the aforementioned species are facing more threats than others; in addition, certain species'*

³ we obtained this information from the Ministry of Mining and Energy in November 2023; file number 000346396 2023 14820 002 000 041 001 of 13.11.2023)

⁴ The following Conditions (Resenja o uslovima zastite prirode) 03 br: 020-1973/3 od 12.10.2015 for Potaj Cuka-Tisnica, 2015-17; 03 Br: 020-2750/3 od 03.12.2020: for Potaj Cuka-Tisnica, 2020-21; 03 br: 021 3776/2 od 10.12.2021 for Coka Rakita; documents obtained from the NGO Udruzenje Gradjana "I mi se pitamo za Opstinu Petrovac na Mlavi"

⁵ Visual documentation available here: https://drive.google.com/drive/folders/1_c-V0QzcGTDFQrEqWULCWC10eVCS9_St?usp=drive_link

⁶ The answer to question No. 4: "Do you know if potentially affected species or habitat(s) also fall under the scope of other international Conventions", is as follows: The Habitats Directive lists the following: ...3. Para - five species are listed in the Appendix II of the Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention; CMS): common quail (Coturnix coturnix), semicollared flycatcher (Ficedula semitorquata), **golden eagle (Aquila chrysaetos)**, corncrake (Crex crex) and barred warbler (Sylvia nisoria)

population loss is irreplaceable. This primarily applies to the gold eagle and peregrine falcon occupying the wider area surrounding Homolje region” and Bosilegrad region, “since the populations of these birds are declining in eastern Serbia and the chances for their recovery are small.”

However, the Government answered: “These species are not included in the list found at the link provided in the Complaint, therefore, possibly these species have not been identified in the geological prospecting area, i.e., the location of the mine.” That is not true, since those species have been identified in the licensed area, and not only were they listed but were listed as the first two species in our Complaint, in question number 2! Furthermore We can confirm that both birds have been identified in the area: a biodiversity study commissioned by the DMP themselves and published in 2014 mentions the presence of both birds. Therefore we are asking the Serbia Government to provide a concrete proof of what legal and administrative measures is the state taking to fully protect these endangered and protected species and the wild habitats, since they keep granting permits for geological exploration (drilling, processing) in the exact same regions where these species live - the facts they have been notified of by the Institute for Nature Protection?

We further refer to the Strategic Plan for the Bern Convention for the period to 2030 which states that the conservation of the species is a key objective of the Bern Convention. Target 2.2 states: “Anthropogenic causes of actual or potential negative effects on the conservation status of species of wild flora and fauna are reduced as far as possible to levels that are not detrimental to the conservation and recovery of those species, through targeted measures enacted in legislation, policy and/or management.”

Conclusions and requests

In addition to the above, we would like to highlight legal and administrative problems that we encounter in relation to these Cases. The leading co-signatory, Earth Thrive, has made several requests for information from the relevant Government bodies for both of the Cases in this joint Complaint, to which we are entitled to under the Law on Free Access to Information of Public Importance Act (see Annex I.3). To date only one of those requests has been answered, other requests were either denied or there has been no response within the legal timeframe which expired a long time ago. The public⁷ has a legitimate interest in being provided the information held by the authority, which is related to endangering, or protecting the health of the population and the environment, in accordance with Article 4.⁸ of the Law on Free Access to Information of Public Importance⁹.

⁷ **Law on Free Access to Information of Public Importance LFAIPI** (Official Gazette of RS", no. 120/2004, 54/2007, 104/2009, 36/2010 and 105/2021; **Principle of equality; Article 6.** *The rights from this law belong to everyone on equal terms, regardless of citizenship, residence, residence, or headquarters, or personal characteristics such as race, religion, national and ethnic affiliation, gender, and the like.*

⁸ **Ibid., Legal assumptions about justified interest, Article 4;** *It is considered that the justified interest of the public to know, from Article 2 of this law, always exists when it comes to information at the disposal of the authority that relates to endangering, i.e. the protection of the health of the population and the environment, and if it is about other information at its disposal authority, it is considered that the justified interest of the public to know, from Article 2 of this law, exists, unless the authority proves otherwise.*

⁹ **Law on Free Access to Information of Public Importance LFAIPI** (Official Gazette of RS", no. 120/2004, 54/2007, 104/2009, 36/2010 and 105/2021)

Of course there are some limitations¹⁰ prescribed by this law, but No provision of this law may be interpreted in a way that would lead to the cancellation of any right recognized by this law or to its limitation to a greater extent than that prescribed in paragraph 1. of this article.¹¹

In addition to the above, we would like to point out that it is extremely difficult for our co-signatories from the mining region of Bosilegrad, and Homolje, to go look for evidence of the mining and drilling impacts themselves due to threats and intimidation. Likewise, journalists have previously been attacked while attempting to report on the mine - example of the Bulgarian journalists being attacked in Bosilegrad.

In the letter¹² to the Government of the Republic of Serbia dated October 3rd, 2023, the Secretariat of the Bern Convention calls “for the governmental authorities to cooperate fully with civil society and all interested parties during their enquiries.” But that has not been our experience thus far. The Government has not really been respecting the laws, conducting inspections, responding to requests

So in line with the above, we respectfully ask the Bureau of the Bern Convention to request from the Serbian authorities the following:

1. For the Serbian government to review its response in relation to protected species and provide a full report including responses to the co-signatories’ requests
 1. Boisilegrad - the list of species in the answer to question 2. plus appendix 2 (II)
 2. Homolje the list of species in the answer to question 2. <https://pticesrbije.rs/wp-content/uploads/lista-vrsta-ptica-Potaj-cuka.pdf> plus appendix 6 (VI).
2. That the Serbian government conducts an inspection of Bosil-metal mine to ensure there is no more activity and provide all interested party with a full and impartial Report
3. That Serbia shall take appropriate and necessary legislative and administrative measures to protect the affected wild flora and fauna species (including those listed in Annexes I, II, and III) and the protected natural habitat from Bosilegrad’s copper, zinc and lead mine AND the same for the region of Homolje from the exploration and extraction of the extremely damaging gold mining.

¹⁰ Limitations of rights Article 8.

The rights under this law may exceptionally be subject to the limitations prescribed by this law if it is necessary in a democratic society to protect against a serious violation of an overriding interest based on the constitution or the law.

¹¹ LFAIPI [Zakon o slobodnom pristupu informacijama od javnog značaja \(paragraf.rs\)](#),01.02.24. 14:14h

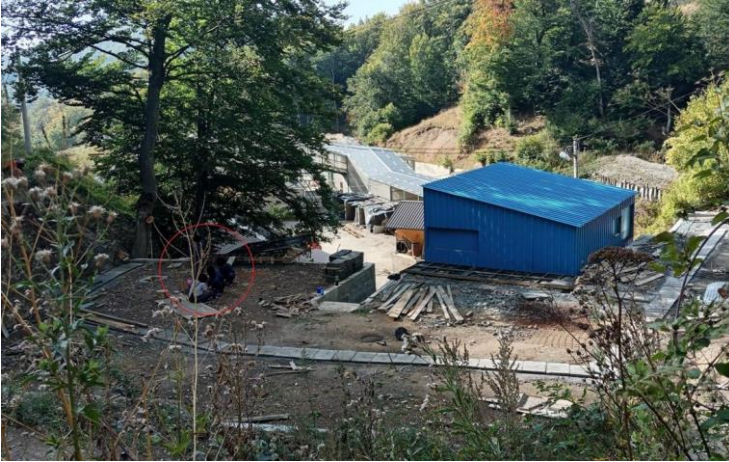
¹² Subject: Complaint No. 2021/7: [Complaint on stand by](#): Serbia: Alleged threat to fauna species and protected sites due to the proposed construction of a lithium mine in the Jadar River Valley

ANNEXES

Annex I

Bosilegrad

1. [Witness Statement of Mr Koumanov, Balkanka, Bulgaria](#) - linked and attached
2. Photo of the activities at the mine - taken in October 2023



View from front of the Karamanica mine flotation facility, October 2023

3. Transparency, freedom of information

The complainant has made several requests for information from the government under the Law on Free Access to Information of Public Importance Act. These requests have either been refused or left unanswered. This denies the complainant and other members of the public the opportunity to understand and scrutinise environmental decision-making, which is essential to ensuring transparency and compliance with the Convention.

The following requests have been made:

- 7 November 2023: request submitted to the Serbian Ministry of Mining and Energy for further information relating to cross-border environmental impact assessment concerning Bulgaria. No response has been received.
- 7 November 2023: request submitted to the Institute for the Protection of Nature for information relating to whether Bosil Metal had been granted any approvals in relation to the "Podvirovi" and "Popovica" deposits. No response has been received.
- 23 December 2023: request submitted to the Ministry of Mining and Energy and the Ministry of Health, seeking information relating to the transfer of mining waste; the permitting status of any companies transporting waste; and the government authority responsible for water. No response received.

[Folder containing Requests for the Info of Public Importance as referred above](#)

Annex II

Homolje Mt

1. Potaj Cuka Tisnica, Coka Rakita and Pester Jug – all now granted brand new exploration rights



2. Photographs of the night drilling and water intake by the DPM in Homolje
https://drive.google.com/drive/folders/1_c-V0QzcGTDFQrEqWULCWCI0eVCS9_St

Annex III

Mining and waste

It would appear that the Serbian government has failed to employ an adequate and sufficient number of mining inspections to ensure that the oversight of the mining activities is adequate and thorough. That hugely affects effective monitoring of the ongoing situation on nearly 200 exploration licences that are currently active in Serbia, including DPM's project in Homolje and MIneco's mine in Bosilegrad. In 2023 there were only six mining inspectors in Serbia, whereas at least fourteen are required for a more efficient supervision.¹³ - more than double the current number!

In addition to the woefully insufficient numbers of inspection visits to the geological exploration activities performed by the DPM in Homolje Mt, the suitability of regular inspections to monitor and identify potential harm of drilling activities to the environment is also questionable: the 2021 regular inspection involved only one visit to the former drilling sites when just a handful of drill holes were inspected (a drop in the ocean if we have in mind that there are c.a 1300 drill holes on the 'original' Potaj Cuka Tisnica licence alone).

¹³ According to the NGO 'The Serbian Inspectors Network' ('Mreza inspektora Srbije')
<https://www.danas.rs/vesti/drustvo/srbiji-nedostaje-preko-1-000-inspektora-niske-plate-i-manjak-pravne-zastite-samo-neki-od-problema/>

The relevant Serbian authorities have no information on the quantity, composition or management strategies of the drilling waste produced by the DPM.¹⁴ Therefore, it would appear that they have no strategy or procedure to ensure that the drilling waste is not discharged inappropriately into the environment.

According to the report 400-382/2022-04/35 of the 21st Dec 2022 by the Serbian State Auditing Institution, the relevant institutions lack basic mechanisms to appropriately manage mining waste. At the moment, the mining operators manage and dispose of mining waste without necessary permissions, and the authorities have not yet established a unified database of mining waste that would be used for efficient monitoring and management.¹⁵ The conclusions of the report indicate that the Government is systematically failing to protect the environment from mining-related harm. We respectfully ask the Bureau to request an explanation from the Serbian Government on this point too.

Given the Government's lack of concern for the environmental impact of mining, DPM's statement that, apart from remedying the drill roads and pads, "there are no other environmental liabilities to which the Project is subject" does not come as a surprise and seems to be an accurate assessment.¹⁶

Annex IV

Biodiversity

Considering that the Government themselves have admitted the precarious status of the amphibians in the region, we would like to emphasise the below to further strengthen our concerns of their endangerment from the mining activities and the consequences thereof:

[Hocking Babbitt 2014-amphibian benefits.pdf \(biologicaldiversity.org\)](#)

"Amphibian declines are a cause for concern in their own right first and foremost. But their decline might also be indicative of larger environmental problems with potentially systemic implications. Amphibian declines may be an early indicator of the impending loss of freshwater aquatic ecosystem services throughout the world (Lannoo 2008; Collins and Crump 2009). Page 1.

"Amphibians can influence regulating services by altering disease transmission and pest outbreaks. Predatory amphibians can help reduce the spread of mosquito-borne illness through predation and competition with mosquitoes.

Beyond control of disease-vectors in invertebrate populations, amphibians can contribute to regulating services through invertebrate pest control and possibly through altered pollination dynamics." Page 3.

More info at [160503092.pdf \(core.ac.uk\)](#)

When referring to the Eurasian lynx (*Lynx lynx*) in their Report to the Committee (T-PVS/Files(2023)14), the Government states that 'the zone of the planned mine itself is not an area of special importance for preserving the favourable conservation status of the species'. Since no sustained monitoring, mapping and studying of the Lynx population in Homolje and the rest of the Carpathian Mountains in Eastern Serbia has been conducted so far (despite the fact that Serbia is a member of the Carpathian Convention whose one of the key aims is the conservation of large carnivores) it is not clear how the Government came to these conclusions. The available data from a [GPS tracking of a single](#)

¹⁴ The Ministry of Mining and Energy provided this answer to the request made by the NGO Udruzenje Gradjana "I mi se pitamo za Opstinu Petrovac na Mlavi", in the document 011-00-00410/2003-06 of 29.03.2003.

https://drive.google.com/file/d/1s8ls4PepHSbsVCRpnFfu6Fjv6UKiFiGb/view?usp=drive_link

¹⁵ https://drive.google.com/file/d/1WG0A1ttyC6cTM6Djt7HLWsZUKUnDHLLi/view?usp=drive_link p.24-32

¹⁶ MAIDEN MINERAL RESOURCE ESTIMATE- ČOKA RAKITA GOLD PROJECT, SERBIA, Technical Report for NI 43-101, 24 January 2024, p. 20

https://drive.google.com/file/d/1z1JCOx2QZmjixDjd_A2nAr3mYnvGI21G/view?usp=drive_link

Lynx specimen (Lynx Rista) out of an estimated 40-60 present in Serbia show that the area of the planned mine represents an important section of this specimen's territory, and as such it should be protected.

Nearly half of the Serbian part of the Carpathian Mountains' area, which is habitat of the Eurasian Lynx in the region, is covered by exploration activities (see Image 2) and already hosts three large gold and copper mines managed by a Chinese company Zi Jin that are in constant and uncontrolled expansion. Not surprisingly, a recent (2021) international study of Eurasian Lynx population in the Carpathian region identified Eastern Serbia as an area 'for which the necessary conservation measures and actions must be implemented as a matter of priority' in order to secure the ecological connectivity and long-term survival of the species.¹⁷ With their approach to mining licensing in the area, the Government is failing to take the necessary measures to protect Serbia's Lynx population and is apparently potentially failing not only the Bern Convention but also the Carpathian Convention too.

Annex V

Legal aspect + documents

HOMOLJE REGION

The main co-signatory approached the Serbian Ministry of mining and energy and requested to be provided with information whether regular controls were carried out in 2022 and 2023."

They informed us by mail, on 13th of November 2023. that the geological inspector did not carry out regular inspections in 2022 or 2023.

BOSILEGRAD

On 7/11/23,

1. The main co-signatory Earth Thrive contacted the Serbian Ministry of environmental protection and requested to be provided with information and copies of documents created in the work of this administrative body regarding the company "Bosil Metal" from Bosilegrad¹⁸,

These were all rejected.

Acting on the aforementioned request for access to information of public importance, the Ministry of Environmental Protection, on November 15th, 2023, was ordered by the Misdemeanour Court in Vranje, before which misdemeanour proceedings are being conducted, to deny access to information of public importance, which submitted by the NGO "Earth Thrive", because in that way they would hinder and endanger the legally regulated procedure (misdemeanour procedure), fair treatment and a fair trial until the end of the procedure, in accordance with Article 9, Paragraph 1, Item 2 of the Law on free access to information of public importance.

We infer from the reply and lack of a reply that the misdemeanour proceeding that Serbia referred to in its reply to the Bern Convention complaint is not advancing since it was instituted in 2022.

¹⁷ https://drive.google.com/file/d/1LFig721twAAfNrXyA-62mYpt0y-oWXKP/view?usp=drive_link
p.13

¹⁸ which refer to inspections, decisions of the republican inspector for environmental protection, reports and information on performed inspections, and information and reports concerning the decision of the Republic Inspector, information related to the misdemeanour process and insight into the case, results of analyzes and reports on analyses of water, air and sludge quality, as well as Cross-border assessment - request for information on how far the process has come, whether there have been meetings with the Bulgarians and a report, i.e. an insight into the case.

Commented [1]: sta ovde tacno na srpskom treba da bude?
Jer misdemenaour predstavlja neki manji prekrasaj - pa bih htela da potvrdim da je ovo tacni prevod - da ne umanjemo ozbiljnost slucaja

2. Requests to the Institute for the Protection of Nature were sent asking whether decisions have been issued in the meantime regarding the Bosilegrad and Homolje projects.
3. A request to the Institute for Public Health Vranje - Center for Hygiene and Human Ecology was sent "*We were looking for the results of analyses and reports about the quality of water, air and sludge in the vicinity of the plant of the company "Bosil Metal", for the years 2020, 2021, 2022 and 2023.*"
4. On 23/12/23 requests were submitted to the Ministry of Mining and Energy, the Ministry of Health respectively asking: *Who transports the mining waste and where? Does the company that transports mining waste have the necessary permits for its transport? Who controls the water, and if there was control, is the authority the Public Health Institute Vranje?*

To date we have not received an answer even though the legal deadline has largely passed. Please note that "Eco Krajiste" has already requested information related to waste management, with the same request for access to information of public importance, dated August 19, 2022, but did not receive an answer to this question to date.

"From the point of view of the application of the Law on Free Access to Information of Public Importance, it should be borne in mind that the public's right to know cannot be questioned under the guise of privacy protection, if it is taken into account that there is always the possibility of anonymizing personal data contained in documents or their protection by covering, that is, extracting sensitive information, in accordance with Art. 12. of the *Law¹⁹ on Free Access to Information of Public Importance (hereinafter referred to as: LFAIPI)* which regulates partial access to information."²⁰

Proceeding from the above, the court's decision on whether the names of the participants in the court proceedings should be made available to the public as information of public importance should be based on the public interest test from Article 8 of the *LFAIPI*, i.e. on weighing the interests between the public's right to know and the protection of the right to privacy or other legitimate right and interest from Article 9 of the *LFAIPI*.

However, when the association "ECO KRAJISTE" from Bosilegrad, requested the same info about the misdemeanour procedure on August 19, 2022, they received an answer and the decision on the initiation of the procedure.

(Number: 012-00-00040/2022-08, date September 01st, 2022)

Obviously, in that case there was no question of compromising confidentiality.

Certainly not all the information we asked for is classified as confidential.

Below we present the opinions of the Commissioner for Information of Public Importance on these topics.

Annex VI

¹⁹ Law on free access to information of public importance (Official Gazette of RS", no. 120/2004, 54/2007, 104/2009, 36/2010 and 105/2021 [Zakon o slobodnom pristupu informacijama od javnog značaja \(paragraf.rs\)](#), 29.01.2024. 14:21h

²⁰ [ACCESS TO INFORMATION CONTAINED IN SCHOOL MINUTES - Commissioner for Information of Public Importance and Personal Data Protection \(poverenik.rs\)](#), 30.01.2024.

Process and problemsIN A COMPLAINT UNDER THE BERN
CONVENTION 2022/6

BETWEEN:

BALKANKA ASSOCIATION Sofia

COSIGNATORY

and

SERBIA

RESPONDENT

“At the request of the information seeker, the Commissioner and another authority for the protection of rights will determine, by conducting a three-part test, whether the public authority acted in accordance with the regulations and legally denied the requested access, or not”. This is where there is often a big gap between regulations and practice. By monitoring the work and looking at the results of the authorities that decide on the request for access to information of public importance in the first and second degree, we come to realise that the use of the three-part test is often absent.

The largest number of cases refers to the so-called "silence of the administration" which implies the absence of a response from the branches of public authority. The second part of the appeals most often concerns cases in which the claimants received a negative and unargued answer, so the Commissioner logically concludes that the authorities did not apply the legal provisions, i.e. the test, nor did they evaluate and explain why the claimant's interest does not prevail in relation to another, conflicting interest.”²¹

Annex VII

WITNESS STATEMENT OF DIMITER KOUMANOV

²¹Expert article, “The right to free access to information of public importance”, UDC: 342.727(497.11), DOI: 10.46793/GP. 1201.089K [Ружица Кијевчанин* \(kg.ac.rs\)](http://www.kg.ac.rs), 28.01.2024. 16H

I, DIMITER KOUMANOV, of SOFIA, BULGARIA, BALKANKA ASSOCIATION, SOFIA BULGARIA, will say as follows:

1.1. "Balkanka" Association is a non-profit, non-governmental organization, registered in Bulgaria for action in public benefit, on 07 August 2013, company file 203/2013 of the Sofia City Court, UIC 176566443. The main objectives of "Balkanka" are protection and conservation of river biodiversity, with a focus on conservation and restoration of indigenous Balkan brown trout /*Salmo trutta*/ populations in the Balkan rivers.

1.2. Where appropriate, represented by:
Dipl.eng. Dimiter Koumanov, member of the board

1.3. Nationality:
Bulgarian

1.4. Address:
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1. I make this statement in support of the above complaint. The facts stated within this statement are within my own knowledge and belief save where otherwise stated.

2. I work as (normal occupation): *civil engineer - structural designer*

3. EXPLAIN RELATIONSHIP TO CASE EG I AM A MEMBER OF x FISHING SOCIETY, number of members etc, any relevant info re the fishing society.
Currently Balkanka has 44 members, mostly fishermen and volunteers

4. EXPLAIN HOW LONG BEEN FISHING, KNOWLEDGE OF FISH, WHERE FISHES, HOW OFTEN.

I've been fishing on a regular basis - at least once a week - all my life since 1968 when I was six years old. In the last 20 years most of the fishing trips were in the trout zone and the knowledge of fish and its behaviour is second to none. I have been doing this all my life.

5. Explain where located in relation to mine -

in the town of Sofia, Bulgaria, but I have visited the area of the Karamanichka River under the Podvirovi mine by invitation of the local people on more than five occasions

The Karamanichka river, which is made up of streams that pass from the mine and next to the mine, is in the Brankovačka river basin. It is then around 30 km from the mine to the place where the Brankovačka River flows into Dragovištica river which then goes into the Aegean sea basin

6. Explain that you noticed the absence of fish on X date. Give details of how many fish of this type would normally see. Any other relevant information

There is no life in the Karamanichka River, while it is normal for such a river to host some 200 - 300 Balkan trout species per kilometre.

It is stated in Professor Simonovic's study: [RISKS TO STOCKS OF NATIVE TROUT OF THE GENUS SALMO \(ACTINOPTERYGII: SALMONIFORMES: SALMONIDAE\) OF SERBIA AND MANAGEMENT FOR THEIR RECOVERY](#) in the introductory passage:

Marić et al. (2004) reported for the first time the occurrence of Macedonian trout, Salmo macedonicus (Karaman, 1924), as a native species in tributaries of the Dragovištica River (i.e., Struma River drainage area of the Aegean Sea basin)

My First visit was back in the autumn of 2018 and I never tried to catch a fish in this river, because it is so poisoned that flies don't even fly over the water and there was no benthos under the stones in the upper section of the river. This is the normal check up for the presence of fish in the river.

The results of my first visit and other information for the area of Bosilegrad are thoroughly described here:

https://dams.reki.bg/uploads/Docs/Files/ESPOO_COMMITTEE_COMPLAINT_BOSILEGRAD.pdf

Statement of truth:

I believe that the facts stated in this witness statement are true.



Signed:

(Dimiter Koumanov)

Dated: 30.01.2024