



Strasbourg, 8 November 2024

T-PVS/Files(2024)23

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

2 - 6 December 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

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3rd Report on Complaint No. 2022/06: Serbia: Possible negative impact of mining activities in Bosilegrad and in the Homolje Mt region

6 November 2024

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. We also note the Secretary's letter of 11 October 2024 and welcome elevation of the Complaint to the status of a possible file and are pleased to accept the invitation to make a presentation at the 44th Standing Committee meeting on 2-6 December 2024.

(2) Status of the mine

The extent of the mine's current operations continues to be unclear. Local environmental defenders have reported that the mine does not currently appear to be operational. However, it is unclear whether this lack of activity is temporary or permanent. We reiterate our call for the Serbian Government to provide accurate and detailed information as to whether the mine is operational and invite the Bureau to clarify this point as a matter of primary importance at the upcoming Standing Committee meeting.

(3) Conducting sedimentary assessments in affected rivers and waterways

Due to the insufficient number of water samples collected during previous Environmental Impact Assessments conducted by Bosil-Metal, we will be dispatching a water expert to the region to obtain additional samples and conduct sedimentary assessments. These assessments will analyse the heavy metal content in affected rivers and waterways to determine the extent of pollution. Although results are not yet available at the time of this report, they will be finalised and presented at the upcoming Standing Committee meeting.

(4) Targeting of environmental defenders and journalists

As we have noted in previous reports, local resident and environmental defender Branko Mitov has been prosecuted for visiting the mine site to monitor compliance with environmental standards. The prosecutor has yet to hand down the decision on whether the criminal case against Mr Mitov will be pursued. The Complainants are concerned about the integrity of the criminal process, and note that during the hearing evidence provided by Bosil-Metal employees and the prosecution's witnesses was contradictory to video evidence of the event forming the basis of the prosecution. We also note separate criminal proceedings that were commenced against the Director of the mine for their assault on Bulgarian journalists at the mine site. The hearing is scheduled for 17 November in Surdulica. We invite the Serbian Government to provide a summary of these proceedings at the Standing Committee meeting and to provide guarantees of fair treatment for environmental defenders.

(5) Rights of Nature

In advance of the Standing Committee meeting, the Complainants recall our legal argument that the mining activities in Bosilegrad and in the Homolje Mt region breach the rights of Nature. As we set out in our initial Complaint, the ongoing pollution and its attendant impacts breaches the inherent rights of

flora, fauna and habitats protected under the Bern Convention. The Bern Convention recognises an ecocentric approach to protection of species in its preamble by recognising the “*intrinsic value*” of wild flora and fauna.¹ In light of this ecocentric approach and relevant developments in international and foreign domestic law recognising the rights of Nature, we invite the Standing Committee to find that Article 4(1) of the Bern Convention requires States to guarantee the rights of Nature.

Article 4(1) provides that States must “*take appropriate and necessary legislative and administrative measures to ensure the conservation of the habitats of the wild flora and fauna species*” protected under the Convention, in addition to ensuring the “*conservation of endangered natural habitats*”.² A legislative and administrative regime that does not provide for the protection of the rights of Nature will inevitably fail to adequately protect the species identified in Appendices I and II of the Convention. States are bound by the Convention to comply with Article 4(1) to pass “*appropriate and necessary*” legislative and administrative measures recognising the “*intrinsic value*” of protected flora and fauna.³ This recognition would be consistent with legal developments in other domestic and international jurisdictions.

For example, Spain, a signatory to the Bern Convention, passed the *Mar Menor Act* in September 2022, which granted legal personality to the Mar Menor lagoon, the largest salt lagoon in Europe, and its basin.⁴ This is the first ecosystem in Europe to have its inherent rights recognised. In Peru, the Peruvian Supreme Court of Justice of Loreto recognised in March 2024 the rights of the Marañón River and its tributaries, which had suffered the impacts of systemic oil spills.⁵ Echoing the language used in the Bern Convention, the Court recognized the “*intrinsic value*” of the Marañón River, which included the right to exist, flow and be free from pollution.⁶

Beyond domestic law, the Standing Committee should also have regard to developments in international law under Articles 31 and 33 of the Vienna Convention on the Law of Treaties.⁷ Article 31(3)(c) relevantly requires that when interpreting a treaty, “*any relevant rules of international law applicable in the relations between the parties*” shall be taken into account, together with its context.⁸ In other words, treaties should be interpreted in light of existing obligations emerging not only from that particular treaty regime, but from international law as a whole. This includes other treaties, customary international law, and general principles of international law. This approach is known as “systemic integration” or

¹ Convention on the Conservation of European Wildlife and Natural Habitats (adopted 19 September 1979, entered into force 1 June 1982) ETS 104 (“**Bern Convention**”), preambular paragraph 4: “Recognising that wild flora and fauna constitute a natural heritage of aesthetic, scientific, cultural, recreational, economic and **intrinsic value** that needs to be preserved and handed on to future generations”.

² Bern Convention, Article 4(1).

³ Bern Convention, preambular paragraph 4, Article 4(1). See also Articles 5, 6, 7, 10, and 11.

⁴ Eco Jurisprudence Monitor, “Spain Law on the Rights and Legal Personality of the Mar Menor Lagoon” (2022). Available at: <https://ecojurisprudence.org/initiatives/proposed-law-for-recognition-of-legal-personality-to-the-laguna-del-mar-menor-and-its-basin/>.

⁵ Eco Jurisprudence Monitor, “Peru Court Case on the Rights of the Marañon River” (2024). Available at: <https://ecojurisprudence.org/initiatives/rights-of-maranon-river-case/>.

⁶ *Instituto Peruano de Asesoría Legal del Medio Ambiente y Biodiversidad v Servicio Nacional Forestal y de Fauna Silvestre y Municipalidad Metropolitana de Lima* (2024) Corte Superior de Justicia de Lima, Resolución No 11, Expediente No 04921-2021-0-1801-JR-DC-03 at paragraph 2.3.5.4.

⁷ Vienna Convention on the Law of Treaties, opened for signature 23 May 1969, 1155 UNTS 331 (entered into force 27 January 1980) (“**VCLT**”).

⁸ VCLT, Article 31(3).

“harmonious interpretation”.⁹ A relevant source of international law in interpreting the scope of obligations under the Bern Convention is the Inter-American Court of Human Rights statements in its 2017 advisory opinion on the environment.¹⁰ The Court relevantly recognised the rights of Nature as an aspect of the right to a healthy environment:

The Court considers it important to stress that, as an autonomous right, the right to a healthy environment, unlike other rights, protects the components of the environment, such as forests, rivers and seas, as legal interests in themselves, even in the absence of the certainty or evidence of a risk to individuals. This means that it protects Nature and the environment, not only because of the benefits they provide to humanity or the effects that their degradation may have on other human rights, such as health, life or personal integrity, but because of their importance to the other living organisms with which we share the planet that also merit protection in their own right. In this regard, the Court notes a tendency, not only in court judgments, but also in Constitutions, to recognize legal personality and, consequently, rights to Nature.¹¹

This approach would be consistent with Serbia's obligations under its Constitution, which recognises the right to a healthy environment under Article 74, where it is stated that “everyone shall have the right to a healthy environment”.¹² As such, we invite the Standing Committee to find that Article 4(1) of the Bern Convention requires States to guarantee the rights of Nature.

Homolje case: Earth Thrive, Čuvari Homolja, Mlavaska vojska, Earth Law Centre organisations

In the Homolje case report we would like to draw the Bureau and Standing Committee's attention to the continuation of the various harm done to Nature even at this exploration stage of Dundee Precious Metals (DPM) and its Serbian subsidiaries gold mining projects in the region of Homolje mountains.

(1) Continual water extraction from local streams

The illegal extraction of water from the local streams and water bodies continues as DPM's subsidiaries have not obtained the necessary water usage permits. A total of 6 locations, some with multiple water pumps, have been discovered. At least at one location (pump 6 in the location folder) the presence of the stone crayfish (*Austropotamobius torrentium*, Annex III of the Bern Convention) was documented. Between June and the end of August 2024, the local activists reported to the local police four instances of unlawful water extraction. On August 28, the inspector from the Ministry of Environmental Protection inspected the locations in question. The local police also reported the incidents to the local public prosecutor and the Inspection Department of the Republic Water Directorate, but no notifications about the stage of these legal procedures nor the report from the inspection carried out on the 29 August has arrived yet. The slow response of Serbia's institutions, or lack thereof, allow DPM to carry on environmentally harmful activities undisturbed.

(2) Drilling waste mismanagement

The drilling slurry is managed by BMDBAU, a company which has no licence to manage mining waste (under the Serbian legislation slurry is classified as mining waste: art. 44 of the Law on Mining and Geological Explorations). As there are no mining waste processing plants on the territory of the

⁹ International Law Commission, Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law, 58th sess, Agenda Item 11, UN Doc A/CN.4/L.682 (13 April 2006) 178.

¹⁰ *Environment and Human Rights* (Advisory Opinion OC-23/17, 15 November 2017) Inter-American Court of Human Rights, Series A No 23.

¹¹ *Ibid*, paragraph 62.

¹² Constitution of the Republic of Serbia 2006, Article 74.

Municipality of Zagubica, it is not clear where or whether the slurry is transported and processed.¹³ There are strong indications that BMDBAU is simply allowing the slurry to seep into the environment (the plastic foil lining the slurry pools is often damaged), and that the slurry mud from these pools is simply covered with fresh soil, rather than transported to a licenced waste plant.

The activists also documented deliberate discharge of slurry in the local streams (see two locations) and on the local roads which is contrary to the art. 29 and 38 of Conditions for the Protection of Nature, issued to the DPM by the Institute for Nature Conservation of Serbia. On both polluted stream locations the presence of the stone crayfish was documented. The discharge of drilling slurry represents dangerous and continual pollution of the environment as the slurry contains high levels of heavy metals resulting from drilling at great depths (some drill holes are more than 1000m deep). This is confirmed by the chemical analysis of the liquid drilling slurry and mud from Čoka Rakita made by Dr Dragana Đorđević which shows dangerously high concentrations of heavy metals (highlighted in yellow).¹⁴ Without proper management, these heavy metals will find their way into the soil and eventually into the water bodies.

During the aforementioned inspection on 29 of August, the inspector from the Ministry of Environmental Protection inspected the locations where the discharge of slurry was discovered, but no report has been produced to this date.

(3) The impact of exploration activities on water springs

We observe already significant negative impacts of drilling on the water bodies present on the Čoka Rakita licence, all the more so given the fact that this licence is only at about 14 km². In addition to the pollution of Mr Rade Mosić's water spring we mentioned in the last report, we have information that four more springs have been affected. The chemical analysis of one spring (spring Izdan) shows very high concentrations of iron (the recommended level of iron in drinking water is max. 0.3 mg/L or 300 micrograms per litre: the value of iron in the Izdan sample is around 12000 micrograms per litre), which makes this water unsafe for humans, fauna and flora. The excessive levels of iron are also evident from the colour of the sample. The polluted Izdan spring is only about 2 km north from the National Park Kučaj-Beljanica (potential Emerald site) (click for the location and the map).

The other three springs belonging respectively to Ivan Kekić, Petar Perzović and to the local quarry 'MAT-PRODUKT' have dried out since the drilling started in autumn 2022. DPM is currently supplying Mr Kekić's household with cisterns of fresh water.

The affected springs are an integral part of the local groundwater system and their disappearance and pollution would inevitably cause negative impacts on the local flora and fauna and their habitats, as well as on some of the most valuable natural features of the area. The springs are part of the Crna Reka catchment area. Crna Reka constitutes the north-eastern border of the National Park Kučaj-Beljanica and is the tributary of Tisnica River which is under second-highest, degree II, protection, as well as part of the National Park Kučaj-Beljanica. Through the cave systems in the karst terrain, Tisnica feeds the Mlava River Spring (category I natural monument) before it flows into Mlava. Homolje Mt. is indeed a geomorphological area of high value for protection (see Annex I).

Land-use changes resulted in a decline of biodiversity in recent European agricultural landscapes. Nevertheless, regions practising sustained low-input farming continue to harbour most of Europe's high-nature-value grasslands. The Serbian Carpathians represent one such region, boasting a well-preserved valuable bio-cultural heritage. Recently published study which also covered this area states: "Semi-natural grasslands in Europe play a crucial role in providing numerous ecosystem services and are of

¹³ According to the art. 38 of the latest [Conditions for Protection of Nature](#) issued to DPM by the Institute for Nature Conservation of Serbia, the management of 29 May 2024, the local utility company is responsible to indicate the conditions and management site for the drilling slurry.

¹⁴ For easier access, Ksenija Kolerovic translated the names of the samples and highlighted the relevant values/cells.

significant relevance for conservation of biodiversity (Squires et al., 2018).”¹⁵ And, further: “Traditionally managed hay meadows and pastures harbour high biodiversity, serving as refuges for endangered species that were widespread in Europe before agricultural mechanisation and intensification.”¹⁶

We shall remind you of the high number of species protected by national legislation and Annex II and Annex III of the Bern Convention present in the area affected by mining exploration and plans. In addition to these high-nature-value grasslands, the majority of the impacted area is covered in forest, and the area is in immediate adjacency of the National Park Kučaj-Beljanica. This is in line with the global trends where mining is associated as a major factor in deforestation. (see Appendix II). In addition, we note that the first Global Tree Assessment, published as part of the IUCN Red List of Threatened Species, rings alarm about the enormous risks posed to the world trees, with thirty-eight per cent of the world’s trees now classified under risk of extinction¹⁷.

¹⁵ Janišová, M. et al. (2024) “Exploring a grassland biodiversity hotspot in the Serbian Carpathians: Interdisciplinary perspectives and conservation implications.” *Biological Conservation*, 299, 110822, <https://doi.org/10.1016/j.biocon.2024.110822>

¹⁶ Ibid.

¹⁷ International Union for Conservation of Nature (2024) “More than one in three tree species worldwide faces extinction - IUCN Red List.” Press release, October 28, 2024. <https://iucn.org/press-release/202410/more-one-three-tree-species-worldwide-faces-extinction-iucn-red-list>

Appendix I

Geomorphological heritage and conservation in Homolje Mountains

In further argument for preservation of the Homolje region together with the protected species and habitats, currently very vulnerable and endangered due to the flood of extractive projects that the government is allowing, we would like to point out that Homolje is one of the most developed geomorphological areas in Eastern Serbia. The following paper details its values and significance.

“Shallow karsts prevail across this region with cover vegetation and soil, with developed surfaces, and underground karst landforms. This type of terrain leads to the occurrence of different geomorphological landforms that stand out from the rest, primarily for their scientific, aesthetic and ecological value, uses, and tourism potential. Gorges can be singled out as the largest geosites, then uvalas, caves, karst bridges, and tufa accumulations.

Two are on the National list of geoheritage of Serbia as protected natural monuments. As geoheritage protects only authentic and representative landforms, the main task of this paper is to point out the most significant measures to improve the unsatisfactory current state of geomorphosites of the Homolje area and possible solutions for their conservation, adequate use and better tourism promotion”

Miljković, Đ., Miljković, Lj., Jovanović, M. (2020) “Conservation of Geomorphological Heritage in the Homolje Area (Eastern Serbia) - Current State and Perspectives” *Geoconservation Research*, 3, 2. [10.30486/gcr.2020.1903646.1024](https://doi.org/10.30486/gcr.2020.1903646.1024).

Appendix II

We would also like to point out the huge negative global trend of tree cover loss due to mining especially given the high level of forested areas in the Homolje region, which would be wiped out should the mine(s) be allowed to go ahead.

Furthermore, cutting down trees not only destroys habitats and pushes species toward extinction but also worsens climate change by releasing more carbon dioxide into the atmosphere and reducing the much needed carbon sequestration. And given the climate catastrophe we have pushed the planet in, such projects should not even be contemplated, much less allowed to proceed!

“Of the 1.4 million hectares of mining-related tree cover loss from 2001 to 2020, 450,000 hectares were in tropical primary rainforests, 150,000 hectares were in protected areas, and 260,000 hectares were in Indigenous Peoples’ and local community lands.

Moreover, these figures are likely conservative. They do not account for indirect tree cover loss caused by mining activities, such as building access roads for heavy machinery, storage facilities and other infrastructure. Evidence also shows that mining sites often expand, leading to in-migration and the establishment of nearby settlements that further degrade forests

Gold and coal have historically been the biggest drivers of tree cover loss related to mining. According to a WWF study, gold and coal extraction resulted in over 71% of all mining-related deforestation from 2001 to 2019.”

Reference: Stanimirova, R. et al. (2024) “Mining Is Increasingly Pushing into Critical Rainforests and Protected Areas.” *World Resources Institute*. <https://www.wri.org/insights/how-mining-impacts-forests>

– August 2024 –

SECOND 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 regions in Serbia

Please find below our 2 joint reports for the September 2024 meeting of the Bureau:

Report on the case of the proposed gold mine in the Homolje Mt region

by

Earth Thrive, Cuvari Homolja, Mlavaska Vojska, Earth Law Centre

Our submissions for this Report will show that the Republic of Serbia would (further) violate Articles 2, 3.2, 4.1, 4.2, 4.4 and Article 6 of the Bern Convention by causing environmental harm and severely impacting protected species and water quality.

1. Watering down of the Conditions issued by the Institute for Nature Conservation of Serbia and the ongoing infringement of the Conditions by DPM

In our February 2024 report to the Bern Convention Bureau, we raised the concerns that DPM was conducting the drilling in disregard of the conditions (document number: 03 br: 021 3776/2 from 10.12.2021). However, on the 17th of June 2024, DPM publicly denied this, stating that they had been operating according to more recently issued conditions (number 03 021-171/5 from 9 February 2023) which allow night drilling and the use of water from local water bodies.¹⁸

We argue that, regardless of whether the mentioned Institute for the Protection of Nature Conditions allow night drilling - such activities severely disturb wildlife in the vicinity and cannot be good for the species that live nearby and such activities should not be allowed.

This constant infringement by the DPM of conditions for the protection of Nature shows that Serbian authorities are unable or unwilling to ensure that the mining companies actually respect them and that Nature is actually protected as per their obligations under the domestic and various international laws including Bern Convention. (For further details please see Annex 1)

We would like to ask the Bureau to ask the Serbian government to explain how is such a law and such activities in the zone where protected species live, in line with the Bern Convention rules.

2. The latest DPM's PEA (June 2024) envisions significant negative impact of the project on water bodies

DPM's expected impacts of the planned Coka Rakita mine are based on very scant environmental studies and data, but they envision significant impacts of the mine on water courses and water supply in the area, affecting catchments Crna Reka, Tisnica, and Lipa rivers.¹⁹

These rivers are tributaries of the two major rivers in eastern Serbia that are part of the Danube watershed: Mlava and Pek, so their pollution would put at risk the Natural habitats, lives and livelihoods of tens of thousands of people who live and produce food in the valleys these rivers provide with water, as well as the water quality of Danube. (*Please see Annex for further details*)

3. With regard to the governmental inadequacies regarding proper protection of Nature, we also like to reiterate the point regarding the regular and compulsory inspections and to further add:

¹⁸ <https://nova.rs/vesti/drustvo/oglasila-se-kompanija-koju-ekoloski-aktivisti-optuzuju-da-zagadjuje-planinske-potoke-u-homolju/>

¹⁹ https://dundeprecious.com/site/assets/files/16692/g7869_dpm_coka_rakita_ni43101_pea_tech_report_11jun2024_1.pdf pp. 23, 45

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
That makes it a whole 3 years now of no official inspections and no overview of the companies activities and consequently the state of Nature within the licenced zone.

Below we attach the link to the Government's reply to our request for the information of public interest on this issue:

Government's reply: "In accordance with your question whether regular control was carried out after that, in 2022 and 2023, we inform you that the geological inspector did not carry out regular inspections in 2022 or 2023."

Link to the full document: <https://docs.google.com/document/d/1hOjIDOnFwGuh5fcFJHm1u-sp-TL6XEzQ/edit?usp=sharing&ouid=102714438667335252172&rtpof=true&sd=true>

Furthermore, the Nature Park Kučaj – Beljanica (now Emerald site, future Natura site) is located within the Crna Reka catchment and is only 5 km from the nearest project infrastructure.²⁰ The mining activities and dewatering will inevitably have an impact on this protected site.

4. In further support of the arguments in our Complaint that the current and proposed activities regarding opening of the gold mine are harmful to the protected species and therefore in breach of the Bern Convention we submit the following:

In August 2019, the project team under Uros Pantovic from Bird Protection and Study Society of Serbia - BPSSS produced the following conclusions within their study.²¹

Some of their most relevant finding (for area Homolje and the adjoining National Park Kučaj-Beljanica) are quoted below:

A3. Biome-restricted species: The site is known to hold a significant component of the group of species whose distributions are largely or wholly confined to one biome

B2. Species with an unfavourable conservation status in Europe **The site is one of the 'n' most important in the country for a species with an unfavourable conservation status in Europe (SPEC 1/2/3)** and for which the site-protection approach is thought to be appropriate

B3. Species with a favourable conservation status in Europe **The site is one of the 'n' most important in the country for a species with a favourable conservation status in Europe but concentrated in Europe (Non-SPEC^E [previously, SPEC4])** and for which the site protection approach is thought to be appropriate

C6. Species threatened at the European Union level **The site is one of the five most important in the European region (NUTS region)** in question for a species or subspecies considered threatened in the European Union (i.e. listed in Annex I of the EC Birds Directive).

B2. and C6. same for Dukat mountain (Bosilegrad area)

5. Regarding the impacts of the already ongoing mining activities in the region, we would like to point out that even before the new drilling programme started on the Coka Rakita project, the negative

²⁰ https://dundeeprecious.com/site/assets/files/16692/g7869_dpm_coka_rakita_ni43101_pea_tech_report_11jun2024_1.pdf p.23

²¹ Long-term conservation of key biodiversity sites in Serbia – evaluation and designation of a new national network of Important Bird and Biodiversity Areas-IBA project, [23302-B Detailed Final Report.pdf](https://ruffordorg.s3.amazonaws.com/23302-B%20Detailed%20Final%20Report.pdf) (ruffordorg.s3.amazonaws.com)

impact of drilling could be observed from the previous exploration phases affected by the DPM (See Annex)

Report on possible negative impact of mining activities in Bosilegrad region
By
King's College Legal Clinic, Barrister Harj Narulla, 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. Since our last report, Bosil-Metal has applied to the Serbian authorities to resume and expand its mining activities in Bosilegrad. This report primarily focuses on the flawed Environmental Impact Assessment (“2024 EIA”) prepared by Bosil Metal for the expansion of the site. We consider that continued mining activities would further violate Articles 2, 3.2, 4.1, 4.2 and 4.4 of the Bern Convention by causing transboundary environmental harm and severely impacting protected species and water quality.

As noted by the Bureau during its 18-19 March 2024 meeting, we also provide further information on threats to activists and journalists in the region and obstruction of public participation and access to information by the Serbian Government, in breach of the Aarhus Convention. Given the significant breaches of the Convention and breaches of domestic and international law, we respectfully request that the Complaint is elevated to an open file.

(2) Status of the mine and proposed expansion of mining activities

The extent of the mine’s current operations is unclear. Both Serbia and Bosil-Metal have provided conflicting accounts regarding the status of the mine. Serbia has previously stated that all flotation activities were suspended at the mine. However, the Government report dated 23 January 2024 includes a report from the Ministry of Mining and Energy dated 1 June 2023 which states that “Bosil metal LLC is [presently] carrying out the exploitation of lead and zinc ore”. This is inconsistent with the 2024 EIA prepared by Bosil-Metal which states that mining at the Podvirovi deposit lasted from 2017 to 2022 and has since been halted.

As the Bureau will recall, the flotation facility was granted initial permission on 25 October 2017 to operate for only three years. The facility was then ordered to cease operations on 25 November 2019. On 30 October 2020 Bosil Metal applied for an extension of their permit, which was denied. The Implementation Committee of the Espoo Convention has noted violations of the permits granted to Bosil Metal, and a “misleading situation” with regard to the timeframe of the operations. In the absence of clear information, we invite the Bureau to adopt a precautionary approach and conclude that the mine remains in operation.

Bosil-Metal has requested permission to mine lead, zinc, and copper from the “Podvirovi” and “Popovica” sites within the area of Karamanica near Bosilegrad, and to construct a flotation facility and flotation tailings pond. The 2024 EIA prepared in support of the application provides clear evidence of previous environmental harm and identifies a high risk of further serious harm if the application is approved.

(3) Analysis of Bosil-Metal Environmental Impact Assessment

(a) Harm to species from water pollution

The 2024 EIA indicates that during the small-scale testing phase of the mine between 2017–2022 the maximum levels for permitted manganese and lead under Serbian legislation were breached multiple times: 2024 EIA at [5.15]-[5.16], [10.3.1]. If the expansion to the mine is approved, 250,000 tons of ore will be extracted per year leading to a tenfold increase in toxic wastewater: 2024 EIA at [3.3.7]. This severely threatens local and endemic species in breach of the Convention: 2024 EIA at [2.8.2.1].

(b) Absence of modern wastewater treatment methods

The mine proposal relies on outdated and polluting methods for wastewater treatment. Settling tanks would use the most basic technology available to remove harmful substances, which increases the risk of further pollution: 2024 EIA at [8.3.3]. Modern methods to remove heavy metal from water such as adsorption, membrane, chemical, electric, and photocatalytic-based treatments are not considered in the proposal. The need for modern wastewater treatment is acute given the intended use of outdated chemicals such as sodium cyanide: 2024 EIA at [4.3.2].

(c) Water pollution monitoring is deficient

The water sampling contained in the 2024 EIA is not documented adequately. The 2024 EIA sets out a program for monitoring surface water and wastewater in Bosilegrad, but the original testing reports are absent, and therefore the methodology used for the program is unclear. This means that it is unclear whether water samples analysed in the report provide an accurate picture of the local pollution: 2024 EIA at [5.14]-[5.20]. As a Bulgarian Government letter analysing the EIA points out, there is an absence of data for a range of substances. For example, acidic seepage water from the flotation tailings pond has not been assessed adequately.

The assessment acknowledges that the biological and hydromorphological information necessary to evaluate the environmental status of local surface waters is missing: 2024 EIA at [6.4.3]. There are similar failures to assess groundwater levels. Underground water cannot be analysed properly because piezometers are not used, and there are indications that the biological status is severely deteriorated: 2024 EIA at [9.4.3].

(d) Impacts on water quality affect local communities and breach rights of Nature

As noted by the EIA, several communities in Bosilegrad rely on individual catchments to collect their drinking water: 2024 EIA at [10.2.6]. Populations in Bulgaria also depend on the drinking water and irrigation provided by the rivers downstream of the mine. The right to clean water, as protected under Articles 2 and 8 of the ECtHR, will be severely endangered in Bosilegrad and downstream in Bulgaria if the mine is allowed to resume and expand its activities. As we noted in our original Complaint, the pollution of rivers violates the inherent rights of wild flora and fauna and protected natural habitats in Serbia, in breach of Article 4 of the Convention.

(e) Failure to evaluate environmental impacts on protected species

The 2024 EIA does not contain any impact assessment for individual species, including the 24 species of protected and strictly protected fauna and the five protected habitat types set out in our initial Complaint. The assessment identifies some risks and protected plant species, but does not analyse possible impacts on those species, nor identify any protected fauna located near the mine: 2024 EIA at [6.8]. Analysis of impacts on fauna are limited to rabbits, partridges, wolves, amphibians, reptiles and lynx, with no reference to protected species: 2024 EIA at [2.8.1]. The 2024 EIA only refers to birds or mammals as “hunting species” or “game”: 2024 EIA at [5.2].

The amphibians and reptiles identified do not include the protected species identified in our Complaint: 2024 EIA at [2.8.2.3]. The 2024 EIA also fails to consider impacts on protected bird and mammal species, such as the semicollared flycatcher (*Ficedula semitorquata*), that the Serbian Government has previously accepted as being proximate to the mine in its report dated 19 January 2023: 2024 EIA at [6.4.3].

(f) Failure to conduct sedimentary assessments

Water sediments are not being sampled for toxic substances despite their harmful impacts on food chains and the clear risk of biomagnification. The 2024 EIA notes that sediments are a significant source of heavy metals and that mine water is leaking into local sediments, however no clear risks are identified: 2024 EIA at [5.4.3]-[6.4.3].

(g) Failure to adequately evaluate risks of environmental accidents

The risk of the flotation tailings pond leaking could not be assessed adequately because of inadequate data on the surrounding area: 2024 EIA at [6.12]. There is a similar lack of data on potential chemical accidents. The 2024 EIA also fails to adequately consider the risk of water treatment failure and accidental spillages, or to assess pipes or the tailings pond breaking: 2024 EIA at [7.1]. Leaking sludge or waste could contaminate boundary rivers, drinking water and enter the food chain via irrigation.

(4) High risk of further transboundary environmental harm in Bulgaria

Serbia informed Bulgaria on 24 April 2024 that an EIA had been conducted in relation to the mine, purportedly in line with their obligations under the Espoo Convention. Bulgaria provided a comprehensive response to the notification, outlining various environmental concerns, including that contaminated water will affect the protected areas BG0000294 Karshalevo and BG0000295 Dolni Koriten, in breach of the Habitats Directive. Bulgaria considers water contaminated in accidents could lead to an “ecological disaster”.

(5) Breaches of the Aarhus Convention and targeting of environmental defenders

As the Bureau has noted, journalists, activists and environmental defenders have been targeted in connection with the mine. Branko Mitov, a local community member and environmental defender, has been harassed and assaulted on site visits to the project. For example, he was attacked by security personnel on a site visit while collecting evidence of pollution and was subsequently subjected to unfair criminal charges including public disorder allegations. The Serbian Government has also engaged in obstruction of public participation and access to information.

Earth Thrive has sought to obtain further information from the Ministry of Environmental Protection, but several freedom of information requests submitted were denied, in breach of the Aarhus Convention. In particular, the Ministry refused a request for information relating to a misdemeanour proceeding against Bosil Metal, commenced after the decision of the Republic Environmental Protection Inspector No. 924-480-501-00071/2022-07 on August 19, 2022.

ANNEXES

HOMOLJE CASE

ANNEX I

1. Watered down conditions by the Serbian Institute for Nature Protection

We have now obtained the latest conditions (number 03 021-171/5 from 9 February 2023) and we can confirm that the Serbian authorities have indeed watered down the conditions for the protection of Nature DPM should abide by, showing that the Institute for Nature Conservation of Serbia clearly puts the interests of the mining company before the protection of Nature.

They did this on explicit request from the company: the company submitted a map indicating the points in which they planned to extract water from local water bodies, which was approved by the Institute. **The new conditions allow the use of water from water bodies for drilling purposes** as long as the minimum flow is guaranteed (point 12) and the outlook and function of the banks are not affected (point 13).²²

However, in June 2024, the local activists found out that even these conditions are not respected by the DPM (please see Annex for further details and the harm to Nature already committed)

- **Further Condition infringements and Nature harm by the DPM Corporation - evidence as witnessed by the local activists:** DPM subcontractors had completely blocked a stream and dug out an artificial accumulation in which they placed their diesel-powered pumps to extract water ([click for the video](#) and [location](#)). In addition to the changed outlook and the function of the stream bank, the activists noted petrol pollution of the pond/accumulation. They also found that the water pipes used to transport water from the stream were laid through and over the streambed, which is the infringement of point 9 of the conditions.²³
- During their second visit to the site on the 31st July, the activists discovered that the water extraction directly endangers the protected stone crayfish (*Austropotamobius torrentium*) as well as a nest of the Grey Wagtail (*Motacilla cinerea*): in [this video](#), stone crayfish is being sucked in by the pump and appears to have lost one of its chelipeds; the [second video](#) shows the [Gray Wagtail](#) nest, just metres away from the noisy diesel-powered pump. Points 2 and 3 of the conditions state that the drilling activities near bird nests should be carried out when the nests are inactive and that drilling activities should be temporarily suspended if the active nests are discovered.

2. The latest DPM's PEA (June 2024) envisions significant negative impact of the project on water bodies

River Mlava source, which is a natural monument or feature ([IUCN category III](#)) is under direct threat if this mine is opened. The scientists who DPM commissioned to produce the 2014 study on the biodiversity of the area concluded that 'Tisnica and Crna Reka gorges and canyons represent 'biodiversity hotspots' and 'precious ecosystems that should be protected'; they also advise that should further mining or other activities take place during the current (unprotected) status of the area, 'additional

²² https://drive.google.com/file/d/19Uq7ZfoV0vD1_xg8paqbBh-ohy4GfVw_/view?usp=drive_link

²³ https://drive.google.com/file/d/19Uq7ZfoV0vD1_xg8paqbBh-ohy4GfVw_/view?usp=drive_link

programmes as well as ex situ and in situ protections must be devised and implemented'.²⁴ Apart from issuing conditions for the protection of Nature that, as demonstrated above, DPM is not respecting, Serbian authorities did not put any plan or measure in place to protect this area.

3. In addition to the already listed protected species, there has now been a new discovery of the migratory route of the Fennoscandian Lesser White-fronted Geese over eastern Serbia where Homolje Mt region is situated

“15.03.2024. a flock of migratory Fennoscandian (population in Norway and Finland) Lesser White-fronted Geese (*Anser erythropus*) flew across Serbia. In our literature so far, there is nothing similar that something like this happens at all, but several years of data from satellite transmitters tell a completely different story.” said Marko Šćiban from Bird Protection and Study Society of Serbia²⁵ White-fronted Geese are protected by the EU Bird directive, Convention on the Conservation of European Wildlife and Natural Habitats (ETS No. 104), Convention on the Conservation of Migratory Species of Wild Animals, Agreement on the Conservation of African-Eurasian Migratory Waterbirds

4. DPM operates without the necessary water permits

DPM's expected impacts of the planned mine are based on very scant environmental studies and data, but they envision significant impacts of the mine on water courses and water supply in the area, affecting catchments Crna Reka, Tisnica, and Lipa rivers.²⁶

These rivers are tributaries of the two major rivers in eastern Serbia that are part of the Danube watershed: Mlava and Pek, so their pollution would put at risk the Natural habitats, lives and livelihoods of tens of thousands of people who live and produce food in the valleys these rivers provide with water, as well as the water quality of Danube.

Apart from issuing conditions for the protection of Nature that, as demonstrated above, DPM is not respecting, Serbian authorities did not put any plan or measure in place to protect this area, according to all this, the Republic of Serbia, i.e. the responsible authority, violates the already mentioned articles of the Convention by not taking the necessary measures to preserve the habitat and endangered species that live in that area.

The full impact of the past and current drillings by Dundee Precious Metal company in Homolje on Nature is yet to be established. **We have proof that drilling activities, for example, caused soil contamination.** The samples were taken from the local resident, Mr Rade Mosaic's land, property situated on Coka Rakita licence. *The results show that, due to the leakages from a drill hole, the maximum permitted values are exceeded for copper, zinc, arsenic, cadmium and cobalt.*²⁷ We fear that this is not an isolated case, given the presence of over 1500 drill holes across DPM's licences in Homolje.

In their Preliminary Economic Assessment (PEA) from June 2024, DPM revealed the details of the prospective Coka Rakita mine, whose life is estimated to be 10 years. This is planned to be an underground mine using sublevel stopping; the adopted processing technology is defined as 'flowsheet featuring gravity concentration followed by bulk sulphide flotation.' As to the reagents/chemicals to use they refer to cement at 5%, the flocculants PAX (Potassium Amyl Xanthate) and MIBC (Methyl Isobutyl Carbinol), and the collector A3477 (Sodium isobutyl dithiophosphate).²⁸ Among other gravity concentrate treatment methodologies, DPM is exploring the possibility of using Intensive cyanidation or other lixiviant followed by electrowinning and smelting.²⁹

²⁴ https://drive.google.com/file/d/1ieZhpGREncvTpJCqHYTY91jjWgSjrvh/view?usp=drive_link pp.95-96, 97

²⁵ <https://www.facebook.com/društvo.za.zastitu.i.proučavanje.ptica.srbije> (20+) Društvo za zaštitu i proučavanje ptica Srbije Group | Danas je Srbiju uzduž preletelo jato seobnih Fensokandijjskih (populacija u Norvečkoj i Finskoj) malih lisastih gusaka (*Anser erythropus*) | Facebook

²⁶ https://dundeeprecious.com/site/assets/files/16692/g7869_dpm_coka_rakita_ni43101_pea_tech_report_11jun2024_1.pdf pp. 23, 45

²⁷ https://drive.google.com/file/d/1f60Nnggjkm9iUGk7X2W2BsGO8xqZ33q/view?usp=drive_link

²⁸ https://dundeeprecious.com/site/assets/files/16692/g7869_dpm_coka_rakita_ni43101_pea_tech_report_11jun2024_1.pdf pp. 16-17

²⁹ https://dundeeprecious.com/site/assets/files/16692/g7869_dpm_coka_rakita_ni43101_pea_tech_report_11jun2024_1.pdf p.260

According to the DPMs Technical report, additional 173 drill holes have been completed on the Coka Rakita licence from 2021 to November 2023.³⁰

To highlight how problematic and damaging the drilling operations in Homolje Mt region are, we would like to point out the following:

Homolje area is very clearly defined as a geographical area in the central part of Eastern Serbia. The diversity of the typical karst terrain, whose formation phases can be traced from initial forms to complete development, easy access and many rare forms of landscapes indicate the primary participation of karst forms in the relief, which, with fluvial forms, represent the most important features of geoheritage.³¹

Karst terrains are of particular importance in water supply, because the water resources of these areas are of high quality and require minimal processing in order to obtain the water quality prescribed for drinking water. **In Serbia, karst springs represent a significant potential for current and future water supply, and when it comes to certain parts of eastern and western Serbia, there is no alternative solution.**³²

The extraction of valuable minerals like ore and coal is often accompanied by unregulated discharges of waste products containing metalloids and heavy metals that are a serious source of water pollution. This problem concerns mining and metallurgical waste dumps, as well as mine tailing dumps (Reza & Singh, 2010). *The elevated concentration of trace metals and metalloids in water bodies is treated as one of the most dangerous and burdensome environmental issues (Kar et al., 2008; Shanbehzadeh et al., 2014; Is lam et al., 2015).* The health effects of metalloids and trace metals contamination do not cause immediate symptoms, but manifest themselves after years and still are not fully understood (Lee et al., 2007; Adams et al., 2008; Vinodhini & Narayanan, 2008). **The combined effect of nutrient and heavy metal and metalloid pollution results in a decline of ecosystem health and loss of biodiversity (Bourg et al., 1996).**³³³⁴

Below:

Picture 1: Eastern Serbia is already covered with exploration and exploitation fields³⁵;

Picture 2: the distance of the exploration areas from the park boundaries, Nature park “Kučaj Beljanica” more

Again the Republic of Serbia, i.e. the responsible authority, violates the already mentioned articles of the Convention by not taking the necessary measures to preserve the habitat and endangered species that live in that area.

³⁰ https://dundeprecious.com/site/assets/files/16692/g7869_dpm_coka_rakita_ni43101_pea_tech_report_11jun2024_1.pdf pp. 4, 139

³¹ [Геоморфолошко и хидролошко геонаслеђе Хомоља \(mnp.gov.rs\)](#), accessed 13.05.2024. 08:15h

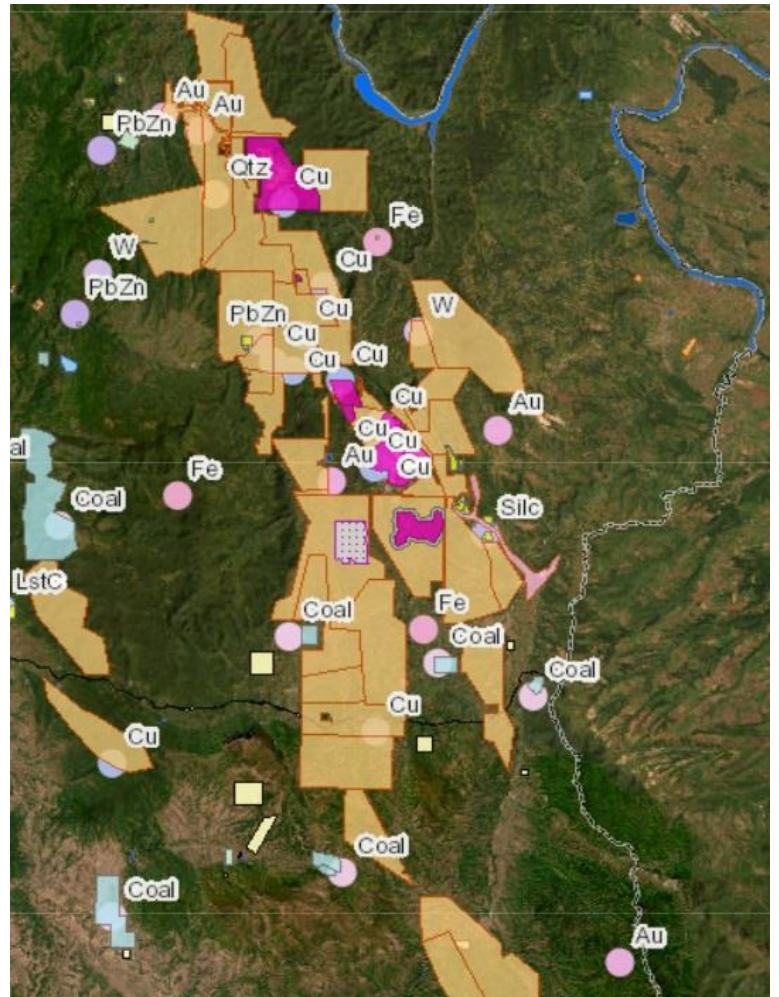
³² Ibid

³³ In the context of those problems, one of the objectives of the European Union Water Framework Directive (WFD) is to ensure good water quality status in all water bodies (Fritsch et al., 2017). The report of EEA (2018), regarding chemical pollution, concluded that Europe is not on track to minimize the significant adverse effects of chemicals on the environment by 2020. It noted that 62% of the Europe's water bodies are not in good chemical status and the risks from chemical pollution on the environment are “likely to be greatly underestimated” (EEA, 2018).

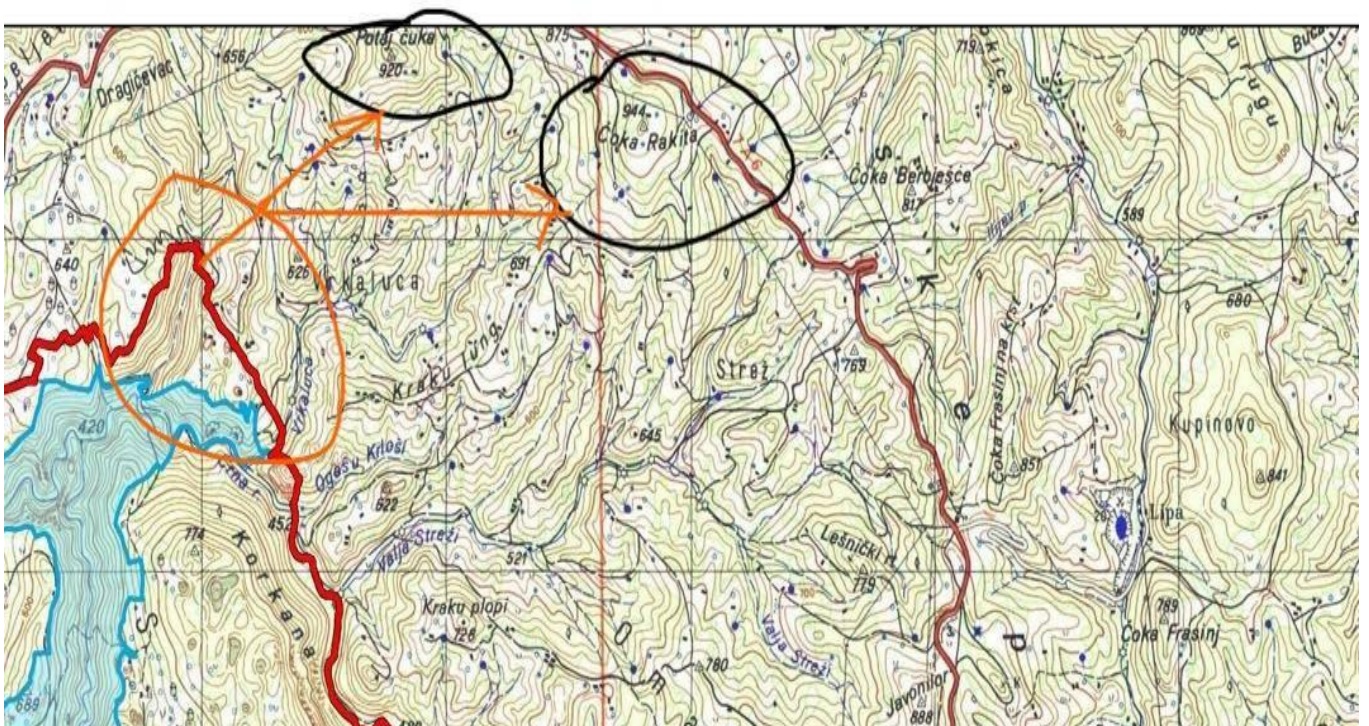
³⁴ Kalina Radeva, Kalin Seymenov *Surface Water Pollution with Nutrient Components, Trace Metals and Metalloids in Agricultural and Mining-affected River Catchments (A Case Study for Three Tributaries of the Maritsa River, Southern Bulgaria)* Geographica Pannonica • Volume 25, Issue 3, 214–225 (September 2021) page 215. [0354-87242103214R.pdf \(ceon.rs\)](#)

³⁵ [Timočka Krajina prekrivena istražnim i eksploatacionim poljima – Ekološki odgovor \(ekoloskiodgovor.rs\)](#)

Picture 1



Picture 2 <https://www.ekologija.gov.rs/obavestenja/zastita-prirode/obavestenje-o-postupku-pokretanja-zastite-u-nacionalnom-parku-kucaj-beljanica-0>



Annex II

3 Wind farm projects in the Homolje Mt region

As argued in our Complaint, the area is very rich in Nature which is home to well over 100 various endangered and vulnerable species and habitats and is still, so far, relatively unspoilt.

Given such naturally preserved landscape, it is a very rare treasure to be protected and conserved as is, not to be highly developed with massive industrial and ecologically highly damaging projects which are being pushed by the Serbian government!

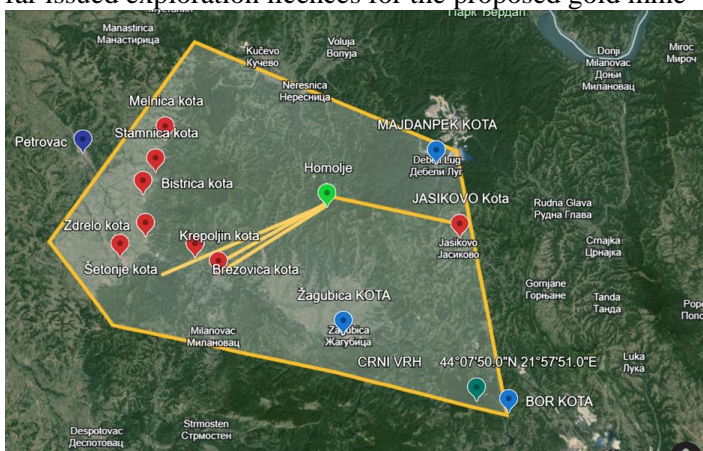
Besides the aforementioned proposed gold mine, we have recently learned of several more industrial projects going on in the region of the Homolje Mt range that would pose severe threat to the already very vulnerable endangered and protected Nature there: Crni Vrh (Black Peak) 300ha, Jasikovo 1,400ha!, and the lastest one - Gornjak 300ha.

We would like to emphasise here that we are not against wind energy as such, rather the opposite, but placing such a large number of these huge wind turbines - 86! - 16 in Jasikovo, 40 in Black Peak and 30 in Gornjak site with all the associated infrastructure construction in an ecologically rich and sensitive area (the plan includes the construction of a network of access and service roads, substations and connection distribution facilities, as well as other lines for the transmission of electricity and optical cables for managing the wind farm) - runs highly contrary to any environmental reasoning behind the very point of the wind energy - climate change benefits and Nature protection.

We understand that prolific forest cutting is already taking place at some of these highly forested sights, like Crni Vrh / Black Peak, for the access roads and other preparatory works for the wind farm

In their own documentations and Strategic Impact Assessments for these projects, the very close proximity, in some cases less than a mile (Jasikovo, page 23), of highly diverse, endangered or protected Nature is stated, so the very project proponents admit that the wind farms are to be built in a highly sensitive region.

As you will see from the below map - the area under the proposed wind farms is even larger than the so far issued exploration licences for the proposed gold mine



For further details of the scope and natural features of the area of the 3 planned wind farm projects in the Homolje Mt region please refer to this open google document:

https://docs.google.com/document/d/1NUs4nC8mDWlfdG23XbN--AYZeJm-bPhGIxHU_YabfRo/edit?usp=sharing

- [1]Elaborat-za-RJU-VP-Gornjak-Petrovac-na-Mlavi-januar-2024_compressed.pdf (petrovacnamlavi.rs) page 2. 24.02.2024. 10.37h
- [2] Idiom, page 13. 24..02.2024. 10:42h
- [3] (18) (PDF) FLORA I VEGETACIJA GORNJAČKE KLISURE / THE FLORA AND VEGETATION OF GORNJACKA GORGE (researchgate.net), page 81.
- [4] Idiom, page 84.
- [5] PDR VE JASIKOVO Majdanpek_RJU_februar 2023.pdf page 1. 26.02.2024. 11.43h
- [6] Ibid, page 7.
- [7] Joint Research Centre, European Environment Agency, Institute for Environment and Sustainability, Hoogeveen, Y., Petersen, J., Paracchini, M., High Nature value farmland in Europe an estimate of the distribution patterns on the basis of land cover and biodiversity data, Publications Office, 2008, <https://data.europa.eu/doi/10.2788/8891>
- [8] Ibid, page 11.
- [9] PDR-VE-CRNI-VRH-Bor_RJU_maj-2020.pdf
- [10] Nacrt-ju-2024.pdf (majdanpek.rs), page 7. 26.02.2024. 09:00
- [11] Source: EUNIS habitat classification EUNIS -Factsheet for Balkan Range beech forests (europa.eu)

Annex III

Further to the above, the government is allowing yet another wind farm project to be built, in the municipalities of Soko Banja and Boljevac also in Eastern Serbia

We would here like to draw the Bureau's attention to the following list of protected species and emphasise that these species are now threatened not only by the planned and working mines which are the subjects of our Complaints but also by planned wind farms ³⁶in the region of Sokobanja, also in Eastern Serbia as is the Homolje Mt region.

The reason we emphasise this case and these species is your comment in your last Decision that protected species are protected everywhere they live and, as all of the species mentioned here are already within the scope of our 3 current Complaints, we would like to point out that this wind farm project threatens the same species, just like the three aforementioned mines, do, and that we think, it therefore cannot be inline with the Bern Convention in the very least.

The list of the common species to the 3 mines and the Soko Banja and Boljevas sites: https://docs.google.com/document/d/1MEHglTJGtiYxIJ6wow0j6tskIcjq9vpxptAU5z_3VMs/edit?usp=sharing

“The species for which the areas of the European ecological network Natura 2000 (pSCI, PSPA) have been set aside are found in Appendices I and II of the Rulebook on declaration and protection strictly protected and protected wild species of plants, animals and fungi. Of the mentioned, the most significant is the presence of the lynx, as a very rare and extremely endangered species in Serbia, whose preservation depends on the non-destruction of forest habitats, i.e. preventing the fragmentation of forest complexes and wildernesses and preventing any construction activities in the area of their habitats.

The presence of numerous species of bats, which are both rare and endangered, makes this area one of the conservation centres of this group in Serbia. As this is a group of species most sensitive to the construction of wind farms and whose preservation depends on the non-destruction of forest habitats, speleological objects as well as measures to prevent their suffering in the areas of wind farms, it is necessary to prescribe the measure of mandatory preparation of a report on the impact of wind farms on the targeted and accompanying values of isolated ecological areas.” Page 6.

³⁶ Decision on the conditions of Nature protection of the Ministry of Environmental Protection, issued for the purpose of drafting the Detailed Regulation Plan for the construction of wind farms, dated: 24.04.2024.

Annexes List

Bosilegrad Case

1. Freedom of Information Requests Log with listed failures of the government to provide the same showing the uncooperation of the relevant government authorities with regard to this case
Open google document link

<https://docs.google.com/document/d/1icLJCcsMLvVAUXnoXsePAHcpDFD-awKlg4Uyfs5JQqU/edit?usp=sharing>

2. Minister of Environment and Water, Republic of Bulgaria to Republic of Serbia, 14 June 2024. (“**Bulgarian Government Letter**”). Open google document link:

<https://docs.google.com/document/d/1FgOO6xG-3zKJA1vls7a98lsUNj7RC2-T9odjJypa5w/edit?usp=sharing>

3. **Balkanka** **Organisation** **Report:**

On behalf of Balkanka Association, having the honour to express our deepest appreciation for the cooperation on environmental matters, allow me please to share our gratitude for the involvement of the Standing Committee of the Bern Convention in the assessment of the environmental impacts caused by the mining activities developed in recent years in the regions of Serbia close to the border with Bulgaria.

Hereby I would like to inform you about the recent developments concerning the Podvirovi mine at the Karamanitsa village - Bosilegrad municipality, Republic of Serbia.

As you are so kind to mention in your letter dated 15 April 2024, the development and expansion of the mining activities in Serbia adjacent to the border have to be subjected to an EIA in a transboundary context in line with the Espoo Convention, due to their negative impact not only in Serbia, but in Bulgaria as well.

After several years of operation of the Podvirovi mine without any EIA - neither local, nor in a transboundary context, without any treatment of the mining waste waters dumped directly in a tributary of the transboundary Dragovishtitsa River, and after several complaints of ours lodged with the Implementation Committee of the Espoo Convention, finally following the Convention the party of origin - Serbia conveyed an invitation to the affected party Bulgaria to participate in the procedure under the Convention, together with the Serbian EIA report for the expansion of the Podvirovi mine. The Notification dated 24 April 2024 can be found in the following link:

<https://www.moew.government.bg/bg/proekt-za-eksploataciya-na-rudi-ot-olovo-cink-i-med-ot-nahodistata-podvirovi-i-popovica-v-rajona-na-karamanica-kraj-bosilegrad-s-vuzlojitel-bosil-metal-bosilegrad/>

The answer of the Bulgarian Ministry of Environment and Water in English dated 14 June 2024 can also be found in the third document uploaded in the link above. In brief the assessment of the competent Bulgarian authority concerning the quality of the Serbian EIA report is more than negative, to say the least.

We have no clue as to what will happen next and what will be the reaction of the Serbian authorities, but we will keep you in the loop for any further developments of this case.

Thank you for your understanding and cooperation.

"Nature has all the time in the world, we do not".

Kind regards,

Dimiter Koumanov
Senior environmental advisor
Balkanka Association
Sofia, Bulgaria

– February 2024 –

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 (*Natrixtessellata*), 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 activities³⁷. 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.³⁸ 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.

³⁷ [Zakon o rudarstvu i geološkim istraživanjima | Paragraf](#), Article 40. 06.02.2024. 13:34h

³⁸ <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).³⁹

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.⁴⁰ 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.⁴¹ 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 13⁴². 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' population loss is irreplaceable. This primarily applies to the gold eagle and peregrine falcon*

³⁹ 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)

⁴⁰ 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"

⁴¹ Visual documentation available here: https://drive.google.com/drive/folders/1_c-V0QzcGTDFQrEqWULCWCi0eVCS9_St?usp=drive_link

⁴² 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*)

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 public⁴³ 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 4.⁴⁴ of the Law on Free Access to Information of Public Importance⁴⁵.

⁴³ **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.*

⁴⁴ *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.*

⁴⁵ **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 limitations⁴⁶ 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.⁴⁷

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 letter⁴⁸ 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.

⁴⁶ 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.

⁴⁷ LFAIPI [Zakon o slobodnom pristupu informacijama od javnog značaja \(paragraf.rs\)](#),01.02.24. 14:14h

⁴⁸ 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:

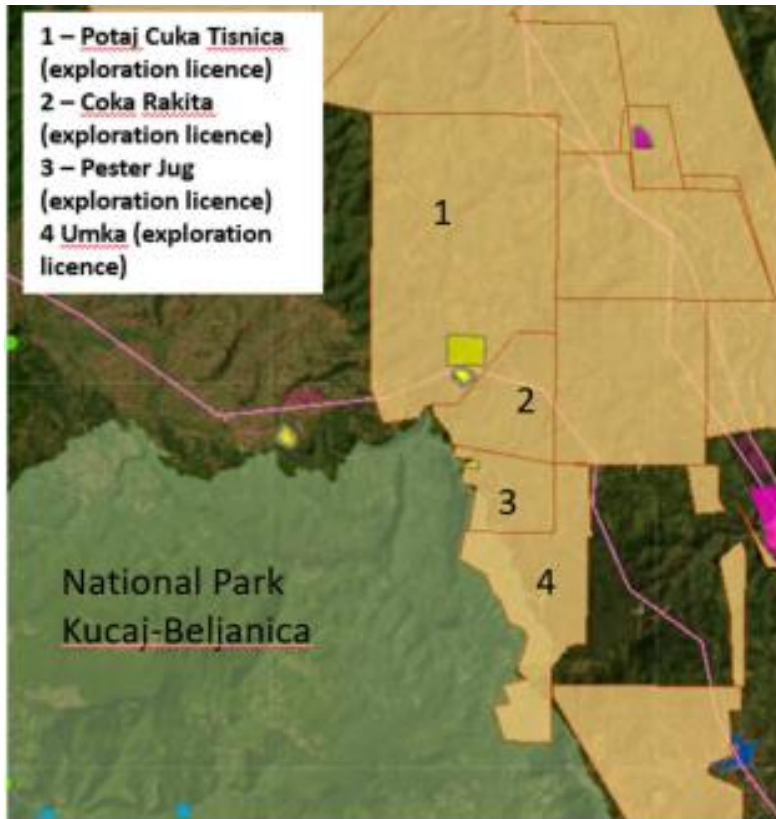
- 7 November 2023: request submitted to the Serbian Ministry of Mining and Energy for further information relating to cross-border environmental impact assessment concerning Bulgaria. No response has been received.
- 7 November 2023: request submitted to the Institute for the Protection of Nature for 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-V0QzcGTDFQrEqWULCWCIOeVCS9_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.⁴⁹ - 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).

⁴⁹ 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.⁵⁰ 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.⁵¹ 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.⁵²

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](#)

⁵⁰ 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.

⁵¹ https://drive.google.com/file/d/1s8ls4PepHSbsVCRpnFfu6Fjy6UKiFiGb/view?usp=drive_link

⁵² 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/1z1JCOx2QZmjxDJd_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.⁵³ 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 Bosilegrad⁵⁴,

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.

⁵³ https://drive.google.com/file/d/1LFig721twAAfNrXyA-62mYpt0y-oWXKP/view?usp=drive_link
p.13

⁵⁴ 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 misdemeanor 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.

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 *Law⁵⁵ on Free Access to Information of Public Importance (hereinafter referred to as: LFAIPI)* which regulates partial access to information.”⁵⁶

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

Process and problems

⁵⁵ 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

⁵⁶ [ACCESS TO INFORMATION CONTAINED IN SCHOOL MINUTES - Commissioner for Information of Public Importance and Personal Data Protection \(poverenik.rs\)](#), 30.01.2024.

“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

IN A COMPLAINT UNDER THE BERN
CONVENTION 2022/6

BETWEEN:

BALKANKA ASSOCIATION Sofia

COSIGNATORY

and

SERBIA

RESPONDENT

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.”⁵⁷

Annex VII

WITNESS STATEMENT OF DIMITER KOUMANOV

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,

⁵⁷Expert article, "The right to free access to information of public importance", UDC: 342.727(497.11), DOI: 10.46793/GP.1201.089K [Ружица Кијевчанин* \(kg.ac.rs\)](#), 28.01.2024. 16Н

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:

Petko Todorov blvd, bl.8, en.D, app.87

1.5. Town: Sofia

1.6. Post code: 1408

1.7. Country: Bulgaria

1.8. Mobile telephone:

+359 887 931 241

1.8. E-mail: dkoumanov@abv.bg

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