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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

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Complaints on stand-by: 2021/02

**Alleged threat to birds and protected sites due to the
proposed construction of windfarms (Norway)**

- *REPORT BY THE GOVERNMENT* -

*Document prepared by
Royal Norwegian Ministry of Climate and Environment, Norway*



ROYAL NORWEGIAN MINISTRY OF
CLIMATE AND ENVIRONMENT

Your ref

Our ref
21/535-14

Date
18. July 2022

Progress report – Complaint 2021/02: Alleged threat to birds and protected sites due to the proposed construction of windfarms

We refer to your letter of October 7th 2021, where Norwegian authorities are invited to send a progress report regarding Complaint No. 2021/2, especially focusing on the monitoring program for relevant avian fauna and giving more details on the mitigation measures identified.

Firstly, we would like to point out that the information and conclusions in the Government report dated August 13th 2021 still apply. The monitoring according to the monitoring program for the Haram Wind Power Plant mentioned in this report began in March 2022. Thus, we cannot provide a report on the results from the monitoring or provide details on identified mitigation measures at this point.

The monitoring period ends in October 2024. We suggest that Norway is invited to provide a new Government Report about Haram Wind Power Plant and avian fauna in 2025, when the results from the monitoring program are expected to be available.

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1. Brief overview of relevant updates

1.1. Haram Wind Power Plant

When the last Government report was submitted on August 13th 2021, Haram wind power plant was under construction. The Norwegian Water Resources and Energy Directorate (NVE) inspected the construction of Haram on September 29th 2021. The inspection found that the construction was in accordance with approved plans, license decisions and relevant laws and regulations. No deviations were revealed.

The construction of Haram Wind Power Plant is now completed, and the project is operating.

In the period from August 13th 2021 to present, NVE has made one decision regarding Haram Wind Power Plant. The original licence states that the developer must implement a monitoring program for relevant avian fauna, especially seabirds, and that the authorities can instruct additional monitoring or mitigation measures if the monitoring reveal negative effects. NVE has recently approved a monitoring program proposal from the license holder. NVE's approval of the program has been appealed by NGOs to the Ministry of Petroleum and Energy, who has not yet reached a final decision. Chapter two of this report gives further details about this process and the content of the monitoring program for relevant avian fauna.

1.2. The licencing process and updated knowledge base

In the last paragraph of chapter one in the Government report of August 13th 2021, it is mentioned that the Norwegian Parliament has decided that changes are to be made in the licensing procedure for wind power plants. As described in the report, this includes a higher level of details in the framework stated in the licenses,

more/stricter deadlines for the detailed design phase of the procedure and the realisation of the power plant, better environmental impact assessments, and procedural changes, one of which is that wind power plants will be subject to a permit process according to the Planning and Building Act. When the previous report was written, the licencing process for new wind power plants in Norway had been put on hold whilst awaiting the upcoming changes. As of April this year, the licensing process for new wind power plants is reopened. However, some of the decided procedural changes are still being settled, thus NVE are currently only handling notifications and applications regarding wind power plants in cases where they have been asked to do so by the local municipal authorities.

As part of the decided changes in the process, NVE has recently completed several work packages. The most relevant with regards to the complaint, is an updated knowledge base for wind power plants and avian fauna, which is co-published with The Norwegian Environment Agency (NEA). The web page presents and discusses possible effects of onshore wind power plants on avian fauna, relevant conflict mechanism and applicable mitigations measures. Future licencing decision, as well as decisions regarding changes in existing wind power plants, will use this knowledge base as an important source of information. NEA and NVE will continue to collaborate on the matter and update the web page regularly.

1.3. Other relevant activities

Avian fauna is an important matter in most wind power licensing processes in Norway.

Following a visit to Smøla Wind Power Plant in 2009, Norway received “Recommendation No. 144 (2009) on the wind park in Smøla (Norway) and other wind farm developments in Norway” from the Bern Convention. Post nine in the recommendations is to investigate the possibilities and consequences of non-renewal of the license for exploiting the Smøla wind farm concession by the year 2026 or consider a reduced period, and create the possibilities for due ecological restoration of the site if and when the site is abandoned.

NVE prolonged the license for Smøla Wind Power Plant on April 28th 2017, altering the end date of the license from January 1st 2026 to September 1st 2035. On November 26th 2019, a group of NGOs, including BirdLife Norway, sent a petition to the Ministry of Petroleum and Energy, asking for the decision to be repealed. The Ministry asked NVE to consider the petition. In a letter to the Ministry dated November 5th 2021, NVE concluded that the petition did not give a reason to repeal the pro-longing. However, NVE found that new knowledge about wind power and avian fauna produced after 2017 gave reasons to consider new terms and conditions in the license. On January 7th 2022 NVE made a decision that imposes the license holder of Smøla Wind Power Plant to propose mitigation measures that can be implemented to reduce collision rates for birds in the power plant. The proposed measures must be sent to NVE by June 31st 2022, and have to be approved prior to the implementation.

2. The monitoring program for relevant avian fauna at Haram Wind Power Plant

In both the licenses for Haram Wind Power Plant and in the approval decision of the detailed design plan and the environmental, transport and construction plan, the license holder is imposed to conduct post-construction studies related to avian fauna. This includes a monitoring program for avian fauna, including migrating birds, as well as monitoring the breeding population and breeding success of peregrine falcon, white-tailed eagle, eagle owl and shag, and to register all bird collisions with the wind turbines in the power plant. The authorities shall approve a monitoring program before the monitoring can begin.

NVE received a proposed monitoring program from the license holder on August 20st 2021. NVE sent the proposed program to local and regional authorities, NEA and relevant NGOs such as BirdLife Norway on September 3rd 2021, asking for their input and considerations. On December 10th 2021 NVE made an approval decision regarding the monitoring program, with a condition that an updated monitoring program had to be sent NVE prior to the monitoring. NVE received this updated program on March 17th 2021. NVEs decision of approving the monitoring program was appealed by two local organizations, and on May 19th 2021 NVE sent the monitoring program decision to the Ministry of Petroleum and Energy who will make the final decision.

The terms and conditions stated that the monitoring program shall be conducted over a period of three years during the operating phase of the power plant. NVE shall receive a report regarding the conducted monitoring in November each year. If the monitoring reveals negative effects, the authorities can instruct the developer to carry out additional monitoring or mitigation measures. This gives the authorities the necessary tools to ensure

that targeted mitigation measures are applied during the operation of the plant, if the studies indicate that this is required to protect e.g., red listed species. The monitoring program started in March 2022 and will be completed in October 2024. Since NVE has yet to receive information regarding the monitoring, Norway is not, at this stage of the monitoring process, able to provide more details on mitigation measures identified and possible impact on the results of the monitoring program on the operating of the wind power plant. We suggest that Norway is invited to provide an updated report to the Bern Convention in 2025.

Yours sincerely

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Adviser

This document is signed electronically and has therefore no handwritten signature

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