



Strasbourg, 6 August 2024

T-PVS/Files(2024)60

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

44th meeting
Strasbourg, 2-6 December 2024

Bureau of the Standing Committee

10-12 September 2024
Strasbourg

Stand by File: 2018/5

**Alleged threats to the Emerald Network sites
Skhidnyi Svydovets, Marmaroski ta Chyvchyno-
Hryniavski Hory and Carpathian Biosphere Reserve
2018/05
(Ukraine)**

- REPORT BY THE GOVERNMENT -

*Document prepared by
Ministry of Ecology and Natural Resources of Ukraine*



**МІНІСТЕРСТВО ЗАХИСТУ
ДОВКІЛЛЯ ТА ПРИРОДНИХ
РЕСУРСІВ УКРАЇНИ**

вул. Митрополита Василя Липківського, 35
м. Київ, 03035,
тел./факс: (044) 206-31-07,
тел. (044) 206-31-00
E-mail: info@mepr.gov.ua,
Сайт: <https://mepr.gov.ua>
ідентифікаційний код 43672853

**MINISTRY OF ENVIRONMENTAL
PROTECTION AND NATURAL
RESOURCES OF UKRAINE**

35 Mytropolyta Vasylya Lypkivskogo Str.,
Kyiv, 03035,
fax: (044) 206-31-07,
phone: (044) 206-31-00
E-mail: info@mepr.gov.ua,
WEB: <https://mepr.gov.ua>
identification code 43672853

Mikaël POUTIERS
Secretary of the Bern Convention
Council of Europe, Avenue de l'Europe
F-67075 Strasbourg Cedex, France

Dear Mr. Mikaël POUTIERS,

The Ministry of Environmental Protection and Natural Resources of Ukraine (hereinafter – the Ministry) certifies its respect to the Secretariat of the Bern Convention and sends you the final answer to your letter of January 18, 2024 regarding the resumption of cooperation with the Bern Convention regarding Ukrainian cases.

Annex 1 provides a comprehensive response to the case 2018/1 «Alleged threats to the Emerald network sites «Skhidnyi Svydovets» (UA 0000259), «Marmaroski ta Chyvchyno-Hryniavski Hory» (UA 0000117) and «Carpathian Biosphere Reserve» (UA 0000006) (Ukraine)». The most recent official government response to the case in 2018/1 was officially provided and published in 2019.

Since then, no action has taken place on this territory and no complaint has been sent, in particular during the period of military war status in Ukraine from 24 February 2022. The specified activity regarding the development of a ski resort in Ukraine is not timely. Please dismiss the complaint and the corresponding case No 2018/1.

Annex 2 provides a comprehensive response to the case 2018/5 «Presumed threat to Emerald site «Polonina Borzhava» (UA0000263) from wind energy development». Please take into account the fulfillment of the main demand of the complainant and Recommendation No. 213 (2021) of the Standing Committee of Bern Convention - the implementation of plans for the development of the wind energy complex has been canceled by court decision.

We also inform you about the new complaint No. 1114/2023 dated 06.11.2023 of the Ukrainian Nature Conservation Group, which is devoted to the lack of a proper environmental impact assessment of hydropower facilities within the boundaries of the «Skhidnyi Svydovets» (UA 0000259), «Marmaroski ta Chyvchyno-Hryniavski» facilities Hory» (UA 0000117) and Shopurka river valley» (UA0000374). This complaint has a new subject and does not relate to the case 2018/5. The complaint poor correspond to reality, because leading scientific institutions of Ukraine were involved in the environmental impact assessment, and the presence of Emerald sites was taken into account. Effective decisions were made to

ensure sustainable development of these territories. Public and non-governmental organizations representatives took an active part in the discussion of the relevant projects, whose opinion was taken into account when issuing conclusions on the impact on the environment. Therefore we kindly ask you to not open a new case.

Annexes 1 and 2

Sincerely,

Oleksandr Krasnolutskyi
First Deputy Minister

Annex 1

Case 2018/1 "Alleged threats to the Emerald network sites "Skhidnyi Svydovets" (UA 0000259), "Marmaroski ta Chyvchyno-Hryniavski Hory" (UA 0000117) and "Carpathian Biosphere Reserve" (UA 0000006) (Ukraine)"

МІНІСТЕРСТВО
ЕКОЛОГІЇ ТА
ПРИРОДНИХ РЕСУРСІВ
УКРАЇНИ



MINISTRY OF
ECOLOGY AND
NATURAL RESOURCES
OF UKRAINE

вул. Митрополита
В. Липківського, 35
м. Київ, 03035, Україна

tel/fax.: +38 044 206 31 00
e-mail: secretar@menr.gov.ua
www.menr.gov.ua

35 Mytropolita
V. Lypkivskogo Str.,
Kyiv, 03035, Ukraine

Kyiv, 22nd August, 2019

**Mrs. Iva OBRETENOVA,
Secretary of the Bern Convention
Head of the Biodiversity Unit
Directorate of Democratic
Governance
Directorate General II
Council of Europe**

Subject: Complaint No. 2018/5: Ukraine: Alleged threats to the Emerald network sites "Skhidnyi Svydovets" (UA 0000259), "Marmaroski ta Chyvchyno-Hryniavski Hory" (UA 0000117) and "Carpathian Biosphere Reserve" (UA 0000006)

Dear Mrs. Iva OBRETENOVA,

Referring to your letter dated on 24th of April 2019 with regard to complaint submitted by the NGO «Environmental-People-Law» dated on 25th of April 2018 Department of EcoNet and Protected Areas of the Ministry of Ecology and Natural Resources of Ukraine informs about state of protection of the Emerald network sites "Skhidnyi Svydovets" (UA 0000259), "Marmaroski ta Chyvchyno-Hryniavski Hory" (UA 0000117) and "Carpathian Biosphere Reserve" (UA 0000006) (letter of the Secretariat).

The status of the Emerald sites:

"Skhidnyi Svydovets" (UA0000259)

Species of flora and fauna and types of natural habitats within the Emerald site are protected at the national level according to laws of Ukraine "On the Red Book of Ukraine", "On Flora", "On Fauna", et cetera.

Within the territory protected areas were created and are functioning in accordance with the Law of Ukraine "On the Nature Reserve Fund of Ukraine", in particular: the hydrological nature monument of local importance "Lake Vorozheske" and "Lake Gereshaska"; also the ichthyological reservation of local importance "White and Black Tisza" and hydrological reservation of the national importance "Aphshynets".

In addition, the Ministry of Ecology and Natural Resources of Ukraine approved the petition of the Institute of Ecology of the Carpathians of the National Academy of Sciences of Ukraine, sent by letter dated on March 6, 2018 No. 36 on the creation of

№2 Мінпродо
№5/4.1-8/9537-18 від 23.08.2019



a landscape reservation of national importance “Central Svydovets” (hereinafter referred to as the “Reservation”) on this territory with an estimated area of 3,35 thousand hectares. This petition was directed to the Zakarpattia Regional State Administration for the approval by landowners, interested state authorities in accordance with Article 52 of the Law of Ukraine “On the Natural Reserve Fund of Ukraine” and Article 20⁴ of the Law of Ukraine “On Environmental Protection”.

According to petition, there are unique alpine glacial landscapes and hydrological objects, especially valuable for the protection of old-growth forests, primeval forests, habitats and populations of dozens of rare and endangered plants and animals species. There are at least 42 species of vascular plants, 37 species of vertebrates and 14 species of invertebrates included in the Red Data Book of Ukraine (2009). There are 17 types of natural habitats that are included in Annex I of the Directive No. 92/43/EEC on conservation of natural habitats and of wild fauna and flora as well as 17 types of natural habitats included in Resolution No. 4 (1996) of the Bern Convention.

On the territory of the Reservation 434 hectares of especially valuable old-growth forests and virgin forests are defined, that have to be protected according to the Law of Ukraine dated on 23th of May 2017 № 2063 “On Amendments to Certain Legislative Acts of Ukraine on the Protection of Primeval Forests, in accordance with the Framework Convention on the Protection and Sustainable Development of the Carpathians”.

“Marmaroski ta Chyvchyno-Hryniavski Hory” (UA0000117)

Species of flora and fauna and types of natural habitats within the Emerald site are protected at the national level according to the laws of Ukraine “On the Red Book of Ukraine”, “On Flora”, “On Fauna”, et cetera.

“Carpathian Biosphere Reserve” (UA 0000006)

The territory of the Emerald site is protected at the national level according to the laws of Ukraine “On the Red Book of Ukraine”, “On Flora”, “On Fauna”, et cetera. The territory is a part of the Carpathian Biosphere Zapovidnyk, which is created and protected in accordance with the Law of Ukraine “On the Nature Reserve Fund of Ukraine”, and the part of the Carpathian Biosphere Reserve within the UNESCO’s “Man and the Biosphere Program”. Some areas are part of the UNESCO World Heritage site “Ancient and Primeval Beech Forests of the Carpathians and Other Regions of Europe”.

In addition, the territory of the possible negative impact of the ski resort project is included in the EcoNet of the Zakarpattia region.

State of development of management plans or other appropriate management regimes for the sites

For the Carpathian Biosphere Zapovidnyk, in accordance with the national legislation, the Project of the Territory Organization and the Protection of its Natural Complexes has been developed and is in force. The above Project includes measures for environmental protection, research, recreation, economic activity, conservation,

protection, reproduction and use of natural complexes that are expected to be implemented within five years, as well as a Strategy for ten years in accordance with the legislation and requirements of international treaties.

For other protected areas which are located within this territory, the Regulations on their activities have been approved and define the tasks, scientific profile, their functioning and the regime for these territories.

The state of approval and advancement of the ski resort project

On March 14, 2018, the Zakarpattia Regional State Administration initiated an environmental impact assessment procedure (hereinafter referred to as the EIA) (registration number of the case in the Register - 2018314288) regarding the creation of a new recreational location for a family leisure - the tourist complex "Svydovets" with a network of cableways, ski runs, hotels, infrastructure of winter and summer attraction <http://eia.menr.gov.ua/places/view/288>).

From the date of the official announcement of EIA, the Ministry received comments and suggestions from the public on the planned activity, scope of research and the level of detail of the information which should be included in the report on the EIA, which was sent to the Zakarpattia Regional State Administration according to Article 5 of the Law of Ukraine "On Environmental Impact Assessment".

As of August 21, 2019, the documentation for completing the procedure EIA (except the announcement of the planned activity) was not provided.

In accordance with the Law of Ukraine "On Environmental Impact Assessment", the construction of the resort cannot begin without publication, discussion of the Environmental Impact Assessment Report and obtaining an appropriate conclusion.

In addition, the Ministry of Ecology and Natural Resources of Ukraine received a letter from the Ministry of Agriculture (Hungary) on the participation of Hungary as an affected party in the transboundary environmental impact assessment.

By letter dated November 28, 2018 No. 5/3-10/12876-18, the Ministry of Ecology and Natural Resources of Ukraine informed the Hungarian Party that the Ministry expects the EIA report to determine the probably significant transboundary impact, as the planned activity does not contain sufficient data to make appropriate decisions.

In the case of the detection of transboundary impacts, affected parties, as well as the public, will be informed on participation in the assessment of transboundary impact in according to the national legislation and the Convention on Environmental Impact Assessment in a Transboundary Context.

Whether a SEA has been conducted for the project or if not, is it foreseen to do it in the future

Legal relations in the area of SEA implementation in Ukraine are regulated by the Law of Ukraine "On Strategic Environmental Assessment", which was adopted on March 20, 2018, and came into force within six months.

In accordance with Article 2 of the Law of Ukraine "On Strategic Environmental Assessment", state planning documents related to agriculture,

forestry, fisheries, energy, industry, transport, waste management, use of water resources, environmental protection, telecommunications, tourism, urban development or land management (schemes) and their implementation will provide the realization of activities (or containing activities and facilities), for which the implementation of the EIA procedures legislation are provided or which requires assessment, taking into account the likely consequences for the protected areas and EcoNet, except those are related to the establishment or expansion of protected areas.

A detailed Territory Plan of the tourist and recreational complex "Svydovets" outside the settlements of the township of Yasinya and the village of Chorna Tysza was approved by the order of the head of the Rakhiv District State Administration dated May 15, 2017, No. 135, that was, before the Law of Ukraine "On Strategic Environmental Assessment" had come into force.

Since, according to the Article 58 of the Constitution of Ukraine, laws and other regulatory and legal acts are no ex post facto, except cases, when they mitigate or eliminate the responsibility of a person. Taking into account that, in accordance with the requirements of the Law of Ukraine "On Strategic Environmental Assessment", consultation with the executive authorities in SEA process is preceded by the approval of a State Planning Document (hereinafter - SPD), thus, there are no legal grounds for conducting SEA in relation to the above-mentioned SPD.

At the same time, it should be noted that if the implementation of the project for the creation of a new recreational location for a family leisure - the tourist complex "Svydovets" will require the development and/or approval of a public authority, a local government of the relevant SPD (among which there are strategies, plans, schemes, urban planning documentation, including amendments to them), the Ministry of Ecology and Natural Resources of Ukraine will take part in conducting SEA of the indicated SPD.

Sincerely yours,

Deputy Minister



Vasyl Poluyko