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**Presumed threat to Emerald Network site
“Polonina Borzhava” from wind energy
development (UA0000263)
(Ukraine)**

- REPORT BY THE COMPLAINANT -

*Document prepared by
Environment-People-Law (EPL)*



**ENVIRONMENT
PEOPLE LAW**

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Mailing address: P. O. Box 316, Lviv, 79000, Ukraine. Physical address: Ivan Franko St. 9/1a, Lviv, 79005, Ukraine.
Tel./fax: (+38) 032-225-76-82. Tel.: (+38) 032-243-38-88. E-mail: epi@mail.lviv.ua. Web-page: <http://epi.org.ua>.

The Secretariat of the Bern Convention

Avenue de l'Europe

F-67075 Strasbourg Cedex, France

Email: bern.convention@coe.int

Report concerning Complaint no. 2018/01: Presumed threat to Emerald site "Polonina Borzhava" (UA0000263) from wind energy development

For the protection of *Borzhava mountain range from future construction of wind farms by Atlas company (Turkey)*, the members of public and state authorities initiated few litigations:

1. Challenging of EIA conclusion dated 18.03.2019 allowing construction of wind farm in Borzhava mountain range due to poor environmental impact study and violation of public participation provisions during public consultation of EIA report.

In 2022 the Supreme Court of Ukraine took final decision leaving in force the decision of 8th Administrative Appeal Court declaring legal the EIA conclusion dated 18.03.2019 allowing construction of wind farm of 120 MVt in Borzhava mountain range. In 2022 the NGO, applicant to this case tried to initiate reconsideration of the decision of 8th Administrative Appeal Court, but it failed, thus there is a valid decision of the 8th Administrative Appeal Court leaving the EIA conclusion dated 18.03.2019 allowing construction of wind farm of 120 MVt in force.

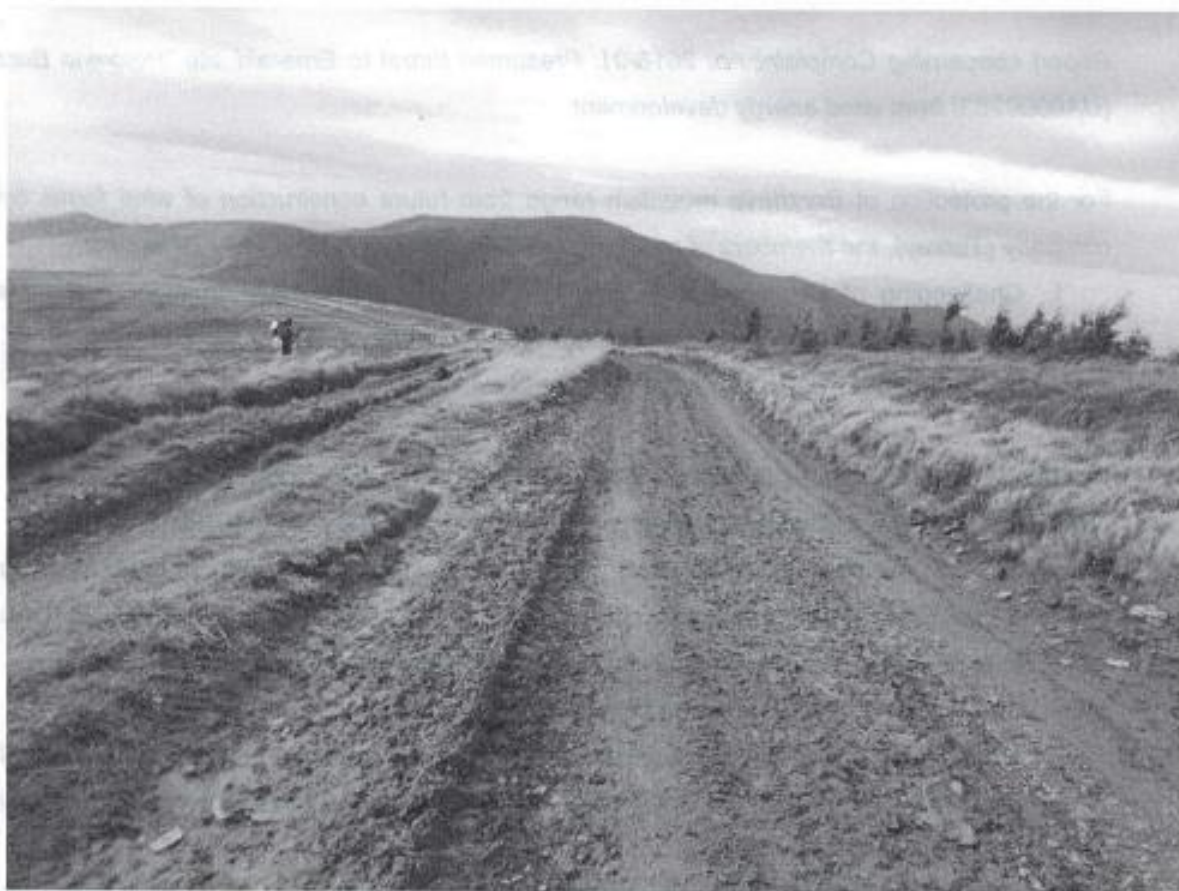
2. NGO "Noosphera" initiated the court case concerning annulment of the building permit dated 18.09.2019 № IV 112192611915 issued for "Atlas Volovets Energy" Ltd for wind farm in Borzhava mountain range.

The court of first instance in 2020 refused the claims of the plaintiff, but 8th Administrative Appeal Court declared illegal the building permit issued for "Atlas Volovets Energy" Ltd for wind farm in Borzhava mountain range by State Architectural-Building Inspection of Ukraine in September 2020. The Supreme Court opened the second appeal procedure and in April 2024 issued the decision by which they confirmed the illegality of building permit for Borzhava wind farm.

3. The Prosecutor's office of Zakarpatya region opened a case in the Commercial Court of Zakarpatya questioning the legality of allocation of around 54 land plots totaling 42 ha into the lease of "Atlas Volovets Energy" Ltd by the decisions of State Geocadaster Service of Zakarpatya region. The state plaintiff also asked the court to declare illegal the land lease

agreements with "Atlas Volovets Energy" Ltd totaling 42ha of highlands. Local NGO was involved in this court case as the third party to the dispute. The Court of first instance in March 2024 rejected the claims and ruled in favor of defendant in 2024. The plaintiff prepared the appeal and 8th Appeal Administrative Court on 10th July, 2024 after thorough reconsideration of the case filed ruled in favor of the plaintiff, declared illegal the orders of the defendant on allocation of 54 land plots into lease and land lease agreements concluded with "Atlas Volovets Energy" Ltd. The decision of the appeal court is in force.

4. In the meantime, late in 2023 the "Atlas Volovets Energy" Ltd initiated preparatory works on construction of wind farm by extending the existing mountain road at the mountain top, affecting grass and soil coverage at highlands.



Complaints to the state ecological inspection and informational requests to the local bodies of self-government were left without proper reaction and response. Extension of the road stopped, although the purpose of road reconstruction and real client supporting these works are still unknown.

As a result, EPL prepared open public statement addressed to the President of Ukraine, head of Government and Minister of Environmental Protection of Ukraine concerning possible threat to polonyna Borzhava signed at least by 100 members of the public:

<https://epl.org.ua/announces/grejderom-po-zelenomu-sertsyu-karpat-abo-yak-zelena-energetyka-nyshhyt-natsionalne-nadbannya-polonynu-borzhavu/>

5. Nevertheless, at the end of 2023 EPL detected that "Atlas Volovets Energy" received around 100 small land plots into temporary usage for passage through decisions of Volovetska village council in 2023. Also State Company "Forests of Ukraine" gave forest land plots to "Atlas Volovets Energy" for the same purpose into temporary usage. This confirms that Turkish company "Atlas Volovets Energy" didn't give up their plans to construct wind farm at Borzhava mountain range.

Taking into account aforementioned information, EPL asks the Secretariat of Bern Convention:

- To send request to the Government of Ukraine to provide further information concerning the current status of this project;
- To keep this case under *Complaint no. 2018/01 opened until further details concerning proposed wind farm construction at Emerald site "Polonina Borzhava" (UA0000263) will be available.*

Sincerely,
Executive director, EPL



Olena Kravchenko