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AND NATURAL HABITATS

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**Follow-up of Recommendation No. 98 (2002)
on the project to build a motorway
through the Kresna Gorge
(Bulgaria)**

**- JOINT-REPORT BY THE
GOVERNMENT AND COMPLAINANT -**

*Document prepared by
The Ministry of Environment and Water of Bulgaria and the coalition of NGOs*



**REPUBLIC OF BULGARIA
MINISTRY OF ENVIRONMENT AND WATER**

**Follow-up of Recommendation No. 98 (2002)
on the project to build a motorway
through the Kresna Gorge
(Bulgaria)**

JOINT REPORT BY THE GOVERNMENT AND NGO'S

*Document prepared by
Ministry of Environment and Water, Bulgaria
and*

BALKANI Wildlife Society, Environmental Association "Za Zemiata" (For the Earth)/Friends of the Earth Bulgaria, Bulgarian Society for the Protection of Birds, Green Policy Institute, Centre for Environmental In-formation and Education, Vlahi Nature School, CEE Bankwatch Network.

Progress since the on the spot appraisal mission 25-27 August 2021

10 November 2021

I. Common actions taken after the on the spot appraisal mission August 2021¹

On-the-spot appraisal mission was conducted through three consecutive online meetings between 25 and 27 August. Representatives of the Ministry of Environment and Waters (MOEW), the Ministry of Transport, Information Technology and Communications (MTITC), the State Agency Road Safety (SARS) and Road Infrastructure Agency at the Ministry of Regional Development and Public Works (RIA at the MRDPW) took part on behalf of the government. NGOs were represented by environmental and nature-conservation organizations (BALKANI Wildlife Society, Environmental Association "Za Zemiata" (For the Earth) / FoE Bulgaria, School for Nature "Vlahi", CEE Bankwatch Network, Bulgarian Biodiversity Foundation), scientists, local residents of Kresna.

¹ See mission report Strasbourg, 19 October 2021 [Files75e_2021.docx], T-PVS/Files(2021)75

The mission focused on finding a mechanism to bridge the gap between the government and the complainants' NGOs. As a result, the parties agreed to set up a mechanism for finding a consensus solution to all contentious issues and to draw up a joint progress report before the 41st Committee of the Convention, as a first step in this direction. This agreement directly reflects point 5 of Recommendation 98/2002: “5. institutionalise dialogue and seek consensus solutions with the different partners concerned; active partnership could be forged with non-governmental organisations with sound knowledge of the location of habitats and the presence of protected species, and the setting up of advisory groups could be envisaged;”

In pursuance of this, a meeting of government representatives (MOEW, MTITC, RIA) and NGOs was held on 19 October, 2021. The establishment of three consensus-based advisory working groups and their tasks and working principles were agreed at the meeting in detail (see Annex 1 for a detailed description of the consultative mechanism developed):

The first group will be hosted by the Ministry of Environment and Waters. It will provide a comprehensive legal, managerial and scientific proposal for the designation of Site Specific Conservation Objectives (SSCOs) of NATURA 2000 sites in Kresna. Participants will be from MOEW, research institutes and universities, scientific NGO respondents and developers of NATURA 2000 sites. Representatives of the European Commission, JASPERS and European Investment Bank (EIB) will be invited as observers. This group would start its work first, because its results will become the basis for the work of the other two working groups. The group will discuss the elaborated SSCO and relevant science-based proposal for their improvement and make consensus recommendations to the authorities.

The second group will be created at the Ministry of Regional Development and Public Works (after having results from the first group). It will analyse correspondence of the 2017 Appropriate Assessment with the adopted SSCO and propose the scope of the new Appropriate Assessment (AA) of the Struma Motorway in the section of Kresna Gorge if needed. Participants are governmental institutions (MRDPW, MOEW, RIA, MTITC, SARS), complainant NGOs, research institutes and universities, and independent AA experts, which made the current AA report. Representatives of the European Commission, JASPERS and EIB will be invited as observers.

The third group will be created at the Ministry of Regional Development and Public Works. It will discuss the two main topics: road safety and socio-economic issues related to local community and local business. Participants are governmental institutions (MRDPW, MOEW, RIA, MTITC, SARS, Ministry of Health, Ministry of Interiors), complainant NGOs, representatives of the local people (local citizen initiative group) and the two local municipalities (Kresna and Simitli), etc.

The work of these groups should give results in a short time due to time constraints for the motorway planning and construction. The recommendations and time schedule suggested in the on-the-spot appraisal mission report should be respected to the best extent possible. The Government and NGOs will provide timely joint reports on the establishment of the working groups and the results of their work.

After the conclusion of the working groups, the need to re-open the work of the Monitoring Committee of the Struma Motorway will be discussed and the issue will be reported to the Convention.

II. Further proceeding the case in Bern Convention and forthcoming decision of the 41st Standing Committee

Government and NGOs welcome the report of the independent experts from the on-spot appraisal mission and invite the Standing Committee to adopt a recommendation based on it.

Both parties – Government and NGOS – still have differing views on the follow-up to the case following such a decision. The position of both will be presented here in the common report, but separately.

The Government is calling for not to open of a case file. The reasons for this are:

We consider that the authorities are continuously putting efforts to ensure the protection of the species and habitats but also the implementation of strategic transportation, economic and national security objectives in the development of this project.

All considerations of Recommendation 98 (2002) of the Standing Committee of the Bern Convention are fully taken into account when designing the project.

Based on the consensus decision, taken for the preparation of the recent report, all of the noticed opportunities for joint work on Struma Motorway project, the meetings held and correspondence between the two parties, as well as their understanding the need of urgently actions, we believe that the direction of mutual assistance in the process has been found.

Opening a file could negatively affect and demotivate the authorities given the efforts and progress made, which could lead to a deterioration in communication and dialogue.

Thus, we invite the Delegates and the Standing Committee to continue monitoring the case as a "possible file".

The NGOs are calling for the opening of a case file. The reasons for this are:

- Significant progress has been made in implementing Recommendation 98/2002 - in particular point 5 on establishing an institutionalized consensus approach to finding a solution. However, reaching a consensus result that reflects the other points of Recommendation 98/2002 is yet to come. A major part of the experts' recommendations in the on-the-spot appraisal mission report includes a detailed time schedule that has yet to be implemented. All these show that the monitoring of the case should continue until the final results in the implementation of Recommendation 98/2002 are achieved.
- The Standing Committee has monitored the case for several years as a "possible file". From a procedural point of view, this fully corresponds to "opened file".
- The opening of a file primarily leads to a higher commitment of the parties to find a common solution. When a dossier on the same case was opened in 2004, such a common solution was achieved. In 2007-2008, a consensus for that time decision was taken. Thus, we invite the Delegates and the Standing Committee to continue monitoring the case by opening a file

Regarding the draft recommendations, the Government and NGOs would provide additional comments and positions.

Annex 1

Establishment of working groups for development of proposals for decisions for the construction of the Struma Motorway in the area of the Kresna Gorge

General principles of working groups

- Discussion of all key issues for the Kresna case
- Full transparency - full protocols, audio recordings and, if technically possible, online streaming
- Development of consensus proposals to the competent authorities.

Working groups

1. Working group for review and discussion of the draft of Site Specific Conservation Objectives (SSCOs) for BG0000366 "Kresna - Ilindentsi" SCI and BG0002003 "Kresna" SPA.

The working group is established by the Minister of Environment and Water (MoEW).

Participants - MoEW, NGOs respondents of the sites, Institute of Biodiversity and Ecosystem Research at the Bulgarian Academy of Sciences (IBER-BAS), National Museum of Natural History at the Bulgarian Academy of Sciences (NMNH-BAS), Institute of Forestry at the Bulgarian Academy of Sciences, Faculty of Biology at the Sofia University, Forestry University, and representatives of other Universities with faculties of natural sciences, if they wish to participate.

Up to two representatives from each organization participate in the group. The restriction does not apply to the representatives of the MoEW.

Additional experts may be involved in the work of the working group.

Observers: representatives of the European Commission, JASPERS, EIB (if interested).

The task of the working group is to

- review and discuss the draft SSCO for BG0000366 "Kresna - Ilindentsi" SCI and BG0002003 "Kresna" SPA, and if and where necessary make a proposal to the Minister of Environment and Water to amend the SSCO.
- preparation of a proposal to the Minister of Environment and Water for a draft administrative act, which introduces the SSCO for the two NATURA sites.

2. Environmental aspects Working Group

The working group is established by the Minister of Regional Development and Public Works (MRDPW).

Participants: MoEW, MRDPW, Road Infrastructure Agency (RIA), NGOs respondents of the sites, IBER-BAS, NPMN-BAS, Faculty of Biology of Sofia University, University of Forestry, Institute of Forestry - BAS and the biodiversity experts who participated in the preparation of the EIA.

Up to two representatives from each organization participate in the group. The restriction does not apply to the representatives of the governmental institutions.

Additional experts may be involved in the work of the working group.

Observers: Ministry of Transport, Information Technology and Communication (MTITC) and representatives of the European Commission, JASPERS, EIB (if interested).

The tasks of the working group are:

Task 1: Development of a consensus scientific analysis of the compliance of the conclusions made in the Appropriate Assessments Report for project "Improvement of the route of Lot 3.2 of the Struma Motorway" with the SSCOs adopted by the MoEW for NATURA 2000 sites BG0000366 "Kresna - Ilindentsi" and BG0002003 "Kresna";

Task 2: Preparation of proposals for determining the scope of a new Appropriate Assessment Report if and where necessary.

3. Working Group "Road Safety Issues and Socio-Economic Aspects"

The working group is established by the Minister of Regional Development and Public Works. Participants: RIA, MRDPW, State Agency "Road Safety", Ministry of Finance, MTITC, "Fire Safety and Protection of the Population" General Directorate and Traffic Police at the Ministry of Interior, NGOs from "Save Kresna Gorge" Coalition, Ministry of Health (Hospitals in Blagoevgrad and Sandanski), Local Citizens Group from the town of Kresna, mayors of Kresna and Simitli, Southwestern State Forestry Enterprise, representatives of local branch organizations / chambers, rafting clubs.

Up to two representatives from each organization participate in the group. The restriction does not apply to the representatives of the governmental institutions.

Additional experts may be involved in the work of the working group, according to the agenda set for the specific meeting.

Observers: representatives of the European Commission, JASPERS, EIB (if interested).

The tasks of the working group are:

Task 1: Review and discussion of the issues in the field of road safety, including proposals in connection with the implementation of the road infrastructure management procedures.

Task 2: Review and discussion of socio-economic issues.

NOTES:

- *Each main participant in the groups may nominate a replacement in case of inability to participate.*
- *The re-establishment of the Struma Motorway Monitoring Committee (SMMC) will be discussed after the completion of the work of the three working groups.*

Annex 2

Governmental and NGOs proposals to amend the draft recommendation

Joint position

Regarding the draft Recommendation, the Government and NGOs would like to put forward the following amendments:

With respect to p. 6, b. we propose the recommended plan be named *Conservation and Restoration*, since it refers to “*all the species and habitats included in the Natura 2000 sites*”, and to delete the text “*considering the local society’s needs*”, which might not always coincide with restoration objectives. We therefore consider a Conservation and Restoration plan to be more feasible and relevant.

Regarding p. 7 of the draft Recommendation we propose the text “*Update the decision-making table and the multicriteria analysis for the evaluation of the alternative alignments by changing the values of the environmental parameters in order to reflect the prioritisation for Natura 2000 objectives; as a result,*” to be deleted, since it refers to only one aspect of the subsequent steps to be taken to ensure the environmental protection of species and habitats in the Gorge and is included in the overall process towards which all the recommendations are aimed.

Regarding p. 9, we propose the following revision “*Address the concerns and the needs of the local society - i.e., loss of agricultural land and the restricted local mobility (access to properties, safe passage for people and livestock, the impact on local businesses including eco-tourism etc.).*”