

# Kresna Gorge and Struma Motorway Lot 3.2 (Bulgaria)

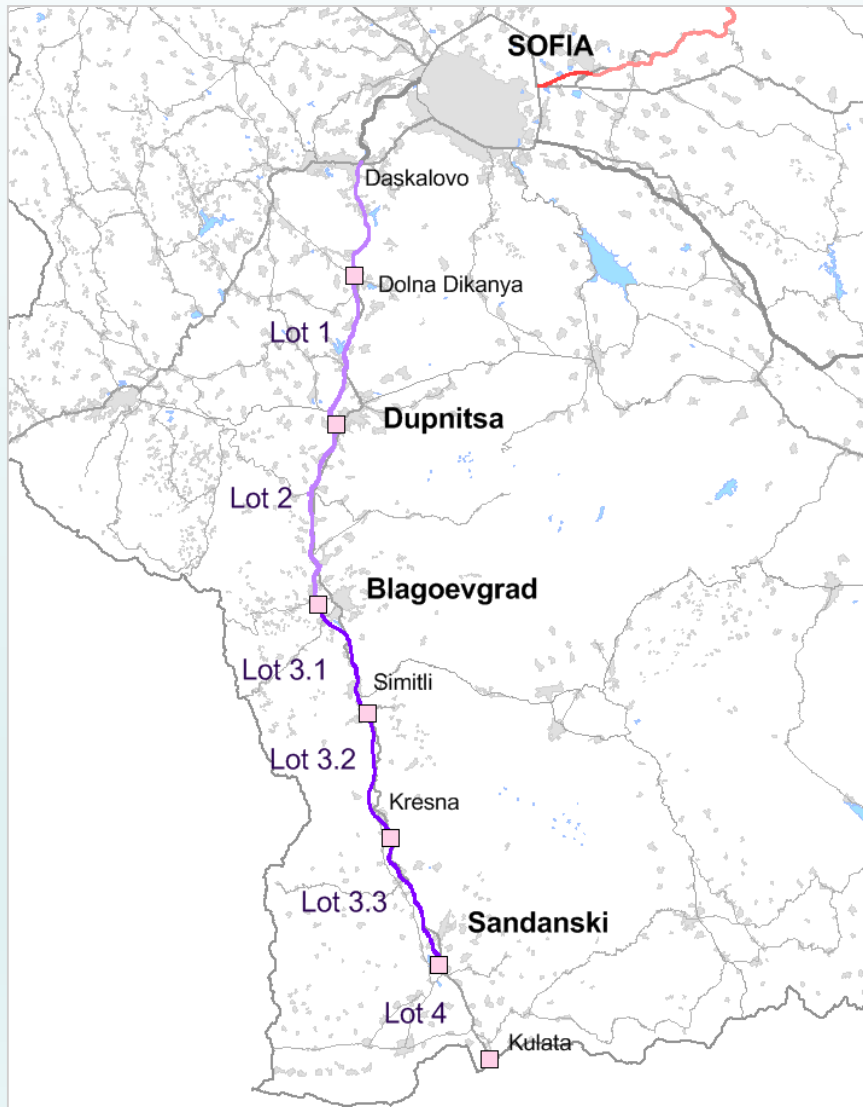
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*38<sup>th</sup> Meeting of the Standing Committee of the Bern Convention*

*November 2018*

# Struma Motorway



- The busiest international road going through Bulgaria in the North-South direction
- Part of the core TEN-T network, Orient-East/Med corridor
- Located in Southwestern Bulgaria (150 km long)
- Top priority infrastructure project for the EU
- Site of national importance

# Kresna Gorge - Issues

- Serious and frequent accidents along the existing road
- Mortality of wild animals on the road, fragmentation of habitats
- Travel time, comfort and reliability of road users
- Safety of the population and environmental issues in Kresna Town

# EIA/AA Decision

- Five alternatives were equally and thoroughly assessed
- Only Long Tunnel Alternative and Eastern Alternative G10.50 were found to be compatible with the conservation objectives of both protected areas
- Eastern Alternative G10.50 has clear advantage over 8 environmental components and factors of human health
- The Minister of Environment and Water issued EIA Decision No 3-3/2017 approving Eastern Alternative G10.50
- Mandatory conditions and measures for implementation at all stages of the realization of G10.50

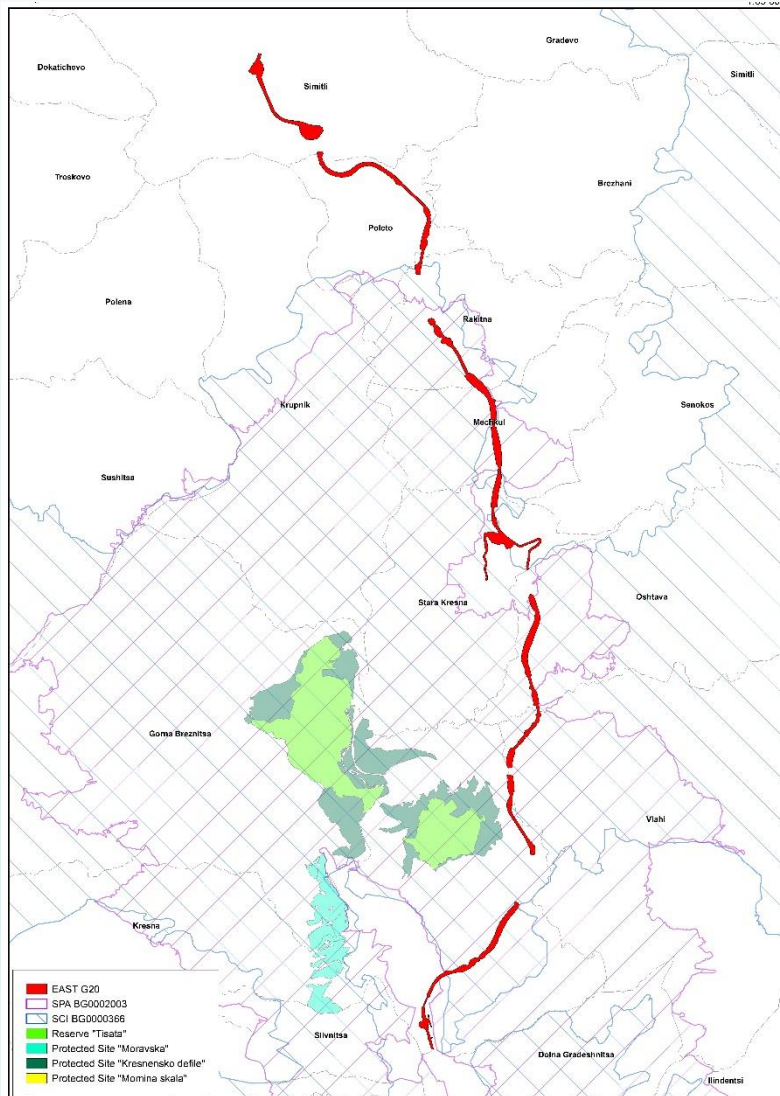
# EIA/AA Decision - Mitigation Measures

- Assessed in the EIA/AA
- Fencing and passage facilities – technically feasible
- Elimination of the risk of mortality and reduction of the barrier effect
- Monitoring of the population (4 of the potentially most affected species)

# Alternatives addressed in the NGOs' report

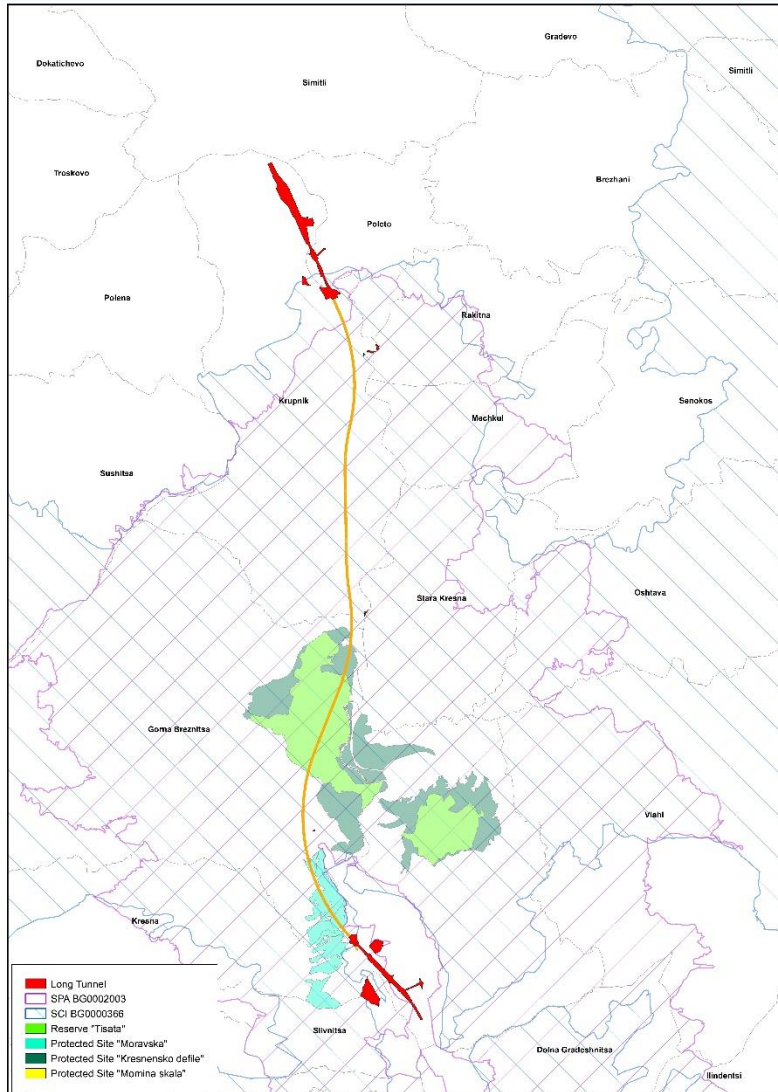
- Eastern Alternative G20
- Full Tunnel Alternative
- Eastern Bypass (the so called “Votan Project”)
- Eastern Tunnel Alternative (combination of Lot 3.2 with the existing railway line)

# Eastern Alternative G20



- 3 times larger area to be destroyed and permanently occupied by route elements
- 3 times larger area of 91E0\* to be affected
- Areas of species habitats to be affected considerably
- Impossible reduction of the scope

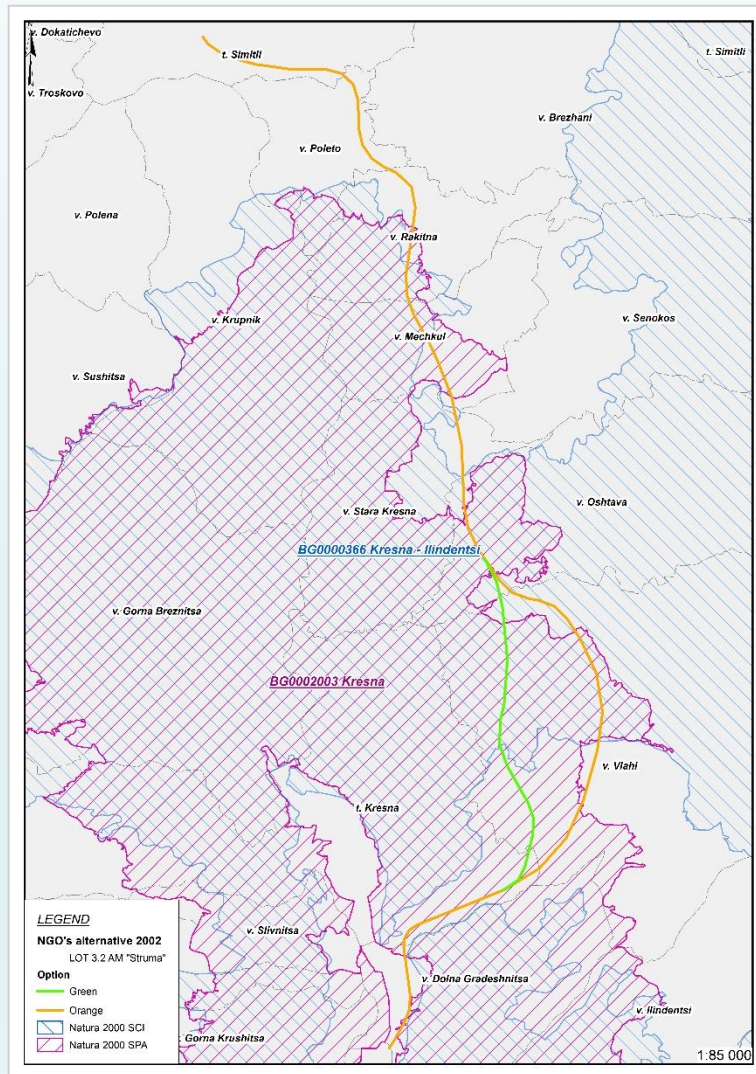
# Full Tunnel Alternative



- Approved in 2008 with instructions for improvement
- Various challenges (seismic, geological and radiation hazards, etc.)
- Compatible with the Natura 2000 sites (G10.50 alike)
- Disadvantageous in 8 environmental components and factors of human health



# Eastern Bypass (the Votan Project)

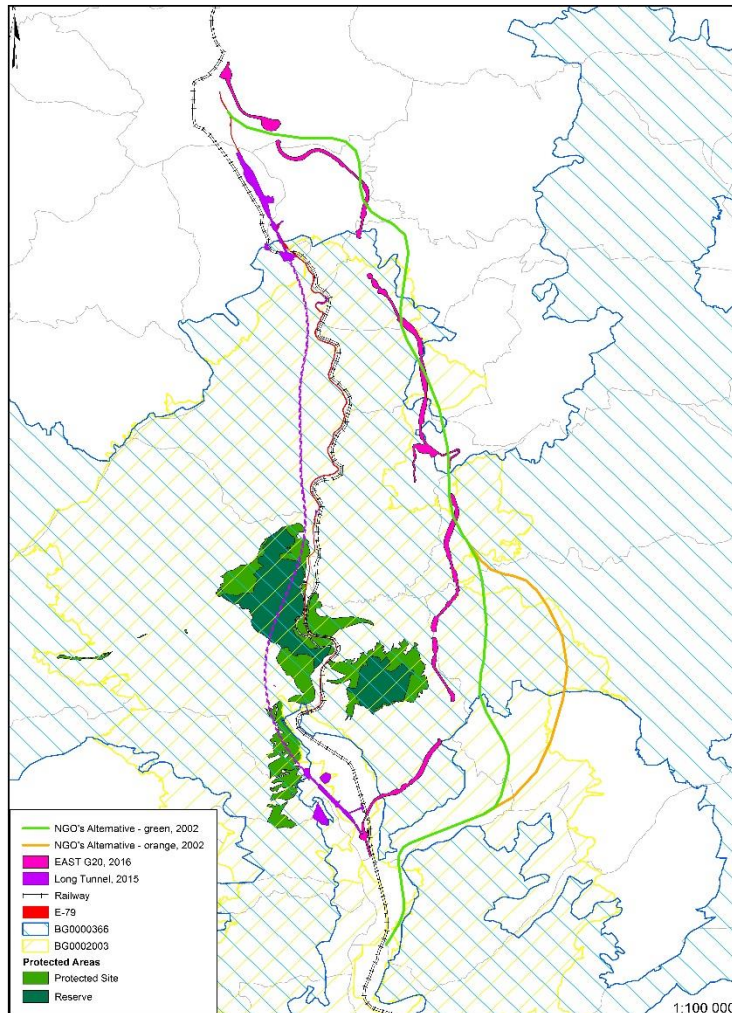


- Assessed and rejected in the EIA of 2007
- Significant adverse affect on a Natura 2000 site
- Mitigation and compensatory measures
- No need to apply Art. 6(4) of the Habitats Directive
- Other feasible options without significant effect on Natura 2000 sites

# Eastern Tunnel Alternative (combination of Lot 3.2 with the existing railway line)

- No design concept, lack of basic data
- Considered by the Road Infrastructure Agency
- Enforceable EIA Decision for “*Modernization of Radomir - Kulata railway line*”
- No change of the existing route in Kresna Gorge
- Huge-scale construction works in the gorge and even in the bed of Struma River
- Pollution of the river, environmental deterioration

# Various demands of NGO – how long?



- 2002 – the Votan Project
- 2007 – Long Tunnel Alternative
- 2016 – Eastern Alternative G20
- 2017 – Eastern Tunnel Alternative
- ???

# Decision of the 37<sup>th</sup> Standing Committee

- To keep the file as a possible file in the light of:
  - the pending national appeal of the EIA/AA Decision before the Supreme Administrative Court (“Supreme Court”)
  - the pending submission of an application package to the European Commission for the funding of the Lot 3.2 construction
- Progress since 2017
  - EIA/AA Decision - confirmed entirely by the Supreme Court
  - the application package - to be submitted for approval to the European Commission by the end of 2018
- Proposal of the Bureau for external EIA review

# Position on external EIA review

- Bulgaria is a rule-of-law state in which supervision of EIA/AA Decision is only possible by court
- Habitats and Birds Directives were fully observed – confirmed by a final and binding Supreme Court decision
- The combination of the EIA and AA procedures under Bulgarian law ensures protection at least equivalent to the Bern Convention standards
- An external review contradicts basic legal principles such as legal certainty as well as EU and national law
- Counter-productive – could raise a conflict between the final court acts and the outcome of eventual external review
- Poses numerous questions without clear answers (authority, procedure, criteria, independence, legal effect, etc.)
- Endangers and delays the realization of the Project

# NGO's participation in the Project

- Regular meetings with NGOs under the Struma Motorway Monitoring Committee (since 2012)
- Participation in the entire process of approving the EIA/AA scope and procedure
- All comments/proposals of NGO's – assessed, addressed and reflected, where applicable
- Continuing change of NGO's position for “optimal” alternative since 2002
- Unclear objectives

# Conclusions

- The EIA/AA Decision was confirmed by the Supreme Court as carried out in full conformity with the international, European and national legislation and best practices
- The Republic of Bulgaria has strictly observed and fulfilled the recommendations of the Standing Committee, including Recommendation 98 (2002)
- No legal, environmental, technical or other reasons whatsoever substantiate the assignment of an “external” EIA review