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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE  
AND NATURAL HABITATS

**Standing Committee**

41<sup>st</sup> meeting  
Strasbourg, 29 November - 3 December 2021

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**APPLICATION OF THE CONVENTION**

**- Summary of case files and complaints -**

**- COMPLAINTS ON STAND-BY -**

**NOVEMBER/DECEMBER 2021**

*Secretariat memorandum prepared by  
the Directorate of Democratic Participation*

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## 2017/6: Iceland: Possible negative impact on Breiðafjörður Nature Reserve’s authentic birch woods from new road infrastructure

<b>Date submitted</b>	01 December 2017
<b>Submitted by (Complainant)</b>	Mr Gunnlaugur Pétursson, Iceland Nature Conservation Association and Fuglavernd BirdLife Iceland
<b>Respondent State (Respondent)</b>	Iceland
<b>Specie/s or habitat/s affected</b>	Birch forests in Breiðafjörður Nature Reserve’s
<b>Background to complaint</b>	<ul style="list-style-type: none"> <li>➤ The complaint alleges a possible breach of the Convention by Iceland due to the development of new road infrastructure.</li> <li>➤ According to the complaint, a new road to pass through the Breiðafjörður Nature Reserve and more specifically the Teigsskógur birch woods is being planned by the Icelandic Road Administration. The complainants specifically mention that the area is of extremely important value for biodiversity and could qualify as an Emerald Network site under the Bern Convention.</li> <li>➤ The initial plans for the road date back to 2004-2005, when the chosen options were rejected due to their high environmental impact. This decision of the National Planning Agency was confirmed also by the Supreme Court of Iceland.</li> <li>➤ A new environment impact assessment was undergone in the period 2016-2017 based on new alternatives for the road, including a so called “leið D2” tunnel alternative and a new “leið P-H” road option still going through the Teigskógur wood and passing over fjords. The complainants consider that the “leið P-H” route option is in practice the same as the “leið B” option rejected back in 2004-2005 due to its extensive environment impact.</li> <li>➤ It is also reported that a number of consulted national institutions, during the environmental assessments consider the old “leið B” and the new “leið P-H” as the worst of the alternatives. These institutions are the Marine &amp; Freshwater Research Institute, the Icelandic Institute of Natural History, the Environment Agency of Iceland, the Cultural Heritage Agency of Iceland, and the Icelandic Forest Service.</li> <li>➤ A report was requested to the authorities regarding the status of the planned road infrastructure and further steps in its development, the status and conclusions of the Environment Impact assessments implemented in 2016-2017 for the planned road and the way the cumulative impact of all existing, planned and pending roads through the Breiðafjörður Nature Reserve are considered.</li> </ul>
<b>Authorities’ report May 2018</b>	<ul style="list-style-type: none"> <li>➤ A proposal for a revised route through the Teigsskógur woodland (called route P-H) went through Environmental Impact Assessment (EIA) in the years 2015-2017. Following the EIA process, the municipality decided to amend its municipal plan. In a</li> </ul>

consultation draft planning proposal presented by the municipality in the autumn of 2017, two alternative routes for the road were presented, a tunnel alternative (route D) and route P-H. The planning process is not yet concluded. The local council did decide earlier this year to choose route P-H and that a planning proposal with route P-H should be put out for formal public consultation. The local council has, however, since decided to postpone that, and has instead decided to seek independent road engineering appraisal of the two alternative routes.

- A development permit cannot be issued by the local authority for the road (regardless which route is chosen by the local council) until the municipal plan has been amended. The municipal plan amendment is subject to adoption by the local council and approval by the National Planning Agency, following a public consultation period.
- Furthermore, it should also be added that a legislative bill has been submitted in Parliament by five members of Parliament, who represent the Northwest constituency. The Act, if passed by Parliament, would give development permit to the Icelandic Road Administration (IRA) for the road according to route P-H, overriding the local authority's role according to the Planning Act to issue the development permit. The bill waits its first reading in Parliament. If the bill would be passed, the aforementioned amendment of the municipal plan would still need to be adopted and approved by the local council and the National Planning Agency.
- The planned road has undergone Environmental Impact Assessment (EIA), i.e. both with an EIA process in the years 2003-2007 and with a second EIA process 2015-2017. NPA's conclusion was made on March 28<sup>th</sup> 2017
- The NPA's concluded that route D2 best fulfills the objectives of the EIA Act on minimizing as possible the negative impacts of a project on the environment. Furthermore it is the view of the NPA that there remains uncertainty about the effect of the fjords' crossing on physical aspects of the sea and its littoral and marine life, which requires further research, before decisions are taken on the project. With regard to the known impacts of the proposed project on birch woodland, wetlands, mudflats og salt marshes, species under protection, cultural relics and landscape it is the conclusion of the NPA that routes A1, I and P-H are likely to have significant adverse environmental impacts that cannot adequately be prevented or mitigated.
- The Breiðafjörður nature reserve is under the Breiðafjörður committee. The committee has not assessed, in its plan for the area, the cumulative impacts of existing, planned or pending road construction. No other plans have addressed cumulative impacts of road projects in the Breiðafjörður nature reserve. However, in the IRA's Environment Assessment Report (EIR) for Vestfjarðavegur (Bjarkalundur-Skálanes) and in the NPA's EIA conclusion, cumulative impacts of that road project along with existing roads are addressed.
- The IRA's EIR contains a chapter on cumulative impacts of their proposed project and other existing parts of the Vestfjarðavegur road along the north coast of Breiðafjörður. Uptil now, three fjords in northern Breiðafjörður have been crossed, i.e. Gilsfjörður, Kjálkafjörður and Mjóifjörður and other parts of the road have been built in the littoral environment, e.g. by Múlaklif in Kollafjörður, at the bottom of Vattarfjörður and by Hörgsnes in Vatnsfjörður. These road projects have to a varying degree

	<p>disrupted the Breiðafjörður nature reserve. Furthermore, the IRA has recently started working on an EIR for a new crossing of Vatnsfjörður, the westernmost fjord on the northern coast of Breiðafjörður.</p> <ul style="list-style-type: none"> <li>➤ The IRA’s EIR considers the cumulative effects of the proposed project on mudflats and salt marshes in Breiðafjörður to be minimal. The IRA states that the proposed project is not in opposition with the conservation objectives of the Nature Conservation Act for habitat types, ecosystems and species and will not impact biological diversity in the area.</li> <li>➤ In the NPA’s conclusion on the EIA of Vestfjarðavegur (Bjarkalundur-Skálanes) the agency states that the IRA has not convincingly assessed impacts of existing roads on the marine flora and fauna in the fjords that have been crossed.</li> </ul>
<p><b>Bureau September 2018</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked the national authorities for the report submitted in relation to the recent complaint.</li> <li>➤ After a deliberation on the case, the Bureau agreed that both the authorities and complainant should submit additional information, and possibly clearer maps, on the proposed routing of the new road infrastructure, on the natural values of the area, and to inform in detail on possible conflicts with currently existing protected areas in the country and possible Emerald network sites.</li> </ul>
<p><b>Authorities’ report January 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The EIA was finished and the local authority has now accepted, under protest, the municipal plan proposal concerning route P-H. There is protest concerning that the IRA would not accept any other route than route P-H. The local authorities may challenge the IRA’s decision but at this moment further development of this case is uncertain.</li> <li>➤ The conclusion of the National Planning Agency, NPA, route D2 would best fulfill the objectives of the EIA Act according to NPA</li> </ul> <p><b>THE PROPOSED ROUTING OF THE NEW ROAD INFRASTRUCTURE</b></p> <ul style="list-style-type: none"> <li>➤ <a href="#">Map 1</a> shows the fjord Breiðafjörður and the protected area of Breiðafjörður, green dotted line, and the EIA area, black dotted line.</li> <li>➤ <a href="#">Map 2</a> shows clearly the route of the different road proposed in the EIA. It appears that a combination of alternative A1 and route D2 (preferred by the NPA in the EIA) would have least impact on the natural values of the area.</li> <li>➤ <a href="#">Map 3</a> shows the protected area of Breiðafjörður and means that all areas are not inside protected area but Teigsskógur is registered under Article 61 of the Nature Conservation Act No 60/2013. Area under this article are not strictly protected because the protection can be overruled by local authorities through municipal planning if they show the necessity of the project and that other options are not available</li> <li>➤ <a href="#">Map 4 and 5</a> show some of the areas in and around Breiðafjörður that are registered in the Icelandic Nature Conservation Register but have not the same level of protection.</li> </ul> <p><b>ON THE NATURAL VALUES OF THE AREA:</b></p> <ul style="list-style-type: none"> <li>➤ All the routes presented in the EIA have significant negative impacts on the landscapes. Uncertainty remains about the effect of the fjords’ crossing on physical aspects of the sea and its littoral and marine life, which requires further research, before decisions</li> </ul>

	<p>are taken on the project. With regard to the known impacts; the NPA concludes that routes A1, I and P-H are likely to have significant adverse environmental impacts that cannot adequately be prevented or mitigated.</p> <ul style="list-style-type: none"> <li>➤ Concerning the cumulative effects of the proposed projects, the IRA’s EIR considers these to be minimal and states that the proposed project is not in opposition with the conservation objectives of the Nature Conservation Act for habitat types, ecosystems and species and will not impact biological diversity in the area. But the NPA considers that the IRA has not convincingly assessed impacts of existing roads on the marine flora and fauna in the fjords that have been crossed.</li> </ul> <p><b>TO INFORM IN DETAILS ON POSSIBLE CONFLICTS WITH CURRENTLY EXISTING PROTECTED AREAS IN THE COUNTRY AND POSSIBLE EMERALD NETWORK SITES:</b></p> <ul style="list-style-type: none"> <li>➤ There are proposed sites to the Ministry for the environment and Natural Resources and one of those sites is Breiðafjörður. The reason for the proposal is the conservation value of coastal habitat types in the fjord and the whole area of Breiðafjörður is considered an important bird area for several bird species (list of coastal habitat types and birds species is mentioned).</li> <li>➤ A <a href="#">web map shows</a> a description of each habitat type.</li> <li>➤ In conclusion, both the IINH and the NPA’s conclusion in the EIA agree that route D2 would have least impact on the nature conservation value of Breiðafjörður. As far as IINH knows no new research or monitoring is available neither for the cumulative effects nor for the impact of new different bridges.</li> <li>➤ Breiðafjörður and its subzones or areas will most likely be suggested as tentative site(s) in Emerald Network both as coastal habitat types and important bird areas.</li> <li>➤ Although the birch woodland around Breiðafjörður is not part of the protected area some of the birch woodland areas, including Teigsskógur, are on the Nature Conservation Register and some birch woodlands fall under special protection according to Article 61 of the Nature Conservation Act. Which birch woodlands have this status has not been defined but most likely Teigsskógur will have this status as it is already on the Nature Conservation Register. It is the responsibility of the Icelandic Forest Service to register birch woodlands under this article.</li> </ul>
<p><b>Complainant’s report February 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The area where IRA plans to build “leið P-H” along the virgin birch wood and on causeways over the fjords is either protected by Icelandic law in various ways or “needs to be protected”.</li> <li>➤ Extremely rare and protected plants, such as <i>Paris quadrifolia</i>, have been found in this wood. The coast in this area is a part of “Verndarsvæði Breiðafjarðar” (= Breiðafjörður bay Nature Reserve) which is also a designated Important Bird Area (IBA). The two fjords are important for many migrating bird species such as knot (<i>Calidris canutus</i>) and other species such as whooper swans (<i>Cygnus cygnus</i>) and are known for kelp growth. Route P-H is also very close to a white-tailed eagle nest (<i>Haliaeetus albicilla</i>), but this species is strictly protected in Iceland. Nominations of the Breiðafjörður Bay as Ramsar site, as well as UNESCO World Heritage Site are in progress.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ Other fjords have been impact by both previous and pending road construction in the Breiðafjörður Bay Nature Reserve. Some of which have already been strongly affected.</li> <li>➤ The complainant also gives maps showing the area and the proposed routing of the different road proposed and the route P-H chosen by IRA’s EIA. According to the maps: The road as the IRA suggests (the blue line) risks further the integrity of the Breiðafjörður Bay Nature Reserve, as an additional encroachment into a nature are of very high European and international value for birdlife, landscape and important natural woodland. The alternative suggested by the nature protection organisations (the red line with a tunnel under the Hjallaháls heath) saves the fjords and the woodland as well as it seems to be more obvious future road and even more secure in winter.</li> </ul> <p><b>THE INDEPENDENT ROAD ENGINEERING APPRAISAL</b></p> <ul style="list-style-type: none"> <li>➤ The local council decided to seek independent road engineering appraisal of the two alternative routes. These proposed a new alternative route R (reports linked). According to both company, route P-H is the far worst of all the proposed routes from the environmental point of view.</li> </ul> <p><b>ADDITIONAL INFORMATION</b></p> <ul style="list-style-type: none"> <li>➤ The planed road (route P-H) with tree new fjord crossings would be harmful for large areas of important intertidal areas of importance to arctic migratory waders and other bird life in the nature reserve of Breiðafjörður.</li> <li>➤ The density of the birch in the forest is unique and the route P-H has a significant negative impact on the birch fields in the area due to the high disturbance of the “Teigsskógur” forest which has a great ecological importance.</li> <li>➤ Breiðafjörður bay has an international nature conservation value and the Icelandic government has proposed that the site will be placed on the UNESCO World Heritage List. In the Biological Protection Agreement diversity, that Iceland is a member of, says that the protection of ecosystems and natural habitats should be promoted and the maintenance of viable species in their natural environment.</li> <li>➤ The white-tailed eagle (<i>Haliaetus albicilla</i>) enjoys special protection according to Art. Act no. 64/1994. The eagle is also on the red list of The Icelandic Institute of Natural History and also on the IUCN International Conservation Association list. Breiðafjörður is on the list of important bird areas in Europe and on a list of coastal areas of the Nordic Region that is important to protect.</li> </ul>
<p><b>Bureau meeting March 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked the national authorities and complainant for their detailed reports.</li> <li>➤ It expressed its strong concerns that this important site is compromised, also in view of its potential Emerald Network designation in the future and in view of the World Heritage application. The choice of the new road infrastructure routing appears to be compromising the area and is recognised as a non-optimal routing solution in the presence of alternatives less harmful for the environment.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ The Bureau instructed the Secretariat to request a new progress report to the national authorities for its second annual meeting in September 2019 on: <ul style="list-style-type: none"> <li>- who is in charge of the choice and approval of the road alternative selection and how the opinion of the main agencies and institutes of the country are taken into account;</li> <li>- updated information on the status of the road construction;</li> <li>- progress in the setting-up of the Emerald network, namely, information on planned calendar for the submission of proposed sites database.</li> </ul> </li> <li>➤ Eventually, the Bureau stressed that the lack of any progress in the setting-up of the Emerald Network in Iceland, in the past 20 years, is compromising many high value biodiversity areas such as the one of concern in this file.</li> <li>➤ In this respect, the Bureau decided to place the file in the category on stand-by and to make a decision on moving it further for consideration by the Standing Committee in its next meeting.</li> </ul>
<p><b>Authorities' report August 2019</b></p>	<ul style="list-style-type: none"> <li>➤ Concerning the choice and approval of route, the NPA informed that the municipality is the licensing authority for the project and has final say with certain stipulations. It must take into consideration opinions of relevant agencies and institutes before finalising changes to the municipality plan.</li> <li>➤ Regarding the status of construction, the road has not begun, but is in planning phase. The NPA must first approve the plan- if it does not, the Ministry of Environment and Resources will be consulted.</li> <li>➤ On the Emerald Network in general, it was informed that there has been no development, and that the proposal remains with the Ministry for its consideration, but no final decision has been taken and so progress is halted.</li> </ul>
<p><b>Bureau meeting 9-10 September 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked both the complainant and the authorities for their reports.</li> <li>➤ The Bureau reminded again of the importance of the area for biodiversity conservation and the existence of a least harmful alternative for the road infrastructure planned.</li> <li>➤ The Bureau instructed the Secretariat to request a new updated report by the complainant, as soon as new information is available and at the latest for its upcoming meeting in March 2020. The authorities are also requested to submit an updated report on progress in the selection of the alternative for the road, through the competent authorities with the overall coordination of the Focal point of the Convention.</li> <li>➤ The Secretariat was also instructed to monitor the progress in the setting-up of the Emerald Network in the country, through the competent Group of Experts and the Standing Committee.</li> </ul>



	<ul style="list-style-type: none"> <li>➤ The Bureau decided that it will consider a possible upgrade of this case as a “possible file” at its upcoming meeting in March 2020, which will automatically put the case on the agenda of the Standing Committee meeting.</li> </ul>
<p><b>Complainant’s report February 2020</b></p>	<ul style="list-style-type: none"> <li>➤ The complainant stressed again the information provided from its previous report. More recently, the municipality in the area, Reykhólahreppur, published a proposal for a new master plan “aðalskipulag” (in Icelandic).</li> <li>➤ Unfortunately, the road shown there is practically unchanged from previous proposals, it will cross the two fjords, Guðufjörður and Djúpifjörður, and run along the Teigsskógur birch wood.</li> <li>➤ Thus, there won’t be a “possible” negative impact on the Breiðafjörður Nature Reserve, but a certain negative impact. The complainant calls for quick action to stop construction, and an environmentally and climatically better and cheaper alternative to be chosen.</li> </ul>
<p><b>Authorities’ report February 2020</b></p>	<ul style="list-style-type: none"> <li>➤ The latest development in the process in Reykhólahreppur is that the municipality has sent out for comments a draft construction permit for the road construction according to route P-H. The municipality and the National Planning Agency accepted the master plan for the route P-H on 22 November 2019 and published it on 26 November 2019. As far as the Icelandic Institute of Natural History knows, a construction permit will be issued in the near future. As the case stands now in Reykhólahreppur, there is no longer any alternative routes being considered in the selection progress.</li> <li>➤ Concerning monitoring progress of the Emerald Network, the government refers back to its previous report of August 2019. An ecological network was proposed to the Ministry for the Environment and Natural Resources in 2018, and the sites are still in the evaluation process- it is taking far longer than the IINH expected.</li> </ul>
<p><b>Bureau meeting 7-8 April 2020</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked both the authorities and complainant for their short, timely reports. It strongly regretted that the road construction plan is going ahead with no alternatives being envisaged, despite the numerous calls for concern and recommendations of the Bern Convention to halt development. It was particularly regrettable given the importance and fragility of this Nature Reserve, which is qualified to be an Emerald Network site, as well as a possible Ramsar site and World Heritage Property.</li> <li>➤ The Bureau strongly called on the Icelandic authorities to guarantee compensatory and mitigation measures during construction, should the development go ahead.</li> <li>➤ The Bureau also noted with great concern the continuing slow progress in the general development of the Emerald Network in Iceland, and on the lack of mechanisms to prevent damage to possible Emerald sites.</li> <li>➤ It mandated the Secretariat to write a letter to the Ministry for the Environment and Natural Resources expressing its grave concerns on the development of the road through Breiðafjörður Nature Reserve and requesting for a roadmap for the development of the Emerald Network. The letter should also call for the elaboration of a preventive mechanism to avoid replication of this situation in the future.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ The Ministry in coordination with the Icelandic Institute of Natural History would be asked to respond for its next meeting in September. The Bureau could then decide to upgrade the complaint on stand-by to a possible file thus bringing it to the 40th Standing Committee, depending on the information provided.</li> </ul>
<b>Complainant's report July 2020</b>	<ul style="list-style-type: none"> <li>➤ The complainant stressed again the information provided from its previous reports.</li> </ul>
<b>Respondent intermediate message August 2020</b>	<ul style="list-style-type: none"> <li>➤ IINH has been in contact with the Ministry for the Environment and Natural Resources of Iceland to obtain clear and timebound roadmap for the setting up of the Emerald Network etc. but a decision has not been taken on the matter.</li> <li>➤ IINH has earlier explained to the Bureau the status of the work already done by IINH concerning mapping of habitat types and important bird areas etc. Based on that work the institute also proposed new protected areas in 2018 in relation to ecological network in context with Emerald Network. The proposals are still being processed according to the Nature Conservation Act.</li> <li>➤ Concerning the formal status of the road project, regarding the complaint on Breiðafjörður, IINH refers also to its earlier answers on that subject where the institute has explained the process and the Planning Agency opinion on the matter e.g. in Environmental impact Assessment of the road project.</li> </ul>
<b>Bureau meeting 15-16 September 2020</b>	<ul style="list-style-type: none"> <li>➤ The Bureau acknowledged the short communications of both parties, noting that the complainant had reiterated its previous report, and the respondent had requested more time to receive an adequate reply from the Ministry for the Environment and Natural Resources regarding the setting up of the Emerald Network.</li> <li>➤ The Bureau took note that no updates had occurred regarding the construction of the road, and it was assumed that development would eventually go ahead.</li> <li>➤ The Bureau, deeply concerned with the situation and lack of cooperation from the Icelandic Ministry as well as the lack of commitment towards the Emerald Network <b>decided to exceptionally bring the complaint to the agenda of the Standing Committee</b>, in order to give all Contracting Parties an opportunity to hear presentations of the situation from the Icelandic authorities and the complainant. The Standing Committee would be invited to take a position on the complaint and consider an on-the-spot-appraisal.</li> <li>➤ Therefore, both Parties are urged to attend and make a short presentation at the 40th Standing Committee- the case remains on stand-by.</li> <li>➤ Furthermore, due to the ongoing poor communication, the Bureau mandated the Secretariat to contact the Permanent Representation of Iceland to the CoE in order to discuss the communication issues.</li> </ul>
<b>Standing Committee Meeting December 2020</b>	<ul style="list-style-type: none"> <li>➤ The Committee took note of the information of the national authorities that there was little they could do now as the project had already passed through all legal procedures. The Committee also expressed concern at the presentation of the complainant which portrayed a deteriorating situation of this high nature value area, and of their proposal to open a case file.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ The Committee agreed on a compromise to mandate an OSA in 2021 and depending on its results, mandated the Bureau to take a decision on the possible upgrading of the file. The Terms of Reference (ToR) of the OSA should take into account not just the case-file in question but also include a mandate to evaluate progress of the entire Emerald Network in Iceland.</li> <li>➤ Meanwhile, the Committee urged the Icelandic authorities to cease any works in the Nature Reserve until the OSA has been conducted, so as not to endanger the nature of this biodiversity-rich area.</li> <li>➤ As regards the general lack of progress of Iceland in the implementation of the Emerald Network, the Standing Committee took note that the submission of a list of a hundred possible proposed Emerald Network sites was pending the agreement of the Ministry of the Environment and Natural Resources since 2018 and urged the authorities to release the list.</li> </ul>
<p><b>Complainant's update March 2021</b></p>	<ul style="list-style-type: none"> <li>➤ Reiterates previous documents sent and refers to the <b>letter sent to the Secretariat from Landvernd</b> (nature protection society of Iceland), which supports the 40<sup>th</sup> Standing Committee decision to hold an OSA, and refers specifically to the phrase: "The Board of Landvernd is dismayed by the recent decision by Icelandic authorities of selecting the route of most environmental concern rather than alternative solutions for facilitating road transportation in the area."</li> </ul>
<p><b>Secretariat action Spring 2021</b></p>	<ul style="list-style-type: none"> <li>➤ <b>Prepared a draft ToR and submitted to the Bureau</b> for consultation during its Spring meeting.</li> </ul>
<p><b>Bureau meeting 14-15 April 2021</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau took note of progress regarding the on-the-spot appraisal (OSA) mandated by the 40th Standing Committee to assess the situation at Breiðafjörður Nature Reserve as well as the general state of implementation of the Emerald Network at national level.</li> <li>➤ The Bureau considered a draft terms of reference for the OSA, proposed several amendments, and mandated the Secretariat to consult these terms with the national authorities and complainant, and in particular to ascertain as to whether a part of the mission can take place online (virtual meetings and online desk research). The potential to hold an on-site visit would continue to be reviewed during the year.</li> <li>➤ Concerning the Emerald Network, the Bureau again strongly urged the Icelandic Ministry of the Environment and Natural Resources to release the list of a hundred possible proposed Emerald Network sites which had been pending since 2018, as well as provide a general report on Emerald Network implementation progress at national level. The Bureau was very concerned that Iceland was lagging the most out of any other country in terms of its commitment to the Emerald Network, and it also advised to request a meeting with high-level Ministry officials during the OSA.</li> <li>➤ The Bureau again called on the authorities to halt any road works until at least after the results of the OSA,</li> </ul>
<p><b>Extra-ordinary Bureau meeting June 2021</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau noted the change of Focal Point for Iceland and expressed its appreciation for the commitment of the Icelandic Ministry for the Environment and Natural Resources to conservation actions of the Convention. The Bureau underlined the importance of the Pan-European Emerald Network and the OSA planned for Iceland. It hoped that the OSA could still go ahead this year.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ The Bureau instructed the Secretariat to continue with the organisation of the remaining three OSAs until the end of the year even if resulting documents could possibly not be finalised in time for the 41st Standing Committee meeting. It suggested that a draft document could be submitted to the Standing Committee and an online consultation could be considered in order not to postpone the Standing Committee decision until December 2022.</li> </ul>
<b>Respondent's report August 2021</b>	<ul style="list-style-type: none"> <li>➤ The Icelandic Road Administration (IRA) has reached an agreement with landowners at Gröf in Þorskafjörður where road construction (Vestfjarðavegur-road 60 from Birkilundur to Skálanes) is planned, going through Teigsskógur birch woods of the Breiðafjörður Nature Reserve. Landowners at Gröf were the only landowners that IRA had not reached an agreement with.</li> <li>➤ According to the agreement the IRA's developments in the area must have as little environmental impact as possible.</li> <li>➤ The Ministry has sent an inquiry to IRA and Reykhólahreppur Municipality and asked for information about the status of the development in light of these news. The ministry has also asked for information on what actions will be taken to minimize the environmental impact of the project. That information will be shared with Bern when it arrives.</li> </ul>
<b>NGO's report September 2021</b>	<ul style="list-style-type: none"> <li>➤ The Road Authority has initiated the construction of the new road. However, it would be of utmost importance to conduct an on-side assessment by the Bern Convention. The assessment would serve as an enlightenment for the authorities and could also pinpoint possible improvements that can reduce the negative impact of the current plans for the construction. Consequently, BC is encouraged to conduct the on-side assessment as soon as possible.</li> </ul>
<b>Bureau meeting 15-16 September 2021</b>	<ul style="list-style-type: none"> <li>➤ Recalled that it had remarked at its extra-ordinary meeting in June that it seemed unlikely that an online advisory mission could take place this year within the deadlines to provide a draft report and recommendations to the Standing Committee, due to delays including the change in national focal point of Iceland.</li> <li>➤ Also took note that road construction has begun, despite the numerous calls of the Bureau and Standing Committee to halt any works until an independent international assessment has taken place.</li> <li>➤ However noted the progress and willingness of the Icelandic authorities to finally move ahead with the proposal of sites for the Emerald Network- it encouraged continued work in this regard.</li> <li>➤ Asked the authorities to clarify if the area affected by the road was within an area proposed to become part of the Emerald Network.</li> <li>➤ Again called for the OSA to go ahead this year even if the draft recommendations couldn't be ready for the Standing Committee, at the least to ensure mitigation measures are being properly implemented.</li> <li>➤ The complaint remains on stand-by and would again be exceptionally assessed at the 41<sup>st</sup> Standing Committee, where both Parties were invited to present updates.</li> </ul>
<b>Respondent's response to OSA proposal, October 2021</b>	<ul style="list-style-type: none"> <li>➤ Reiterates that road project has gone through all required national procedures, and reached final agreement with landowners last July.</li> </ul>

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|  | <ul style="list-style-type: none"><li>➤ The Ministry welcomes an online OSA but it should now focus on mitigation measures. The Ministry will assist in organising meetings with the relevant stakeholders.</li><li>➤ The Ministry refers to a letter sent in September regarding progress in the implementation of the Emerald Network.</li></ul> |
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### 2018/1: Ukraine: Presumed threat to Emerald site “Polonina Borzhava” (UA0000263) from wind energy development

<b>Date submitted</b>	30 March 2018
<b>Submitted by (Complainant)</b>	NGO ‘Ukrainian Nature Conservation Group’
<b>Respondent State (Respondent)</b>	Ukraine
<b>Specie/s or habitat/s affected</b>	A number of species and habitats protected in the adopted Emerald site
<b>Background to complaint</b>	<ul style="list-style-type: none"> <li>➤ According to the complaints, the breach of the Convention results from wind energy developments on the territory of the adopted Emerald Site ‘Polonina Borzhava’ (UA0000263),</li> <li>➤ Although the wind power installation construction is going to have a negative impact in particular on bird and bat species protected through the Network in the “Polonina Borzhava” Emerald site, an EIA assessment was not developed ahead of its development.</li> <li>➤ A report was requested to national authorities on the status of the Emerald sites ‘Polonina Borzhava’ (UA0000263), the state of development of the wind energy installations on Polonina Borzhava’ (UA0000263) and (5) any actions taken to start planning conservation measures for the areas and for the habitats and species for which they were designated.</li> </ul>
<b>Bureau September 2018</b>	<ul style="list-style-type: none"> <li>➤ Bureau thanked the national authorities for the report submitted on the newly received complaint.</li> <li>➤ The Bureau recalled that the designation of an Emerald site is not in conflict with wind energy developments. However, strict obligations are in place regarding the assessment of the impact these developments are going to have on the sites ahead of their implementation. In addition, a number of relevant guidance on the issue of wind energy development is produced by both the Bern Convention and the European Commission.</li> <li>➤ The Bureau instructed the Secretariat to contact the complainant and request they provide more details and proof on the alleged impact the development will have on the site and how the law on EIA/SEA in the country is respected.</li> <li>➤ The additional information should be provided for the next meeting of the Bureau, scheduled for March 2019.</li> </ul>
<b>Complainant’s report February 2019</b>	<ul style="list-style-type: none"> <li>➤ In January 2019, the EIA report on the project of building the wind power plant has been published.</li> <li>➤ After an analysis conducted by independent scientists and experts in different fields concerning the project, they have come to conclusions to support the complaint. The complainant is putting in parallel the EIA report’s results and independent’s results coming from ornithologists and volunteers. The differences between both are detailed in the complainant’s report.</li> <li>➤ The complainant concludes to a violation of law of Ukraine «On Environmental Impact Assessment». In fact, most of comments and suggestions sent by the civil society were not taken into account in the Report of EIA. Moreover, the report does not contain</li> </ul>

	<p>all necessary information. Due to this lack of information, it is impossible to evaluate the impact of the project on the Bern Convention's protected species of fauna and flora.</p> <ul style="list-style-type: none"> <li>➤ The complainant is asking the government in charge of the EIA conclusion to refuse to give a conclusion due to this lack of information. He also concludes to a violation of law during public hearings on report of EIA of the project and gives information about that breach. It concerns the public hearings' organization, the right to speak during these.</li> <li>➤ He also argues for the necessity of starting and EIA of the project in trans-boundary context due to the international migration path of birds across the mountain, some of which are protected by national and international law.</li> <li>➤ For the complainant, the EIA of the project has to be done in a trans-boundary context with the involvement of Poland, Belarus, Lithuania, Finland and Estonia as a Concerned Parties.</li> </ul>
<p><b>Authorities' report February 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Ministry of Ecology and Natural Resources of Ukraine detailed the content of the EIA report on the project.</li> <li>➤ The authorities called on many official experts to give their opinion on the assessment and they conclude to an objective absence of potential negative impact on birds and bats of «Borzhava» subalpine meadow (the area where the project will be conducted)</li> <li>➤ The project was also to reduce to only 34 sites of WPU and not 41 as initially planned due to the identified features of the local flora (protected by the Red Book of Ukraine).</li> <li>➤ Several options are planned to avoid the negative impact against the flock of birds like a buffer zone between the turbines and the high-mountain forest vegetation areas of «Borzhava» subalpine meadow.</li> <li>➤ There are 2 protected flora species (<i>Campanula serrata</i> or <i>Campanula napuligera</i> and <i>Poa granitica</i>) and 1 protected fauna species (<i>Carabus hampei</i>) identified within the Emerald site of the Borzhava subalpine meadow. Their protection must be provided and the Ministry mentioned that research and monitoring programs are part of the requirement to the society TOV «ATLAS VOLOVETS ENERGY».</li> <li>➤ According to the Law of Ukraine on EIA, the assessment report is subject to public discussion with public hearings and also with written comments and proposals. All proposals and comments are subject to mandatory review by the authorized territorial body. At the time of the report, this procedure is in progress</li> </ul>
<p><b>Bureau meeting March 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked the national authorities and complainant for their detailed reports.</li> <li>➤ It welcomed the Environment Impact Assessment realised according the Ukrainian law adopted in December 2017 and took note that its results are currently debated in public hearings.</li> <li>➤ The Bureau encouraged the authorities to ensure fair and transparent consultations and to reflect the arguments and comments of layers of stakeholders.</li> <li>➤ The Bureau also invited the authorities to refer to the guidelines developed by the Bern Convention in cooperation with Birdlife International "Wind farms and birds: an updated analysis of the effects of wind farms on birds, and best practice guidance on integrated planning and impact assessment" and those developed by the European Commission in the framework of Natura 2000 "Wind energy developments and Natura 2000".</li> </ul>

	<ul style="list-style-type: none"> <li>➤ The Bureau instructed the Secretariat to request a new report to the national authorities reflecting the results of the public consultations on the EIA and to invite the complainant to comment on it for its second annual meeting in September 2019.</li> <li>➤ This complaint is moved to the category on stand-by.</li> </ul>
<p><b>Complainant's report August 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The EIA of the WPP construction has ended and despite the fact that stakeholders provided numerous comments and raised a lot of concerns within the framework of the EIA procedure, none of them were analysed and considered by the relevant authorities. The developer received a positive final EIA statement which enables the construction of the WPP on Polonina Borzhava.</li> <li>➤ The EIA final statement is reasonless, illegal and violates the basic EIA principles, defined within the national legislation, nor was the procedure held properly. Scientific data regarding the species and habitats was also not considered.</li> <li>➤ The EIA statement also did not assess the impact of the construction of the 110-kW power line on the site.</li> <li>➤ The authorities report from February 2019 was also inaccurate; for example, while the total land area for the construction of the 34 wind turbines is near 30 ha, one should note that this area does not include territories for service roads and underground power lines, as well as other objects of the WPP. The EIA statement notes that the total area under construction is closer to 50 ha.</li> <li>➤ The statement that “8.8% of the area of the «Borzhava» subalpine meadow is the territories where the most valuable habitats are not registered and not recorded. WPU will be partly situated mostly in this area (zones of local existing roads along the mountain ridge)” and “the area of the sites of the WPP-project under the requirements of placing all the WEU of WPP of the TOV «ATLAS VOLOVETS ENERGY» occupies less than 1% of the area of the «Borzhava» subalpine meadow” is also inaccurate. There is no proof that the construction won't impact protected areas.</li> <li>➤ Although the construction will take place on the most elevated areas, lower lying areas will be directly and indirectly affected by erosion, hill wash, and fuel-oil pollution.</li> <li>➤ The locations of rare and endangered species of flora/fauna should be mapped before the construction, and the impact assessment must be held before the construction.</li> <li>➤ The assessment of the impact on birds and bats was inadequate and insufficient for any impact statements, especially concerning the migration routes.</li> <li>➤ The developer also stated that the main service road is not a subject for the EIA. We find this unacceptable as the road construction itself will alter vehicle accessibility of the area, which will definitively impact species and habitats of the territory.</li> <li>➤ According to national legislation, after the EIA conclusion statement, the developer must obtain a license for the construction. In May-June 2019 the State Architectural and Construction Inspection of the Transcarpathian region refused to provide a license twice, referring to the nonconformities of the project to the national legislation. The developer still tries to obtain the license.</li> <li>➤ At this time the Transcarpathian regional administrative court considers a complaint by the NGO “Ekosphaera” to the Department of the ecology of Transcarpathian Regional State Administration. The complaint aims at cancelling the EIA conclusion statement (Court case №260/771/19). The case also involves several civil society representatives (as third-party actors), who provided the</li> </ul>



	<p>comments within the EIA procedure, which were not considered. The second preliminary court session is planned on 19 September 2019. The developer is involved as a third-party actor on the side of the respondent party.</p> <ul style="list-style-type: none"> <li>➤ The conservation of Polonina Borzhava and its natural values in a long-term perspective is possible only after the establishment of the protected area/areas. Aiming to raise awareness of mass-media and society on the Polonina Borzhava conservation issue, on 6 July 2019 a public campaign was held.</li> </ul>
<p><b>Bureau meeting 9-10 September 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked the complainant for the report but noted the lack of an updated report from the authorities.</li> <li>➤ The Bureau expressed its concern over the allegations of the complainant regarding the EIA. The Bureau however notes that it needs advice for the assessment of the EIA and how it respects the national standard. The Secretariat is instructed to search for an expert who can do an external independent review of the EIA. A possible on-the-spot assessment could be considered for the case. The necessary funding for the review and OSA should be included in the Programme of work of the Convention for 2020 and be confirmed by the Standing Committee.</li> <li>➤ In the meantime, the Bureau recommends to the Ukrainian authorities to put the project on hold and to pay particular attention as the complaint is related to an Emerald Network site.</li> </ul>
<p><b>Government report September 2019</b></p>	<ul style="list-style-type: none"> <li>➤</li> </ul>
<p><b>Complainant's report February 2020</b></p>	<ul style="list-style-type: none"> <li>➤ The case of “Noosphera” against the Department of Ecology of Transcarpathian Regional State Administration in the regional administrative court is ongoing with the next trial planned for 27 February. Its purpose is to cancel the EIA conclusion statement issued by the Department allowing the development of the wind power plant within the Emerald site “Polonina Borzhava”.</li> <li>➤ The Ministry of Energy and Environment is involved in the case as a third-party actor on the defendant's side, but has had low involvement. Ecologists stated that a transboundary EIA is needed due to the mass migration of common crane (<i>Grus grus</i>), observed above Polonina Borzhava in autumn 2018. Nevertheless, the Ministry has refused it.</li> <li>➤ Following public hearings, the developer is putting pressure on activists and trying to refuse them access to hearings.</li> <li>➤ Although the State Architectural and Construction Inspection of the Transcarpathian region refused to provide a building permit twice due to non-compliance, the developer appealed to the central office of the Inspection in Kyiv and received it contrary to the rules of the law on the division of powers of its structural subdivisions. The court case regarding the revocation of this permit was denied at first instance, but the complainant NGO “Noosphera” is preparing to appeal this decision in an appellate court.</li> <li>➤ Justification for the establishment of the “Zelenytsia” local protected area (1028,5 ha) within the Mizhgirya district on Polonina Borzhava was refused by the land steward – General Directorate of the State Land Cadaster of the Transcarpathian region – twice thus a complaint has been lodged with the Ministry in order to assist in the establishment of this protected area.</li> <li>➤ Public interest of the situation around Polonina Borzhava has not diminished as this area is an extremely popular tourist and recreational site. To draw more attention to the problem, the Scout organization of Ukraine brought The Peace Light of Bethlehem to one of the highest mountain tops of Borzhava range.</li> </ul>

<b>Bureau meeting 7-8 April 2020</b>	<ul style="list-style-type: none"> <li>➤ The Bureau recalled that an on-the-spot appraisal had been suggested for this case, but that due to other priority visits and the ongoing Covid-19 pandemic, this visit would most likely take place in 2021.</li> <li>➤ Furthermore, the Standing Committee would need to mandate such a visit, thus in its September meeting the Bureau would decide whether to bring this point to the agenda of the 40th Standing Committee. It could also decide if a more general on-the-spot appraisal visit should take place taking into account the numerous other complaints on Ukrainian Emerald Network sites.</li> <li>➤ The Bureau instructed the Secretariat to continue communications with the Ukrainian authorities and to enquire if an independent evaluation of the relevant legislation on SEA in line with Recommendation No. 208 (2019) of the Standing Committee on detecting, reporting, assessing and responding to changes in the ecological character of Emerald Network sites exists.</li> <li>➤ The Bureau further mandated the Secretariat to inform the complainant that the Bureau is looking into the situation and considering an on-the-spot appraisal.</li> </ul>
<b>Complainant's report August 2020</b>	<ul style="list-style-type: none"> <li>➤ The case №260/771/19 in the Transcarpathian regional administrative court ended culminating in the decision to cancel the EIA conclusion statement issued by the Department of the ecology of Transcarpathian Regional State Administration, which had allowed the planned wind power plant to go ahead.</li> <li>➤ Tybava village council appealed this court decision and the case will continue in the Eighth Administrative Court of Appeal in Lviv, which will also hold Case №260/1058/19 on cancelling the construction permit.</li> <li>➤ The mass media reports that at the highest state level there is an idea of a project to build a huge ski resort on Polonina Borzhava, regardless that it is an Emerald network site.</li> <li>➤ There has been no progress in creating new protected areas on Polonina Borzhava.</li> </ul>
<b>Bureau meeting 15-16 September 2020</b>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked the complainant for their report but noted again the lack of a report from the authorities.</li> <li>➤ The Bureau welcomed the fact that the Environmental Impact Assessment conclusion statement favouring the development of the wind farm had been cancelled in court, while noting that the decision would go to an appeal.</li> <li>➤ Very concerned with the ongoing lack of communication and progress of the authorities regarding this and several other Ukrainian Emerald Network related complaints, <b>the Bureau decided to exceptionally bring this complaint to the 40<sup>th</sup> Standing Committee agenda.</b> Both parties are urged to attend, and the authorities are asked to speak both about this case and more generally about the issues facing Emerald Network sites in Ukraine, and planned actions of the government. The Standing Committee would be invited to take a position on the complaint and consider mandating an on-the-spot-appraisal.</li> <li>➤ Furthermore, due to the ongoing poor communication, the Bureau mandated the Secretariat to contact the Permanent Representation of Ukraine to the CoE in order to discuss the communication issues.</li> <li>➤ The case remains on stand-by.</li> </ul>
<b>Government report 25 November 2020</b>	<ul style="list-style-type: none"> <li>➤ The findings and environmental conditions of the EIA for the planned wind farms are reiterated (<a href="#">see report above from 2019</a>).</li> </ul>

- A public hearing to discuss the EIA Report was held and comments from 21 organizations were submitted. These comments were processed by the customer and partially considered, and represented in the Public Discussion Report. The conclusion of the EIA was published on March 12, 2019, and considered it feasible to carry out the planned activities.
- The combined impact of the planned activity under the standard implementation regime is environmentally admissible. According to the results of the analysis of the EIA report, the main impact of the activity is expected on soils and biological diversity.
- The following **environmental conditions** are attached to the EIA:
  - during the period of mass reproduction of wild animals, from 1 April to 15 June it is prohibited to carry out preparatory and construction activities and measures that are a source of increased noise and disturbance;
  - prevent the alteration of the existing hydrological and hydrobiological regime of surface and ground water and erosion processes during the construction and operation of wind farms, including when laying underground cable lines;
  - discharge of pollutants into water bodies is prohibited;
  - adhere to the environmental protection measures provided by the relevant EIA Report statements and Technology Regulations;
  - ensure the implementation of an agreed program for birds and bats monitoring under the guidance of qualified and experienced ornithologists. According to the results of monitoring, implement adaptive management of windmills, such as stopping wind turbines during peak migration and high activities of birds and bats to reduce risk of collision or barotrauma;
  - adhere to the regime of land use of the nature reserve fund and other conservational nomination, health, recreational, historical and cultural purposes.
- Furthermore, **the company is responsible for** preventing, avoiding, reducing (mitigating), eliminating, and limiting the impact of the planned activity on the environment, including:
  - ensuring the maintenance of technological equipment and structures;
  - conservation of the biological diversity of the wind farm territory in accordance with the Law of Ukraine «On the Red Book of Ukraine» and the International Conventions. Providing wind farms with facilities for hazing birds and bats;
  - installation of wind turbine blades made of non-lustrous materials;
  - temporarily stop wind turbines when detecting high activity of bats at wind speed less than 6 m / s;
  - complying with the requirements of environmental safety, ensure the rational nature use of natural resources, compliance with the requirements of environmental legislation.
- The **post-design monitoring** of the company, which must take place within 5 years from start of operation, will include:
  - carry out an additional investigation of plants and animals listed in the Red Book of Ukraine and plant groups protected by Ukrainian legislation in the territory of the planned activity prior to the commencement of works;
  - develop and implement a program of monitoring surveys of species of animals and plants listed in the Red Book of Ukraine;

	<ul style="list-style-type: none"> <li>- monitor noise, vibration within the areas of wind farm impact and at the boundaries of the nearest settlement buildings, while all windmills operate and under different meteorological conditions;</li> <li>- monitor ornithological complexes and bats (wintering, spring and autumn migration, nesting) during the construction and operation of wind farms;</li> <li>- constantly monitor geological processes in accordance with the State Building Rules.</li> </ul> <ul style="list-style-type: none"> <li>➤ if as a result of post-design monitoring there is a negative environmental impact of the activity, the company must take measures to mitigate or eliminate it at its own expense. Further, if negative impacts alter the results of the EIA, a judge must cancel the activity.</li> <li>➤ On March 18, 2020, the Zakarpattia County Administrative Court agreed with the case of the NGO «Noosphere» to declare the conclusion illegal and revoke it.</li> <li>➤ However on November 3, 2020, the Eighth Administrative Court of Appeal agreed with the appeal of the Volovets settlement council and reversed the ban of the EIA conclusion.</li> <li>➤ Implementation of the wind farm project has not yet begun.</li> <li>➤ Efforts are also underway to set up a nature reserve within this territory within the framework of national legislation, to cover part of the ridges and slopes of Borzhava massif, which coincides with part of the project territory.</li> </ul>
<p><b>Governmental report of 25 November 2020 on general state of Emerald Network in Ukraine</b></p>	<ul style="list-style-type: none"> <li>➤ The Law of Ukraine «On the National Infrastructure of Geospatial Data» (2020) includes the Emerald Network together with other protected areas in the sets (types) of geospatial data.</li> <li>➤ In 2020, the Ministry together with the People’s Deputies of Ukraine and active participation of the public and scientists within the Working Group established under the Verkhovna Rada Committee on Environmental Policy and Nature Use, have worked out a bill «On the Emerald Network» which is being prepared for registration in the Verkhovna Rada Of Ukraine.</li> <li>➤ The following measures have been taken to protect species of flora and fauna and types of natural habitats: <ul style="list-style-type: none"> <li>- the issue of long-term conservation of natural habitats and species of wild fauna and flora being subject to special protection in Europe within the Emerald Network is considered during the relevant procedures for EIAs and SEAs;</li> <li>- by Order of the Ministry dated 02.03.2020 № 136, methodical recommendations for the development of an EIA report for the forestry sector was approved, which includes recommendations for impact assessment on Emerald sites;</li> <li>- data of the Emerald sites was published on the open cadastral map of Ukraine;</li> <li>- new territories and objects of the nature reserve fund are created both at the national and local levels within Emerald sites: 15 decrees of the President of Ukraine were prepared and signed in 2019, 8 such decrees were prepared in 2020;</li> <li>- a catalogue of biotopes of Ukraine (natural habitats) has been developed and published, which will allow for further measures to inventory and monitor biodiversity in accordance with European practices;</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>- within the framework of the EU APENA project, the first management plan has been prepared for the Emerald site within the Pyriatynskyi National Nature Park. Based on this, guidelines will be elaborated for the development of future management plans;</li> <li>- Management models for the maintenance, preservation and restoration of certain types of non-forest natural habitats (biotopes) has been prepared, published and distributed among the institutions of the nature reserve fund, scientific and non-governmental environmental organizations, and local authorities.</li> </ul>
<p><b>Standing Committee December 2020</b></p>	<ul style="list-style-type: none"> <li>➤ The Standing Committee took note that development on the planned wind farms has not yet begun, of the Environmental Impact Assessment (EIA) procedure in Ukraine, as well as of information of the authorities on the general situation of the Emerald Network in Ukraine. The Committee also expressed its concern that the EIA, initially revoked in March, had been re-validated at an appeal court in November, with the support of the government. Further, it remarked that the complainant states that the pressure from the Bern Convention complaint system is very important in the court case trials.</li> <li>➤ The European Commission informed that, although Ukraine is not a candidate country, it has signed an Association Agreement with the European Union. Both the EU Birds and Habitats Directives are covered in the Association Agreement and should be transposed into national law and their implementation fully ensured according to the timelines of the Agreement.</li> <li>➤ The Standing Committee expressed its concern at the worrying situation in Ukraine and mandated an OSA in 2021 which should also take into account other complaints in Ukraine related to Emerald Network sites. Following its results, the Bureau could take a decision on the possible upgrading of the complaint. In the meantime, the Standing Committee called on the Ukrainian authorities to not commence any works before the conclusions of the OSA have been assessed.</li> </ul>
<p><b>Complainant's report February 2021</b></p>	<ul style="list-style-type: none"> <li>➤ The lawsuits on this issue are ongoing. We are waiting for decision of Spring Bureau meeting and we are ready to take part in OSA with expert from the Bern convention. We can start working with online meetings, and we propose to make visit to Polonyna Borzhava Emerald site in second half of May or in June 2021.</li> </ul>
<p><b>Government report April 2021</b></p>	<ul style="list-style-type: none"> <li>➤ Since the last report there have been <b>no changes to this complaint.</b></li> <li>➤ The <b>Draft Law «On the Emerald Network»</b> was registered in the Verkhovna Rada on December 4, 2020. It was authored by 59 members from all parliamentary fractions and groups, and has been developed for over three years with the participation of the broad public, experts and scientists.</li> <li>➤ On March 3, 2021 the Draft Law received a positive feedback from the Verkhovna Rada Committee on Ukraine's <b>Integration into the European Union</b>. This week it is to be considered by the Committee on Environmental Policy and Nature Management.</li> <li>➤ The draft law provides for:             <ul style="list-style-type: none"> <li>➤ a changed approach to the management of protected areas from «protection of the territory» to «conservation of natural habitats and natural fauna and flora» through the planning and implementing measures as necessary to maintain or restore natural habitats and populations of natural flora and fauna in favourable conservation status;</li> <li>➤ functioning of the National Register of the Emerald Network sites and the system of monitoring of the status of conservation of natural habitats and species of natural fauna and flora;</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>➤ development of management plans for the Emerald Network, which include measures to preserve each priority species of flora and fauna and natural habitats;</li> <li>➤ establishing of the mechanism of impact assessment on the Emerald Network sites;</li> <li>➤ creation of a central executive body that ensures the implementation of state policy in the field of Protected Areas, Ecological and Emerald Networks, conservation of biodiversity.</li> </ul>
<b>Secretariat action Spring 2021</b>	<ul style="list-style-type: none"> <li>➤ <b>Prepared a draft ToR and submitted to the Bureau</b> for consultation during its Spring meeting.</li> </ul>
<b>Bureau meeting 14-15 April 2021</b>	<ul style="list-style-type: none"> <li>➤ The Bureau took note of progress regarding the on-the-spot appraisal (OSA) mandated by the 40th Standing Committee as well as the general state of implementation of the Emerald Network at national level.</li> <li>➤ The Bureau noted that the national authorities had not commented specifically on the OSA, but had sent an updated database of Emerald Sites of Ukraine, which included 161 new proposed sites. They had also informed on the draft law on the Emerald Network, which was currently progressing through the parliamentary process. The Bureau welcomed these developments.</li> <li>➤ The Bureau considered a draft terms of reference for the OSA, proposed several amendments, and mandated the Secretariat to consult these terms with the national authorities and complainant, and in particular to ascertain as to whether a part of the mission could take place online. The potential to hold an on-site visit would continue to be reviewed during the year.</li> <li>➤ Concerning the specific site, the Bureau again urged the authorities to halt any works until at least after the results of the OSA, and to refer to Recommendation No. 208 (2019) on detecting, reporting, assessing and responding to changes in the ecological character of Emerald Network sites.</li> </ul>
<b>Govt rep Sep 2021</b>	<ul style="list-style-type: none"> <li>➤ No changes to report</li> </ul>
<b>Bureau meeting 15-16 September 2021</b>	<ul style="list-style-type: none"> <li>➤ recalled that an online advisory appraisal was scheduled for next week bringing together both parties, concerned stakeholders and the independent experts. It thanked both parties for their willingness to cooperate up to this point, and hoped for productive meetings.</li> <li>➤ Invited both parties to attend the 41<sup>st</sup> Standing Committee to present their feedback on the advisory mission, provide any updates on the case, and to discuss the draft mission report and draft recommendation that the experts would present at that meeting.</li> </ul>
<b>Online advisory mission, 20-23 September 2021</b>	<ul style="list-style-type: none"> <li>➤ On 20-23 September, meetings were held with the 2 independent experts and various stakeholders relevant for the Polonina Borzhava case. The meetings aimed to analyse the situation and data of the past, but focus on future solutions and an effective multi-stakeholder cooperation. The experts will work on a mission report and draft recommendations for the 41<sup>st</sup> Standing Committee.</li> </ul>

**2017/2: North Macedonia: Alleged negative impacts to Lake Ohrid and Galichica National Park candidate Emerald Sites due to infrastructure developments**

<b>Date submitted</b>	9 <sup>th</sup> November 2016
<b>Submitted by (Complainant)</b>	Environmental Citizens' Association "Front 21/42" and Center for environmental research and information "Eko-svest"
<b>Respondent State (Respondent)</b>	North Macedonia
<b>Specie/s or habitat/s affected</b>	80 species from the Bern Convention Appendices (out of which 42 on Appendix II and 38 on Appendix III)
<b>Background to complaint</b>	<ul style="list-style-type: none"> <li>➤ Lake Ohrid and Galichica National Park are officially nominated as Emerald Sites from Macedonia (codes MK0000001 – Galichica and MK0000024 – Ohridsko Ezero</li> <li>➤ In 1979, Lake Ohrid and the City of Ohrid were declared as World Natural and Cultural Heritage site, protected by UNESCO "Natural and Cultural Heritage of the Ohrid region". Because of the extraordinary biodiversity and the international significance, in 2014 Galichica National Park and Lake Ohrid became part of the UNESCO World Network of Biosphere Reserves "Ohrid-Prespa".</li> <li>➤ Planned massive infrastructure development within the territory of Galichica National Park and Lake Ohrid shore in Macedonia will cause irreversible damage to the flora and fauna in the National park and lake.</li> <li>➤ Development plans include 1) ski center and resort, 2) Expressway A3, 3) Marina, and 4) several touristic development zones– including drying of the last remaining marsh "Studenchishte" for the construction of an elite settlement</li> <li>➤ Complainant believes that North Macedonia violates Article 2, Article 3 paragraph 2, Article 4 and Article 6 and Article 7 of the Bern Convention</li> <li>➤ At the 40<sup>th</sup> session of the UNESCO World Heritage Committee in Istanbul the Committee adopted Decision (No. 40 COM 7B.68) noting in paragraph 4: <i>"with concern that a number of large-scale infrastructure projects have been proposed within the property and that the conclusions of the impact assessments of the proposed Galichica Ski Centre, the A3 road, the Railway corridor VIII and Highway A2 demonstrate that these projects would be likely to cause significant potential impacts on the Outstanding Universal Value (OUV) of the property, and considers that these projects appear to represent a potential danger to the property, in line with paragraphs 179 and 180 of the Operational Guidelines"</i>.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ Additionally the Committee in paragraph 9 of the Decision further requests “the State Party to submit to the World Heritage Centre, by 1 February 2017, a report on the state of conservation of the property and on the steps taken to implement the above recommendations, for examination by the World Heritage Committee at its 41<sup>st</sup> session in 2017, with a view to considering, in the case of confirmation of the ascertained or potential danger to OUV, the possible inscription of the property on the List of World Heritage in Danger”.</li> <li>➤ Various plans necessary for the implementation of the projects are at different stages of amendments/adoption: 1. Amendments of The Management Plan for Galichica National Park (enables the Ski resort, the expressway and three Touristic Development Zones) is in the final stage of adoption by the Management Board of Galichicha National park. Regarding the project A3 expressway pending loan for National Roads programme includes A3 expressway and detailed project design is underway; 2. The General Spatial Plan for Ohrid that enables urbanization of the Studencishte marsh is adopted by the Municipality of Ohrid and construction work (a 12m wide pedestrian street) has already begun; 3. Six Urban Development Plans enabling concrete platforms in the lake upon which several Touristic Development Zones and at least one petrol station are to be built - three plans are already adopted (Marina, St. Stefan and Daljan); three are in final stage of adoption (Lagadin, Gradishte and Trpejca).</li> </ul>
<p><b>Joint World Heritage Centre/ICOMOS /IUCN Reactive Monitoring mission to the World Heritage property Natural and Cultural Heritage of the Ohrid Region, 9<sup>th</sup>-14<sup>th</sup> April 2017</b></p>	<ul style="list-style-type: none"> <li>➤ The mission considered that the general state of conservation of the mixed property “Natural and Cultural Heritage of the Ohrid region” – is currently impacted upon by a number of factors which could represent a potential danger to the Outstanding Universal Value of the property in accordance with paragraphs 179 and 180 of the Operational Guidelines and cause its authenticity and integrity to become vulnerable.</li> <li>➤ The mission recommends providing the State Party with an opportunity to address these concerns and to implement the mission recommendations, but if these actions are not completed 5 promptly the property may soon meet the conditions for inscription on the List of World Heritage in Danger.</li> <li>➤ Link to the full report of the mission: <a href="http://whc.unesco.org/en/documents/158740/">http://whc.unesco.org/en/documents/158740/</a></li> </ul>
<p><b>Authorities’ report March 2018</b></p>	<ul style="list-style-type: none"> <li>➤ The newly established Government of North Macedonia is fully committed to the preservation of the integrity of the natural and cultural property in the Ohrid region and undertakes concrete steps, in accordance with the UNESCO recommendations and Bern Convention</li> <li>➤ Confirms the status of the two areas (Lake Ohrid and Galichica NP) as candidate Emerald sites</li> <li>➤ In the Progress Report on the implementation of the recommendations according to the World Heritage Committee Decision 41 COM 7B.34, they inform on the progress in terms of drafting the Strategic Environmental Assessment (SEA) of the Draft Management Plan for the Natural and Cultural Heritage of the Ohrid region with the scope of the strategic assessment, which provides for a</li> </ul>



	<p>comprehensive assessment of the cumulative impacts of all infrastructure and development plans and other major projects envisaged in the boundaries of the property, the progress in relation to the envisaged infrastructure projects – construction of the A3 Expressway and the Galichica ski Centre, as well as the envisaged Pan-European Corridor VIII and the A2 motorway</p> <ul style="list-style-type: none"><li>➤ Parliamentary and local elections were held in North Macedonia, which resulted in changes at central and local level, and which had an impact on the timeframe and slowed down the activities for acting upon the WHC Decision</li><li>➤ The preparation of the Strategic Environmental Assessment (SEA) of the envisaged infrastructure projects within the boundaries of the properties which, according to the recommendations of the Mission, should be prepared in the Management Plan for the Natural and Cultural Heritage of the Ohrid region is still in the initial stage. For the purpose of providing a more complete and comprehensive assessment of the environmental impact, it was decided that the Management Plan for the Natural and Cultural Heritage of the Ohrid region is necessary to be revised first. The connection of the revision of the planned infrastructure projects that should likewise be incorporated in the proper manner in the Management Plan, imposed the need for a certain period of time to harmonize these planning documents. This activity is fully supported by the Government of North Macedonia, which obliged the Ministry of Culture to prepare a Strategic Environmental Assessment (SEA) of the Management Plan for the Natural and Cultural Heritage of the Ohrid region, including the envisaged infrastructure projects within the boundaries of the property with which the process of preparation of the SEA began. They can be fully implemented after the revision and upgrade of the Management Plan</li><li>➤ The revision of the Management Plan for the Natural and Cultural Heritage of the Ohrid region with the preparation of the SEA of the Plan is planned to be completed by October 2018, after which they will be submitted to the UNESCO World Heritage Centre</li><li>➤ The public institution National Park Galichica prepared and harmonized the necessary documents that informed the Government of North Macedonia on the need to halt the process of amending the Management Plan for the National Park Galichica and the maintenance of the internal zoning with the Secretariat for Legislation at the Government of North Macedonia, in accordance with the UNESCO Decision. In this manner, the intention to halt the previously initiated process for amending the Management Plan for the National Park Galichica was stated, which was supposed to enable a new zoning of the National Park, thus enabling the construction of the mentioned projects (Ski Centre and A3 expressway). After the adoption of the proposed information by the Government of North Macedonia (which is expected to occur in the shortest period possible), the public institution National Park Galichica, that is, its Management Board, will adopt a Decision to halt the process for amending the Management Plan for the National Galichica Park in a legally prescribed procedure. This would mean keeping the existing zoning of the National Park Galichica and removing the possible negative impact on the Outstanding Universal Value.</li><li>➤ Regarding the infrastructure projects, that is, the construction of the A3 expressway, the Ohrid- Peshtani section (as the second stage in the construction of the section Peshtani-border with the Republic of Albania), due to the recommendations contained in the Report prepared by the Mission of UNESCO, ICOMOS and IUCN, as well as due to the sensitivity of the projects in terms of the environment, cultural heritage, biodiversity and protection of the Ohrid region and the National Park Galichica, they were cancelled in accordance with the request of the Government of North Macedonia, the founder of these projects – European Bank for Reconstruction and</li></ul>
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	<p>Development (EBRD) withdrew the package of funds that were intended for the above mentioned projects and used them for rehabilitation of the state road network in North Macedonia outside the boundaries of the Ohrid region.</p> <ul style="list-style-type: none"> <li>➤ In order to complete the construction of the highway on European Corridor VIII and provide a fast, safe and modern transport, the Public enterprise for State Roads of the Republic of North Macedonia, taking into consideration the recommendations given in the Report prepared by the Mission of UNESCO, ICOMOS and IUCN, is working on the completion and finalization of several segments of the technical documentation for the project for construction of the highway A2, section Trebenishta – Struga.</li> <li>➤ On the railway from European Corridor VIII, which will be financed by the European Union, inform that it is supposed to establish a connection East-West from the Republic of Bulgaria through the Republic of North Macedonia to the Republic of Albania, that is, to connect the Adriatic and the Black Sea through the territory of the Republic of North Macedonia.</li> <li>➤ In order to fully implement the recommendations of the Mission (preparation of an alternative study on alternative routes) a new corridor is required, which would mean a new agreement between the Republic of Albania and North Macedonia for the harmonisation of the new connection. For this, it is necessary to prepare a new study, a new conceptual design and a new basic project. However, taking into account the international – European dimension of Corridor 8, this would mean that the whole process, for which many international agreements and acts have likewise been signed, would be significantly slowed down. Nonetheless, the Government of North Macedonia remains committed to the process for maximum protection of the Natural and Cultural Heritage in the Ohrid region, especially the possible impacts of the ecosystem of Lake Ohrid.</li> </ul>
<p><b>Complainant's report March 2018</b></p>	<ul style="list-style-type: none"> <li>➤ The crucial legal instrument and base for all plans and strategies - the Law on Management of the World Natural and Cultural Heritage in Ohrid Region, adopted in 2010, is still just a pile of paper without implementation and enforcement</li> <li>➤ Analysis conducted on this law, in 2017, resulted with identification of the gaps which prevent the full transposition of the UN Convention, as well as the obstacles to the implementation and enforcement of the law</li> <li>➤ Requested a Public Oversight Hearing<sup>1</sup> for the implementation of the “Law on Ohrid Region” at the Assembly Commission on Culture - still hasn't been scheduled</li> <li>➤ Failing to first amend the law and remove the obstacles to its implementation results in incomplete and/or inappropriate crucial documents, including the much needed Management Plan for the WH property</li> <li>➤ Unnecessary administrative delays - the Decision to stop the previous illegal change of the Management Plan for the NP Galicica is a great example of these unnecessary administrative delays. There is no legal obstacle for the Board of the NP Galicica to adopt a decision to stop and abandon the process of amending the plan, this is a simple, one meeting of the Board, activity, clearly regulated in the related law. However, our Government decided to: adopt a decision to assign the Ministry of Environment to inform the NP Galicica about the necessity of halting the process of amending the Management Plan</li> <li>➤ December 2017 the Government of North Macedonia created a working group for preparation of an action plan for the UNESCO recommendations. The Ministry of Culture informed us that this group already drafted the action plan by mid-January 2018. The action</li> </ul>

	<p>plan is not publicly disclosed, but having in mind the short period of its preparation, we are worried about the quality of the activities envisioned in this plan</p> <ul style="list-style-type: none"> <li>➤ Another great concern we have is related to the intention of our authorities to revise, instead of abandon, the destructive infrastructure plans for the region. The intention to first revise the projects and then revise the draft Management Plan (which should regulate which projects can and cannot be implemented in the property) brings necessary delays and waste of resources, in our view</li> <li>➤ Last, but not least, we want to confirm our previous concern about the strategic environmental assessment – this crucial step for proper nature protection, as well as for early and meaningful participation of all related stakeholders, remains to be avoided and/or conducted as a pure legal formality.</li> </ul>
<p><b>Bureau March 2018</b></p>	<ul style="list-style-type: none"> <li>➤ Thanked the complainant for indicating the issues facing the candidate Emerald sites and the national authorities for the report they provided to UNESCO/WHC following their visit and shared with the Bureau members;</li> <li>➤ Instructed the Secretariat to liaise with UNESCO WHC on the issue and it will revert back to the case at its September meeting and decide what role the Bern Convention can have on the case, in view of avoiding double work and efforts.</li> </ul>
<p><b>Bureau September 2018</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked the complainant for the updated report on the case. It noted with concern the on-going activities affecting the coastal regions of the Lake and the alleged lack of implementation of the WHC/IUCN Recommendations.</li> <li>➤ The Bureau instructed the Secretariat to approach again the WHC and to insist on a joint decision on the role the Bern Convention could play in this file.</li> <li>➤ The Bureau will revert to this case again at its upcoming meeting in March 2019. The national authorities and the complainant are requested to send updates on activities put in place to implement the WHC/IUCN Recommendations.</li> </ul>
<p><b>Bureau March 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau instructed the Secretariat to seek cooperation with the World Heritage Committee, to request progress reports to both the authorities and the complainant organisation and hopes to be able to discuss the case at its next meeting in September 2020 and to find a way forward for the complaint.</li> <li>➤ This complaint is moved to the category on stand-by.</li> </ul>
<p><b>Complainant's report August 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The candidate Emerald sites - National park "Galichica" and the Natural monument "Lake Ohrid", were discussed during the 43rd UNESCO World Heritage Committee session in Baku, Azerbaijan in July 2019.</li> <li>➤ The World Heritage Center and its advisory bodies noted that no progress had been made and that the Ohrid region meets the criteria for inscription on the List of World Heritage in Danger.</li> <li>➤ The decision to list the property to the World Heritage in Danger List will be again discussed on the next Committee session in 2020. Our government was given additional 7 months to report progress on the previous Committee decisions and the 2017 UNESCO Reactive monitoring mission recommendations.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ After the World Heritage session, Municipality of Ohrid proceeded with its plans for urban transformation within the Ohrid region and the protected area of the National park Galichica.</li> <li>➤ almost 1500 illegal constructions are located on the territory of the Municipality of Ohrid. According to the same statement half of them are located within the National park Galichica and the Lake Ohrid shore.</li> <li>➤ The 2017 UNESCO Reactive monitoring mission reflected that the “increased urbanization along the coast and in the upper parts of the national park caused fragmentation and destruction of habitat, increased interference with natural resources (particularly water), and pollution (e.g. solid waste, construction debris, waste waters, air pollution, noise)”</li> <li>➤ It also noted that the “inappropriate urban development may impact water pollution, degradation or fragmentation of riparian habitats, and alteration of the lake landscape.</li> <li>➤ In January 2019, the Public Enterprise the National park “Galichica” started a procedure for revision of the existing Management plan for the period 2010 – 2020. The new management plan should cover the period of 2020 – 2030.</li> <li>➤ Lake Ohrid has no revalorization of the natural values (expert and scientific assessment of the value of natural heritage for the purpose of confirming, extending, enhancing or reducing the protection and zone determination.</li> <li>➤ Having this in mind, it is requested to have the case on the agenda of the Standing Committee in 2019.</li> </ul>
<b>Bureau meeting 9-10 September 2019</b>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked the complainant for the report. It noted that due to the lack of report from the authorities, it was difficult to discuss in a meaningful way.</li> <li>➤ It further noted that the Secretariat of the Convention has successfully established contacts with the World Heritage Centre and hoped that this can lead to a closer cooperation on cases of joint interest for both organisations.</li> <li>➤ The Bureau reminded again that in the frame of the Open case file 2013/1: North Macedonia: Hydro power development within the territory of Mavrovo National Park, an expert mission is going to take place in 2020 in the country. It requested the Secretariat to consider broadening the scope of the mission and to allow for the mission to also collect information from both the authorities and the Complainant and NGO community on this specific case. The Terms of Reference of the mission could also include discussions on the protection and status of all other candidate Emerald network sites in the country.</li> </ul>
<b>November 2019</b>	<ul style="list-style-type: none"> <li>➤ In line with the decision of the Bureau in September 2019, a draft terms of reference proposed for a Bern Convention advisory mission to 3 areas of North Macedonia which have ongoing case files (Open case-file - Complaint No. 2013/1 - Mavrovo National Park, Complaint on stand-by No. 2015/2 – Bogdanci, and Complaint on stand-by No. 2017/2 - Lake Ohrid and Galichica National Park) will be submitted for consideration by the Standing Committee in December 2019.</li> </ul>
<b>Authorities report, November 2020</b>	<ul style="list-style-type: none"> <li>➤ During the Session of the Government of the Republic of North Macedonia from 17.11.2020 the following decisions were made:</li> <li>➤ <b>Nomination of Lake Ohrid and Studencishko Blato to the World Ramsar List</b> and submission of the application file to the Secretariat of Ramsar Convention no later than December 2020;</li> </ul>

	<ul style="list-style-type: none"> <li>➤ Decision on the acceptability of the proposal for <b>declaring the site Studencishko Blato a protected area</b> in the category.</li> <li>➤ Within the current <b>GEF / UNEP project</b>: "Achieving biodiversity protection through the creation and efficient management of protected areas and integrating biodiversity into land use planning", in July 2020 activities were launched for preparation of a Valorization Study and a Draft Management Plan for the Lake Ohrid Nature Monument. The activity will be conducted by the Regional Office of the IUCN for Eastern Europe and Central Asia in cooperation with the MoEPP and UNEP, with the participation of international and national experts. IUCN ECARO will apply best international standards for protected areas, including its own best practice guidelines.</li> <li>➤ The Republic of North Macedonia regularly submits reports on the progress in fulfilling the <b>UNESCO recommendations</b> for the Ohrid region.</li> <li>➤ Having in mind the scope and levels of protection in the Ohrid region, at the moment the progress of activities in the process of implementation of the <b>Plan for management of the world natural and cultural heritage of the Ohrid region</b> is being prepared and adopted.</li> </ul>
<p><b>Standing Committee decision December 2020, related to open-file 2013/1 on Mavrovo</b></p>	<ul style="list-style-type: none"> <li>➤ The <b>advisory OSA concerning Mavrovo NP and other Emerald Network sites</b> should take place as soon as possible in 2021, with a possible virtual element due to the ongoing Covid-19 pandemic. Lake Ohrid and Galichica NP should be taken into account.</li> <li>➤ Progress on the two other “complaints on stand-by” concerning North Macedonia should be evaluated at the first Bureau meeting in 2021.</li> </ul>
<p><b>Complainant report March 2021</b></p>	<ul style="list-style-type: none"> <li>➤ In December 2019 a joint <b>WHC/ICOMOS/IUCN advisory mission</b>, and in January 2020 <b>reactive monitoring mission</b> took place. Although the WHC Committee meeting was postponed giving the authorities an extra year to improve the situation, this did not happen. The unconfirmed conclusion of the missions is that serious threats remain due to poor management and legal implementation, thus <b>the Site may be inscribed on the List of World Heritage in Danger</b>.</li> <li>➤ Here follows brief <b>analysis of progress of the 17 recommendations of the WHC</b>, also relevant for this case:</li> <li>➤ REC 1: According to the publicly available information, a comprehensive comparative study of <b>alternative routes for the European Corridor VIII railway</b> hasn't been initiated, the plan to continue with the initial project is still valid.</li> <li>➤ REC 2: There is not sufficient information as to whether the Advisory mission recommendations on the <b>A2 highway</b> were implemented in any way. To our knowledge, no new project to pair the A2 highway and the railway exists.</li> <li>➤ RECS 4&amp;5: These 2 projects (sub-sections of A3 road and a ski resort), both in the National Park Galichica, <b>have been formally canceled</b> and, to this day, remain to be the only examples of implementation of the recommendations.</li> <li>➤ REC 6: Despite the three municipalities within the World Heritage area adopting Decisions for a moratorium, they were crafted in a way to allow <b>continuation of all planned projects</b>. In practice a lot of development continues, notably hotels, ports, restaurants, industrial zone, beaches. Of particular concern is planned <b>reconstruction of Quay Macedonia</b>, despite no EIA or legal proceedings. Also, a <b>new</b></li> </ul>

	<p><b>Marina in Studenchishte Marsh</b>, the last intact marshland habitat on the lakeshore, crucial as a filter to the lake, but also a habitat of valuable species, including many endemic ones.</p> <ul style="list-style-type: none"> <li>➤ REC 7: The <b>Management Plan for Ohrid Region</b> was adopted in January 2020 and it is implemented by the same, ineffective, management body (the Ohrid Region Management Commission), there are no specific obligations for monitoring and reporting on the implementation, and it is no surprise that after one year, nothing has been done. The Management Plan will have to be revised once the <b>new law on Managing the World Natural and Cultural Heritage</b> of Ohrid Region is adopted. A <b>Valorization Study for Lake Ohrid</b> is also in a process of creation/adoption. Status of the <b>Lake Ohrid Watershed Management Plan</b> is unclear, but yet again no public participation was permitted. <b>Management Plan for National Park Galichica</b> is another plan in a process of adoption, and is more positive than that of Ohrid. <b>Management Plan for the Coast of Lake Ohrid</b> has been announced, but so far we only have an information that it's been prepared by the Ministry of Transport and Communications.</li> <li>➤ It is vital that all of these plans will be aligned together with better coordination from the government- decisions from international conventions, such as the <b>Bern Convention, become even more significant</b> for the conservation of the valuable habitats and numerous species of the Emerald candidate sites Lake Ohrid and Galichica National Park.</li> <li>➤ REC 8: <b>The SEA and cumulative effects for the Ohrid Region Management Plan</b> have not been implemented</li> <li>➤ REC 9: In relation to <b>illegal constructions within the property</b>, the Government in 2021 proposed legal framework, that not only ensures continuation of the already started procedures for legalisation and expansion with new requests, but undermines the rule of law. It seems that the <b>authorities have no intention to conduct EIAs for the illegal constructions</b>, prior to removal. Public information on the inventory of illegal constructions and public participation in the decision process for removal of the illegal buildings with negative impact, are the only way to ensure rule of law and prevent corruptive practices</li> <li>➤ REC 10: The Management Plan for Ohrid Region proposes a <b>buffer zone</b> that does not include Prespa Lake, but includes the remaining part of Galichica NP. The Draft MP for Galichica NP doesn't incorporate the proposed buffer zone for the WH Site.</li> <li>➤ REC 11: No changes were made in the work and functioning of <b>The Commission for Management of the Natural and Cultural Heritage</b> of the Ohrid Region</li> <li>➤ REC 12: A <b>Trans boundary Watershed Management Committee with Albania</b> was established, but so far it hasn't had a meaningful role for the protection and conservation of the property. No joint monitoring programmes have been established.</li> <li>➤ REC 13: During 2020, several activities were undertaken for <b>rehabilitation of the wastewater collector system</b>, but this recommendation has not been fully implemented, as activities are expected to continue in 2021.</li> <li>➤ REC 15: There is an EU/UNDP project for <b>re-diverting Sateska River</b>, so far there is a feasibility study, but no actual works on the ground have started.</li> <li>➤ REC 16: Bukovo landfill and other <b>illegal dumping sites</b> haven't been cleaned and closed up, there is no functional communal waste collection system.</li> </ul>
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	<ul style="list-style-type: none"> <li>➤ REC 17: No measures have been taken for the <b>invasive species</b>; there is no regular bio monitoring programme; poaching continues to be a problem.</li> <li>➤ In conclusion, the authorities over the last years have made empty promises but no concrete actions and the exceptional natural values of the areas are in dangerous decline. Propose that <b>opening this case by the Bern Convention Standing Committee</b> can play a crucial role in the prevention of irreversible, to a point of no return, transformation and damages to Lake Ohrid and National Park Galichica.</li> </ul>
<p><b>Bureau meeting 14-15 April 2021</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau recalled that an on-the-spot appraisal (OSA) in the context of open case-file 2013/1 concerning hydropower plant development in Mavrovo National Park is planned for the next months, and should take into account the two sites of this complaint.</li> <li>➤ The Bureau however took seriously the claims of the complainant that, despite two monitoring missions of the UNESCO World Heritage Centre in 2019 and 2020 as well as its conclusions of 2017, little concrete progress has been made on the 17 recommendations, the area was at risk of being inscribed on the UNESCO List of World Heritage in Danger, and in general the natural values of Lake Ohrid and Galichica National Park were in a state of constant decline.</li> <li>➤ The Bureau requested that the national authorities respond comprehensively to the claims of the complainant as well as provide information on the 17 recommendations of UNESCO for its next meeting. Furthermore, pending results of the OSA and response of the authorities, the Bureau could consider elevating this complaint at its next meeting.</li> <li>➤ The Bureau also instructed the Secretariat to liaise with the secretariats of UNESCO and the Ramsar Convention to request information on their parallel processes.</li> </ul>
<p><b>Ramsar update June 2021</b></p>	<ul style="list-style-type: none"> <li>➤ The Ramsar Secretariat is pleased to inform that Lake Ohrid has been added to the List of Wetlands of International Importance ('Ramsar Sites') on 15 February 2021. The Ramsar Site covers the lake surface, and its boundary follows the shoreline with the additional inclusion of the Studenchishte Marsh, the locality Sveti Naum and parts of some wetlands near the lake shore, details cf. <a href="#">here</a>. The Recommendations following the joint UNESCO/IUCN/ICOMOS Reactive Monitoring Mission in 2017 cover issues that might affect the ecological character of the Ramsar Site, i.e. the wetland part of the World Heritage property. The Convention on Wetlands therefore follows the work of the Bern and World Heritage Conventions and remains available for coordinated actions and responses.</li> </ul>
<p><b>Complainant's report August 2021</b></p>	<ul style="list-style-type: none"> <li>➤ The experts' assessment that Ohrid Region fulfills the criteria to be inscribed on the <b>List of World Heritage in Danger</b> was confirmed by UNESCO and reflected in a Draft Decision, but due to an Amendment submitted by Bosnia and Herzegovina, Ohrid was not inscribed as a World Heritage in Danger. The final text of the adopted Decision is not available but it was clear that Ohrid Region wasn't inscribed on the List of WH in Danger.</li> <li>➤ This was despite 34 organizations from North Macedonia and Albania recommending such a step, but once more the WHC decided to discard the expert assessment of the scientists.</li> <li>➤ Despite a <b>moratorium on urbanisation</b> in 2017 until new plans are in place, in reality there are so many exceptions that there is no effect. In March 2021, the Municipality of Ohrid adopted a new document stating that all further urbanization within the municipality will be in compliance with the Management Plan for Ohrid Region; it also states that it's not valid for construction and reconstruction of infrastructure objects and public interest projects. Once again the list of exceptions is long long as to make the decision irrelevant.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ The impact of this Decision is evident in the procedure for <b>adoption of one of the latest new urban plans</b> - Gorica North, which started in April 2021 and envisages construction of motels, hostels, weekend houses, restaurants and bars, roads, etc. on around 17ha; close to Studenchishte Marsh. The SEA process was conducted by the investor instead of the municipality of Ohrid, which is a violation of the Law on environment, as well as an example of conflict of interest –an Initiative to the Anticorruption Commission regarding this issue has been submitted. But most complaints are ignored.</li> <li>➤ The local authorities and central government constantly break laws, but blame one another for the situation.</li> <li>➤ In May 2021 <b>Studenchishte Marsh and Lake Ohrid were designated as the third and largest Ramsar Site</b> in N. Macedonia. The Law on proclamation of Studenchishte Marsh as a Park of Nature was published for public consultations in July. This is a positive step towards better conservation of this vital part of Lake Ohrid eco system and valuable habitat on its own, however the Draft Law doesn't propose a buffer zone (so all planned urban plans and projects in the close vicinity of the marsh can continue).</li> <li>➤ Right before the 44th Session of the WHC, the <b>Minister of Environment proclaimed a temporary protection for the marsh and Lake Ohrid</b> This decision is a positive step, but at the same time it doesn't include any obstacles for the Gorica North urban plan, the Touristic Complex Gorica and the new hotels near Biljanini Springs.</li> <li>➤ The 2<sup>nd</sup> version of the Draft valorization Study for Lake Ohrid was shared with stakeholders in July. There were some improvements, primarily in the enlargement of the zone of strict protection and inclusion of a list with key species. However, this is a very general observation based on a brief analysis.</li> <li>➤ The new <b>Management Plan for NP Galichica</b> is not adopted yet, but the process is moving towards finalization –replies were received to comments, and most were accepted. However, it remains to be seen if and how they'll be incorporated in the final version.</li> <li>➤ In a previous update it was stated the problem with the <b>Raft Floating Restaurant</b> in the strictly protected area of St. Naum springs, enabled by the Contract between NP Galichica and a private company: an SEA confirmed the negative impact, including on the rare Marsh Angelica species, but a reply to a annulment of contract to NP Galichica was not yet received.</li> <li>➤ A recent investigative article in the media revealed a serious negative impact of the existing <b>small HPP on River Koselska</b> – largest tributary to Lake Ohrid and also one of the greatest pollution sources for the lake. According to the story, the small HPP almost dries out the river and greatly affects the lives of local community, which is afraid to voice their concerns following threats and even “a friendly advice” to keep quiet, from the state inspector they invited.</li> <li>➤ Regarding UNESCO's requests for <b>alternative routes for the European Corridor VIII railway</b>, requests for information on the project and alternative routes did not result in the required information, and the conclusion is that a comprehensive comparative study of alternative routes for the railway hasn't been initiated, the plan to continue with the initial project hasn't changed, the project has been completed and discussions for IFI's financing are on-going.</li> <li>➤ In relation to UNESCO's request to <b>upgrade the existing road between Struga and the Albanian border</b>, rather than tracing a new highway, in view of the fragility of the environment in that part of the property, and to the closeness of the lake, an entirely unconstitutional</li> </ul>
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	<p>law was passed allowing the company to construct the road without any requirement to adhere to national or international environmental guidelines and laws. The Anticorruption Commission submitted an Initiative to the Constitutional Court in late July 2021.</p> <ul style="list-style-type: none"> <li>➤ The situation of illegal constructions continues, and empty declarations on removal of certain buildings are used to hide the serious issues ongoing.</li> </ul>
<p><b>UNESCO secretariat update August 2021</b></p>	<ul style="list-style-type: none"> <li>➤ UNESCO secretariat confirmed what was mentioned in the complainant report, that despite the draft decision to include the site on the <b>List of World Heritage in Danger</b>, a Bosnian amendment meant this decision did not go through. Indeed, the Committee substantially changed (watered down) the draft decision proposed, giving the State Parties more time to implement the different decisions and recommendations, despite more time having been already granted twice before.</li> </ul>
<p><b>Bureau meeting 15-16 September 2021</b></p>	<ul style="list-style-type: none"> <li>➤ Strongly regretted again the lack of a report from the national authorities, and deeply concerned with the very negative picture painted by the complainant of the situation on the ground with numerous worrying developments.</li> <li>➤ Thanked the Ramsar Convention for their update and common concern, especially on the lack of a buffer zone for the Ramsar site; and the UNESCO secretariat for their update, and added its concern over the decision to not inscribe the site on the List of World Heritage in Danger despite the strong justifications to take this step.</li> <li>➤ Further recalled that the online advisory mission for Mavrovo National Park had also taken into account this complaint, and that during the meeting it was clear that this complex situation may require its own dedicated mission.</li> <li>➤ The complaint remains on stand-by. The Bureau decided to exceptionally bring this complaint to the agenda of the 41<sup>st</sup> Standing Committee where both Parties could present their position, and the independent expert for the Mavrovo mission could present the findings on this case. The national authorities were urged to provide a report ahead of this meeting responding to all of the allegations of the complainant, and also commenting on the Draft Law on Proclamation of Studenchishte Marsh as a Nature Park.</li> </ul>