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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

39th meeting
Strasbourg, 3-6 December 2019

Specific Sites - Files open

**Wind farms in Balchik and Kaliakra –Via Pontica
(Bulgaria)**

- REPORT BY THE COMPLAINANT -

*Document prepared by
the Bulgarian Society for the Protection of Birds (BSPB)*

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**Comments of the BSPB on the Governmental report to the Bern Convention on case file
Wind farms in Balchik and Kaliakra –Via Pontica - T-PVS/Files(2019)21 in regard to
Recommendation 200(2018)
18 March 2019**

Dear Ladies and Gentlemen, please find below our **Governmental report to Bern Convention on case file Wind farms in Balchik and Kaliakra –Via Pontica - T-PVS/Files(2019)21 in regard to Recommendation 200(2018)**:

- On recommendation points 1&2

The activities, reported by the government in regard to points 1&2 of the Recommendation in general look appropriate, but it depends on the detail of what actually have been contracted, and how its implemented by the consultant as well as the real involvement of the stakeholders. So far MoEW already breached the requirement of point 1 that the methodologies for the assessment to be agreed in advance, before the assessment procedure to start. In fact the agreed methodology should be part of the tender documents for selection of the independent expert, but it is not the case. The Government decided first to sign a contract and then to elaborate a methodology. This approach prevents the possibility objectively to select an expert who has the capacity and knowledge to apply the agreed methodology, but means that most probably the methodology to be adjusted to the capacity of the contracted expert which contradicts to the Bern Convention requirement.

We should note that MoEW do not communicate with us on this issue at all, nevertheless that the it is obligated to do so. They asked us just to submit our data within very short deadline (in fact 3 days) without any conditions or specifications. Once we submitted them letter with information on what we could provide to them in addition to the data already submitted, we never received response. We are worry that if the Government, continue to use this approach of non-communication, then the requirements under the points 1&2 are likely to be fulfilled.

- On recommendation point 3

In general under this point the Government listed all actions taken so far in direction to compensate damages to birds and their habitats due construction of wind farms, but without information about relevance and efficiency of these measures. In particular we would like to pay attention on the following:

- All but the last two of the ‘expanding the Natura 2000 network’ actions were taken before the Bern mission in May 2018, and therefore its likely they are not applicable to the need highlighted in the mission as they would have been taken into account already by the mission in its assessment of the situation. In addition we should note that the expansion of Kaliakra SPA to the boundaries of IBA cannot be treated as compensation, but as obligation of the Government, so cannot be reported here anyway. The Designation of Bilo SPA was rejected by the European Commission as compensation for the loss of foraging habitats of the Red-Breasted geese due to windfarm development and also cannot be listed here.
- Also the risks/damage highlighted by the recommendation will not be quantified until the consultants work in fulfilling recommendations 1&2 have been fulfilled – therefore until then there is no way of knowing whether these measures address the risks/damage or whether further actions are necessary. In addition it’s not clear what bird risk studies besides the 2013 project they are referring too – are these actions part of the consultant contract under recommendation 1&2?
- Management of Priority Habitats – these actions are focused on restoration and improvement of the steppe habitats and, according to the officially presented information so far they do not target the concrete steppe habitats destroyed due wind farm development. The restoration and management is not connected to the operational windfarms anyhow. We should stress that at present there is one project proposal, developed by Kavarna Municipality and submitted for national financing. This project proposal has serious problems, in particular: it target to restore steppe habitat on territories where this habitat already exist, which will not change the current situation at all; it include some

digging and other similar activities which could be harmful for the steppe habitats and bird species; the approach includes development of methodologies for restoration and management by specialists with very low experience in a closed (non-transparent manner); most of the activities are not clearly described and the budget allocated for them cannot be justified as necessary and fit to purpose. The Recovery plan on which the project proposal is based is also developed in non-transparent manner and consist it won weaknesses.

- Communication activities – the presented communication activities do not correspond anyhow to recommendation point 3, but just present some general measures targeted Natura 2000 in Bulgaria.

In conclusion the Government do not suggest any new actions in terms of finding more alternative solution to removal of wind farms and do not plan to work in this direction.

- Recommendation 4
There isn't much time left to evaluate the efficacy of the measures to do so within a year. These options should still be on the table until Recommendations 1&2 have been completed and the extent of impacts fully understood, and how they have, or have not, been addressed. At the same time the Government do not provide any plans for removal of wind farms, but as long as it continue to state that all the options are exhausted, the removal remains the only option.
- Recommendation 5
Prohibition of wind energy developments in sensitive locations is a government political policy decision. Therefore, even if a new plan and SEA has not yet been formulated, it is still perfectly possible for the Government to state that the new plan will continue the existing policy position into the new period, and in light of the CJEU judgement against them, it would seem more than sensible for them to do so.
- Recommendation 6
Nevertheless of the detailed explanation of the Government under point 6 of the Recommendation 130(2007) are not fulfilled yet, as the ex-ante evaluation and preventive protection procedure (EIA, AA and SEA) does not work properly in Bulgaria. In addition there is a real threat recently to weaken the legislation by making amendments in the Biodiversity Act, which will cause much less legal protection not biodiversity than in present.
- Recommendation 7
We are regretting to say that this recommendation point is still not implemented and the information provided by the Government is misleading. The link given in the report does not work. When approaching the concrete space in the MoEW web-page, the Bern convention guidance on wind farms could be found, but only in English. As far as the official language in the country is Bulgarian all these documents should be translated in Bulgarian. In addition we should not that the placement of document on internet is not enough to state that it is sufficiently promoted. The Government should take active measures in this direction and should report on them.
- Recommendation 8
The two projects, presented in the Government report have been completed long before the recent recommendation of the Bern convention is adopted. The situation is sufficiently changed in comparison to 8-9 years ago, so it is necessary for the government to make new efforts in this direction.
- Recommendation 9 – No comments
- Recommendation 10 – The government doesn't say whether this has actually been done or not.

In conclusion we could state that the implementation of Recommendation 200(2018) could be considered as it is started, but far from being fully and effectively implemented.