

Strasbourg, 19 November 2020
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T-PVS/Files(2020)36

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

40th meeting
Strasbourg, 30 November - 4 December 2020

Possible File

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

- REPORT BY THE GOVERNMENT -

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

- November 2020 -

Complaint No. 2001/4 and Recommendation No. 98 (2002) on the project to build a motorway through the Kresna Gorge (Bulgaria) (Struma Motorway Lot 3.2)

Progress since November 2019

19 November 2020

I. Introduction

Struma Motorway is part of the core TEN-T network (the former Trans European Corridor IV, presently Orient/East-Mediterranean Corridor), connecting Western Europe and Greece. The largest part of the motorway has been constructed but the most difficult section – Lot 3.2. – passing through the environmentally sensitive Kresna Gorge is still pending.

The Struma Motorway project has been monitored by the Bureau and the Standing Committee to the Bern Convention for years. At its 39th meeting, the Standing Committee decided to leave the file as a “possible file” and an on-the spot appraisal to be organized following the drafting of a ToR together with the Party involved.

Following the Bureau meeting from September 2020, the Secretariat asked the parties to present a short report to the 40th Standing Committee meeting.

II. Updated information

1. As Bulgarian Authorities informed at the last Standing Committee meeting, the monitoring of the status of the most vulnerable species in the Gorge was forthcoming. On February 4th, 2020 the Road Infrastructure Agency (RIA) signed a Contract with “Denkstatt – Bulgaria” LTD as Contractor for “Monitoring the populations of two species of land tortoises and two species of snakes in the part of the International E-79 route (I-1), in the part traversing the Kresna gorge”.

According to the signed Contract, the monitoring activities are to be performed at least three times a year: spring (15 March – 15 May), summer (15 May – 15 July) and autumn (1 September – 31 October), with the minimum of one terrain investigation per week.

Unfortunately, due to State of emergency related to the outbreak of COVID-19, declared for the entire territory of Bulgaria from March 13th until May 14th, 2020, the spring field research was impossible to perform. The practical execution of the Contract was initiated in the summer and as a result 12 field visits were performed. The Interim report, including electronic database of the terrain monitoring has been submitted. Currently the Contractor is performing the autumn terrain monitoring, as per the terms of reference.

2. Recognizing the importance of immediate mitigation measures to be executed on the existing road through the Kresna Gorge, the Bulgarian Authorities have, as promised already at the last Standing Committee, initiated the implementation of emergency measures to mitigate the impact of road traffic on wild populations inhabiting Kresna gorge, which are also part of the measures as determined in Decision № 3-3/2017 on the Environment impact assessment, concerning Lot 3.2 of Struma motorway.

The mitigation measures are planned in a way to be performed without stopping the traffic, as this is the only road connection with Greece.

The Public Procurement Procedure for “Technical design and implementation of part of the measures to mitigate the impact of the road traffic on the populations of the wild animals and birds in Kresna gorge, as determined in Decision №3-3/2017 on the Environment impact assessment, by building new and modifying the existing defragmentation and fencing facilities on the road I-1 from km. 380 + 300 to km. 396 + 137 (part of the right lane of Struma motorway Lot 3.2.), and increasing the safety of the section” was launched on March 4th, 2020 with deadline for submission of tenders by April 23rd, 2020. The deadline was prolonged due to the declared State of emergency. However, no tenders were received even in the new deadline. The procedure was cancelled on May 29th, 2020. On August 14th, 2020 the Call for tenders was relaunched under negotiation procedure. The new deadline for submission of the offers was August 28th, 2020. Evaluation of the received tenders is underway, expected to be finalized in November.

3. Following the communication with the European Commission on the submitted application for EU funding for Struma motorway Lot 3.2, Bulgaria has asked the European Commission to provide expert support to ensure compliance with the further steps of the project development with the Environmental Acquis.

The EC has Commissioned two external experts, who by March 2021 shall support the Bulgarian Authorities with the following tasks:

- To review of available information, data and documents related to the design and construction of Lot 3.2 of Struma Motorway;
- To assist Bulgarian Authorities in the final identification of detailed and site-specific conservation objectives and measures for Kresna – Ilindentsi SCI and Kresna SPA, and specifically to support the achievement of compliance with EU legislation, EC best practices and requirements and recommendations of the Berne Convention and its institutions;
- To provide methodological assistance and quality assurance during follow-up procedures under the environmental legislation in relation to the development of the investment proposal in order to comply fully with the specified site-specific conservation objectives and measures for the two Natura 2000 sites within scope of the Project (Kresna – Ilindentsi SCI and Kresna SPA);
- To provide assistance during the update of the project in relation to the site-specific conservation objectives.

In view of the above scope and extent of work of the EC’s experts and the activities undertaken by the Bulgarian Authorities since November 2019, despite the outbreak of the COVID-19 pandemic, we believe that file should not be subject of review at this Standing Committee. Work is ongoing and the Bureau and the Standing Committee will be informed of the progress in due time.

- September 2020 -



REPUBLIC OF BULGARIA

MINISTRY OF ENVIRONMENT AND WATER

To
MR. KRZYSZTOF ZYMAN
SECRETARY OF THE BERN CONVENTION
COUNCIL OF EUROPE

Sofia, 4 September 2020

Subject: *Possible on-the-spot appraisal visit to Bulgaria within the framework of the Complaint No. 2001/4: Possible file: Motorway through the Kresna Gorge*

Dear Mr. ZYMAN,

In reply to your letter from 26 June 2020 we would like to update you on the assignment of the external expertise by the European Commission. As reported, the Bulgarian authorities temporarily withdrew (on 15 January 2020) their application for EU financing of the major project with the aim of improving it according to the Commission observations. Following Bulgaria's commitment to start improvements on the existing road imminently, it was agreed with the Commission that Bulgaria will implement a series of additional immediate mitigating measures in order to improve the current situation of the existing road E-79 and reduce the risks in terms of environment and road safety.

The Bulgarian authorities requested an external expertise from the European Commission in order to support them upon the development of this project. The contract with the experts was signed, i.e. the expertise has already commenced. Two experts were assigned to support the Bulgarian authorities for establishment of detailed and site-specific conservation objectives and mitigation measures for the Natura 2000 sites within the area of the project (Kresna-Ilindentsi SCI and Kresna SPA), and to review and update the project of Struma Motorway Lot 3.2.

The experts will provide methodological assistance and guidance for the implementation of the European legislation. They are expected to work closely with the Bulgarian authorities and external experts by supervising the field studies and data collection to be performed in Kresna-Ilindentsi SCI and Kresna SPA. Subsequently, the experts will help develop the conservation objectives and to contribute to reviewing the appropriate assessment.

Taking into account the recent communication with the Bern Convention institutions and their request for an on-the-spot appraisal, it is explicitly contracted that the experts shall review the project of Struma Motorway Lot 3.2 for **compliance** not only with the EU legislation, EC requirements and best practices in Europe, but also **with the requirements and recommendations of the Bern Convention and its institutions**. Thus, the external expertise will ensure the conformity of the project with the concerns

raised by the Bern Convention institutions and will actually meet the objectives of the mission requested by the Standing Committee. The expertise will take place until 31 March 2021.

Considering the above, the Bulgarian authorities find it appropriate to complete the external expertise of the European Commission before an on-the-spot appraisal to be assigned by the Bern Convention. The results of the expertise (findings, conclusions, recommendations) will be brought to your attention and, if you consider them insufficient for the objectives of the on-the-spot appraisal, the latter could take place in Spring 2021. We believe that the results of the external expertise, the option for an on-the-spot appraisal and, respectively, adapted Terms of Reference could be discussed at the First Bureau Meeting for 2021 at the latest.

Best regards,

Valeri GEORGIEV

Head of Biodiversity Unit

National Focal- point for the Bern Convention

National Nature Protection Service Directorate

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

To**MR. KRZYSZTOF ZYMAN**
SECRETARY OF THE BERN CONVENTION
COUNCIL OF EUROPE

Sofia, 11 June 2020

Subject: *Possible on-the-spot appraisal visit to Bulgaria within the framework of the Complaint No. 2001/4: Possible file: Motorway through the Kresna Gorge***Dear Mr ZYMAN,**

We received your letter dated 12th May 2020 concerning the decision of the Bureau of the Bern Convention from its meeting on 7-8 April 2020 on the case-file above and in particular the assignment of an on-the-spot appraisal visit to Bulgaria, with an enclosed draft Terms of Reference drawn up at the Bureau meeting. The letter states that the visit could take place in the second half of 2020 or in the spring of 2021, subject to the agreement of the Bulgarian authorities.

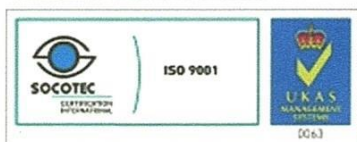
Following your request in the letter, the decision of the Bulgarian authorities on the on-the-spot appraisal is expected to be received until 12 June 2020. The Secretariat shall also contact the European Commission to see if a joint on-the-spot appraisal is feasible.

With reference to the above, we would like to inform you about the recent progress in our communication with the European Commission on its observations to the application for EU financing and the discussions held with the Commission services on their support for implementation of the project in Bulgaria.

As you know, the European Commission issued on 15 October 2019 its observations on the application package for EU funds for the construction of Lot 3.2. of Struma Motorway¹. The observations of EC focus on the environmental procedure (EIA and AA) approving the G10.50 alternative for construction of Lot 3.2. and the implementation of EU acquis on nature conservation.

Although the environmental procedure was declared by the court legitimate in procedure and content, the Bulgarian authorities decided to take extra steps to further perfect the assessment of the environmental aspects of the project, given both its importance as part of the Trans-

¹ Your letter mentions two documents issued by EC in September and October 2019. Please note that we have not received a document issued by EC in September 2019 applicable to the construction of Lot 3.2.



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European Network and the ecological sensitivity of Kresna Gorge. Considering the time needed for these actions, Bulgaria withdrew its application for EU financing of the project.

Since the withdrawal, the Bulgarian authorities are in permanent contact with the Commission in order to find the best possible solution for implementation of the project that will meet the EC's requirements. As part of the communication process, the option for an **on-the-spot advisory mission in Bulgaria** was discussed with the Commission services.

It is agreed in principle, during a videoconference between Bulgarian authorities and the European Commission (and JASPERS) on Struma Motorway Lot 3.2, held on 20.05.2020 that an advisory mission in Bulgaria will be mandated by EC. The mission will aim to support the Bulgarian authorities in taking the necessary steps and updating, if necessary, the project for construction of Lot 3.2. in order to meet the EC's requirements on nature conservation and road safety. A co-ordination of the expert team and terms of reference is ongoing with EC.

The mission is expected to commence in the second half of 2020 and to develop on a long-term basis. It will focus on the implementation of the EU acquis in biodiversity and provide guidance and assistance to the Bulgarian authorities to find the best feasible solution for Lot 3.2. in terms of environment protection and road safety. The mission deliverables will contribute to improvement of the implementation of the Nature Directives by the national authorities and enhancement of the safeguard of wild flora and fauna.

In light of the above, we would like to propose to the Secretariat and the Bureau of the Standing Committee to consider the benefits of joining the mission mandated by EC and reconcile the findings / recommendations of the advisory expert(s) with the appraisal objectives set by the Standing Committee and the Bureau.

Following the mandate of the Secretariat to discuss the opportunity for a joint mission with EC, we believe that the mission of EC could also be combined with an appraisal visit mandated by the Bern Convention institutions.

Best regards,



Valeri GEORGIEV
Head of Biodiversity Unit
National Focal- point for the Bern Convention
National Nature Protection Service Directorate