

# Wind farms planned near Balchik and Kaliakra – Via Pontica (Bulgaria)

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

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# On-the-spot appraisal (OSA)

- The Standing Committee at its 37<sup>th</sup> meeting decided to „leave the file open“ and on the proposal by the complainant NGO with the consent of the country, instructed the Secretariat to organise an on-the-spot appraisal (OSA) to the area during the wintering time of the geese.
- As decided by the Committee the aim of the OSA was **to provide support to the authorities in implementing Recommendation No 130 (2007)**.
- The mission took place between 14 and 17 May 2018 after the wintering period of the geese.

# The Terms of Reference for the OSA

- to review the situation concerning existing constructed windfarms in the Kaliakra area.
- to examine planning procedures and SEA/EIA standards used in Bulgaria.
- to collect information on the state of development and implementation of measures developed in response to the ECJ decision.
- to discuss the issues with relevant competent authorities at national and local level, including also the NGOs, local stakeholders and citizen groups.
- **to assess the actualization needs of Recommendation № 130 (2007).**

# Meetings and field visit

Meetings were held with the Bulgarian authorities and a range of other stakeholders, and windfarms were visited in the field.



# Positive elements of progress

## **Positive elements of progress noted by the OSA include the following:**

- SPA “Kaliakra” has been extended to cover entire area identified as IBA.
- The “Early warning system” (EWS) and protocols for turbine shutdown, operated jointly by the Kaliakra windfarms, represents a significant investment in efforts to mitigate potential bird mortality from collisions against moving turbine blades.
- As required by law, associated new power lines are built underground, further reducing risk to birds.
- A Strategic Environmental Assessment (SEA) and a Habitats Directive Appropriate Assessment (AA) were completed for the National Action Plan for Renewable Energy Sources in 2012, and environmental measures and a monitoring plan have been appended to it.

# Positive elements of progress

- Some aspects in the relevant impact assessment processes were amended in positive ways, and respective guidance documents have been produced.
- State subsidies are no longer provided for windfarm developments in sensitive locations.
- After 2012, the wind energy development consents became subject to a five-year expiry clause, as result no such consents remain in effect in Kaliakra area.
- Under the National Action Plan for Renewable Energy Sources, further wind energy developments (after August 2012) were prohibited in Natura 2000 sites and some other sensitive locations, at least until 2020 (when the Plan is due for renewal).
- In the Dobrudzha coastal region, each individual Special Protection Area's Designation Order also provides prohibition on wind energy developments within the site.

# Recommendations from the OSA

- Despite numerous reported implemented measures by the country, both as a result of a Recommendation № 130 (2007) and a Court of Justice's Decision, the mission report concludes with new recommendations for **10 main priority actions** to be pursued over the **next 12 months**.
- Some of them concern defining actions/for taking action (**shorter**) or providing information for actions, and the other determines the timeframe for being able to assess the ultimate outcomes of action (**longer**), not necessarily bringing all the actions to completion in 12 months.

# Implementation of the OSA recommendations

**1<sup>st</sup> OSA recommendation.** *The comprehensive independent assessment of the impact of operational windfarms in the Kaliakra area should be undertaken which include information from the current collision mortality monitoring but should also address other impacts such as displacement, barrier effects, disturbance and habitat change.....*

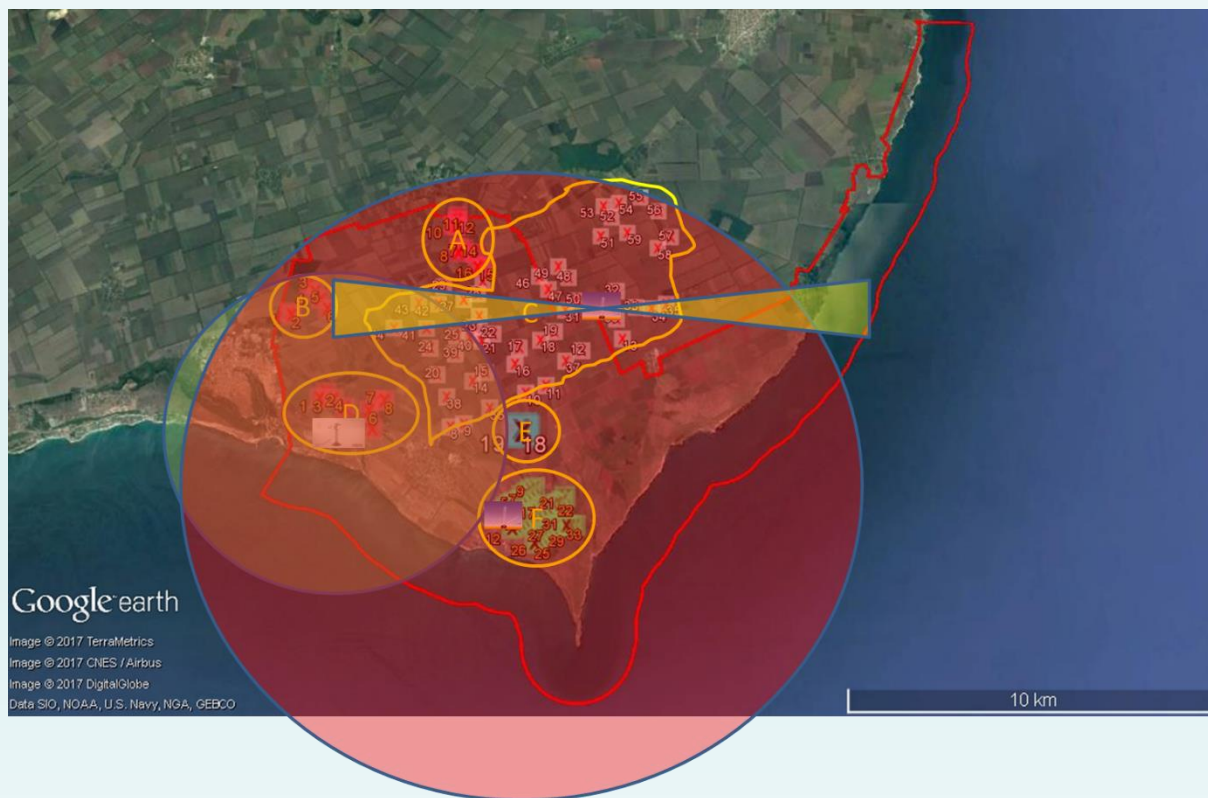
- The fully independent Impact assessment from all existing Wind energy parks (WEP) in the Kaliakra area as required by the recommendation made within SEA and AA of the National Action Plan for Renewable Energy Sources (NAPRES 2011-2020) and exactly for entire Dobrudzha.
- The additional assessment and analysis of the projects, covered by CJEU Decision in the area of Kaliakra, are made in IMP and provided to the EC, as a result of the country`s efforts to implement the decision.
- A second independent assessment will be carried out in the scope of a new procedure for SEA and AA to the future NAPRES.

**In view of the above and the detailed measures taken and agreed with EC, we believe that this recommendation should not be endorsed.**



# Implementation of the OSA recommendations

**2<sup>nd</sup> OSA recommendation.** *A broader regime for on-going monitoring and assessment of potential impacts of the Kaliakra area windfarms during their operation should be developed, ensuring that it inter alia: follows scientifically appropriate methods agreed in advance; addresses all types of potential impacts, including collisions, disturbance, displacement, barrier effects and habitat changes; includes observations at both windfarm sites and comparable areas with no windfarm developments.....*



Since spring 2018, an Early Warning System (EWS) has been set up and operates in Kaliakra area (112 wind generators), where bird mortality risk studies are carried out as a result of the risk from collision with wind generators and the effect of the system is monitored.

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- There is a number of studies (number of impact monitoring reports) as well as publication in the scientific journal has demonstrated no evidence for displacement and barrier effect.

Регионът на Via Pontica: Максимални стойности на есенната миграция на речните птици за 7 годишен период по публикацията на Мичев и колектив 2012

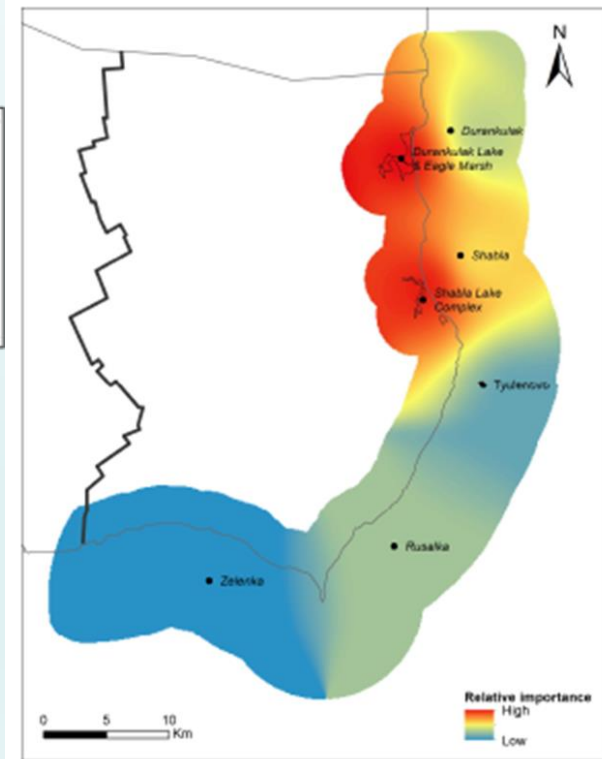
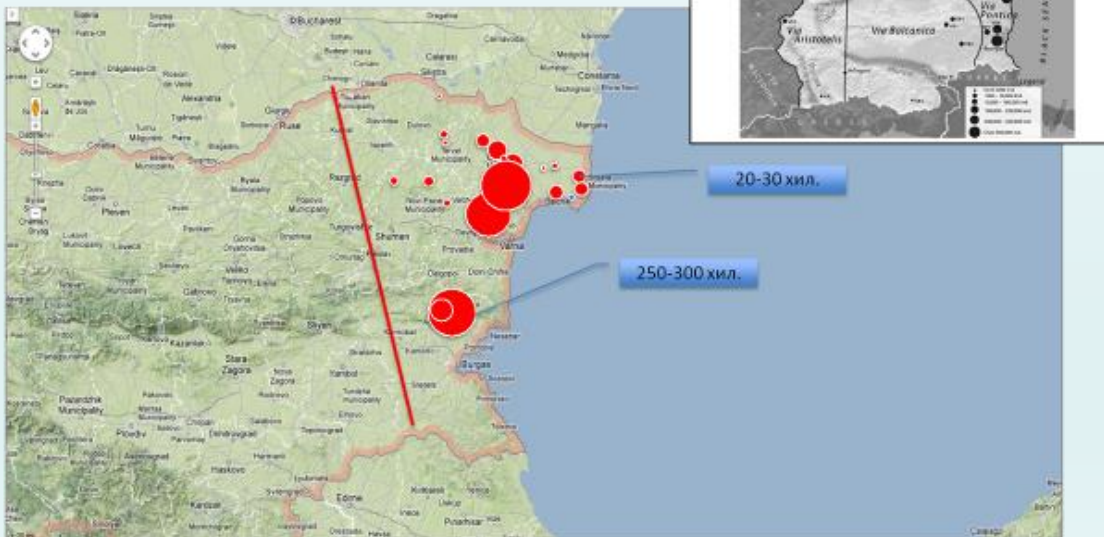
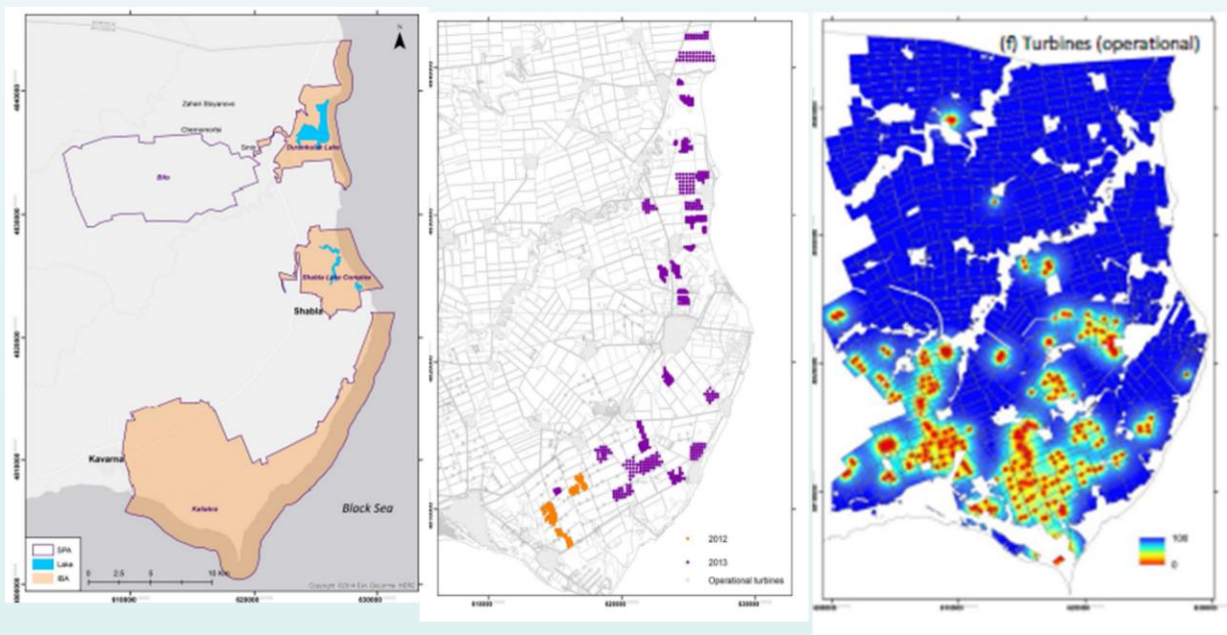


Fig. 4- Relative importance of lakes and coastal waters of the study area for roosting geese, buffered both inland and offshore to account for potential negative impacts of situating wind turbines close to roosts; created by interpolating between roost counts averaged over four winters for the seven count sectors (named).

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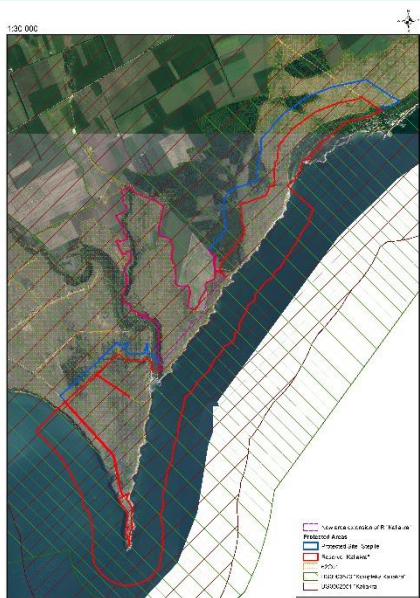
- Fine scale effect indicated in the referenced study on the preferences of gees to open fields without shelterbelts, roads and powerlines and wind turbines find no difference between the effect of roads, power lines, shelterbelts and wind turbines to the gees.



**In view of the above and the relation of this recommendation to recommendation 1 of the OSA, we believe that this should not be approved.**

# Implementation of the OSA recommendations

**3<sup>rd</sup> OSA recommendation.** *Windfarm operators and other land owners, managers and authorities should explore options for creating conservation gains for migratory birds and habitats in or around the Kaliakra area (e.g. through habitat creation/restoration and management investments, designation of additional protected areas, etc.), as a way of aiming partially to offset the risks and/or damage introduced by the completed windfarm developments, and/or in any event to contribute to agreed conservation priorities.*



- All the options suggested in the recommendation have been implemented - described in detail in the report presented by the country.
- Another additional measure has been implemented - the area of the Kaliakra Reserve was enlarged by 157.2 hectares, adding a territory of priority natural habitat 62CO for self-restoration.

**In view of the above arguments and the detailed measures taken and agreed upon, we consider this recommendation as implemented.**

# Implementation of the OSA recommendations

**4<sup>th</sup> OSA recommendation.** *The conservation impact achieved by measures undertaken in response to recommendation (3) above should be thoroughly evaluated, and if judged in any way to be less successful than hoped, or if the exploration of options itself has not advanced significantly within one year of the date of the present report, then alternative options for removal of existing operational wind turbines from Kaliakra should be investigated and implemented as appropriate.*

➤ Bulgaria undertook number of measures in implementation of the ECJ Decision, part of which are described in the information of the draft recommendations above, and these measures were communicated to the EC.

**Given the fact that Recommendation 3 of the OSA is implemented, this one is irrelevant.**

# Implementation of the OSA recommendations

**5<sup>th</sup> OSA recommendation.** *The successor plan to the Bulgarian National Action Plan for Renewable Energy Sources (NAPRES 2011-2020) should re-confirm (and enhance where necessary) the latter's prohibition on wind energy developments in sensitive locations.*

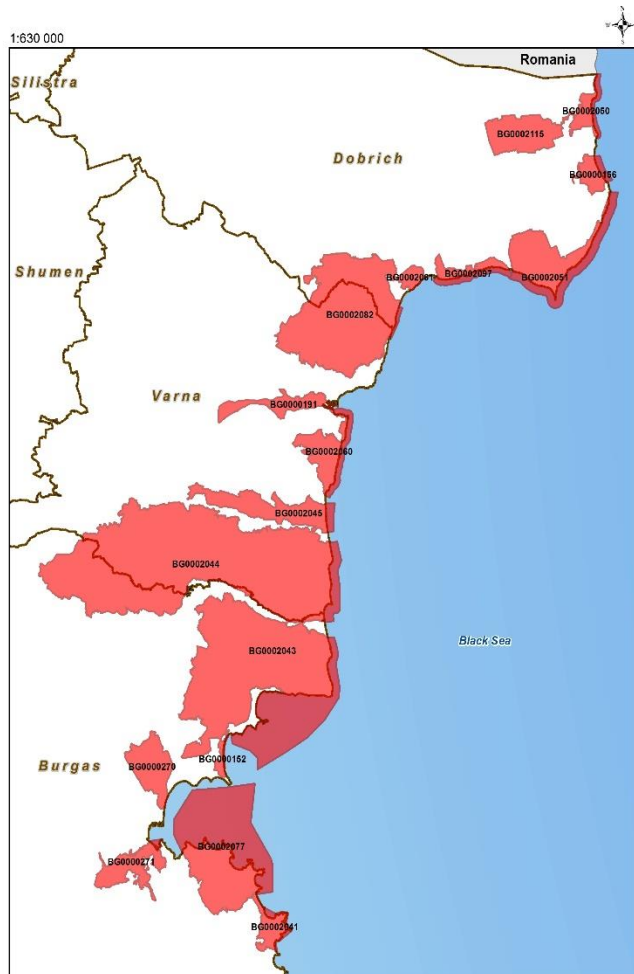
- NAPRES is a strategic document which defines the achievement of certain aims for a certain period (by 2020) and the document was subject to EIA and AA. From that perspective it can not be expected that certain constraints, identified in connection with the implementation of the present NAPRES in 10 years period will be automatically relevant to the next planning period, which could cover other objectives. In that respect the objectives could not be "transferred" automatically.
- In our opinion, such an approach wouldn't be neither legally qualified, nor worldly justifiable. Adequate management could be achieved through reporting changes at each level in public relations, in strategic objectives and policies, and also in the certain condition of the environment and measures, that follows to be undertaken in that direction.
- Also the new NAPRES will be a subject of SEA and AA in frame of which will be determined the actual conservation measures need.

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More over, that the designation orders for SPA „Kaliakra“, SPA “Belite skali” and SAC “Complex Kaliakra”, incl. many more Natura 2000 sites where the prohibitions for construction of new WG are imposed, are not limited in time, which definitely guarantee, that those prohibitions are preventive measures used where it is necessary, without waiting for the assessment of strategic documents.

**In view of this, it is not possible for the country to be firmly committed to such recommendations at this stage and we believe that this should not be approved.**



# Implementation of the OSA recommendations

**6<sup>th</sup> OSA recommendation.** *The Bulgarian authorities should provide the Bern Convention Bureau with a short report by September 2018 on the specific ways in which the legal provisions, policy requirements, standards, established practices or other aspects of environmental assessments (SEA/EIA/AA) in Bulgaria meet each of the individual points in paragraphs 1, 4, 8 and 9 of Recommendation No. 130 (2007) or will do so in future (with an indication of the expected timeframe), giving particular attention to the points in the Recommendation concerning cumulative assessment and peer review.*

➤ The country submitted the required information in the progress report.

**In view of the arguments in the report and the detailed measures taken, we consider this recommendation as implemented.**



# Implementation of the OSA recommendations

**7<sup>th</sup> OSA recommendation.** *The Bulgarian authorities should promote the dissemination (including translation where necessary) and use within the country of the guidance on windfarms and birds developed under the auspices of the Bern Convention (Gove et al. 2013), and the international standards and best practice guidance on EIA/SEA adopted under the Conventions on Biodiversity, Migratory Species and Wetlands, together with related materials produced by the International Association for Impact Assessment.*

➤ The MOEW website includes not only the existing European guidelines but also the existing environmental impact assessment and strategic environmental assessment international guidelines and standards agreed at international fora such as the Convention on Biological Diversity, the Convention on Wetlands, the Convention on Migratory Species as well as their advisory bodies. The MOEW will translate these documents into Bulgarian language.

**We accept this recommendation but consider it as implemented.**

# Implementation of the OSA recommendations

***8<sup>th</sup> OSA recommendation.*** *Options should be explored for developing a proposal (which could be submitted to potential funders) for a project to build enhanced capacity in Bulgaria on knowledge exchange and best practices in the assessment and management of wind energy impacts on wildlife.*

➤ Bulgaria is willing to exchange experience with the EC and to adopt good practices from other EU Member States. We state the intent and readiness to use the mechanisms introduced by the EC to exchange such good practices and experiences through the Peer2Peer tool, and a project on the mechanism is being prepared, including the exchange of knowledge and best practices in the evaluation and managing wind power to protect wildlife.

**We accept this recommendation and it is in the process of being implemented.**

# Implementation of the OSA recommendations

***9<sup>th</sup> OSA recommendation.*** *The Conservation Action Plan for the Red Breasted Goose population in Bulgaria should be funded and implemented without delay, and periodic summary reports on its implementation should be transmitted to the Bern Convention Standing Committee, beginning with a first report in November 2018. Those responsible for the Plan should ensure that thorough and coordinated monitoring of the species' population status and trends receives sustained high priority attention.*

- The Action Plan for the Protection of the Red-breasted Goose (*Branta ruficollis*) in Bulgaria for the period 2018 - 2027, was approved by Order № RD-355/04.06.2018 of the Minister of Environment and Waters.
- The country is committed to provide the necessary financial means to implement the Action Plan measures and to start as soon as possible the implementation of those measures that are not require funding.

**We accept this recommendation and it is in the process of being implemented.**

# Implementation of the OSA recommendations

**10<sup>th</sup> OSA recommendation.** *The findings of this on-the-spot appraisal should be shared with the Secretariats of the AEWA and Eurobats Agreements, the Convention on Migratory Species and the European Commission, given that all of these bodies have shared interests in the issues it covers.*

**We accept the recommendation.**

**We do not object the sharing of the mission report.**

# Conclusions

- **Bulgaria considers the measures taken, proposed and agreed with the EC to implement the ECJ Decision as sufficient.** They fully address the problems in the Kaliakra region, requiring both time and significant financial resources for their implementation.
- **This recommendation should not serve as reference on the sufficient measures** that should be implemented by the Bulgarian Government in order to comply with the European Court of Justice issued a ruling in regard to the Kaliakra case (C-141/14).
- In this sense, Bulgaria expects the members of the Standing Committee to take into account the measures taken and the commitments already made to the EC by **not approving recommendations for actions that will repeat already taken or unjustifiably aggravating the process both financially and in time.**
- Bulgaria confirms that **will continue to make efforts through legislation and its implementation to meet the objectives of both the Berne Convention and the EU nature protection directives** and is willing to exchange experience with the EC and adopt best practices from other Member States.

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Thank you for your attention!

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