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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee
26th meeting

Strasbourg, 27-30 November 2006

Specific file

**Project to build a motorway
through the Kresna Gorge (Bulgaria)**

Secretariat report

*Document prepared by
the Directorate of Culture and Cultural and Natural Heritage*

The purpose of the "files" is to find a satisfactory solution to problems encountered in implementing the Convention and to monitor as effectively as possible the means chosen to resolve them.

I. Context

This case concerns a motorway construction project that will form part of the Trans-European transport corridor no. 4 linking Dresden, Budapest, Sofia and Istanbul with an additional Sofia-Thessaloniki link, and passing through the Kresna gorge.

The 17 kilometre-long gorge is exceptional in terms of both biological and landscape diversity. It is a CORINE Biotopes site which should be designated under the Emerald and Natura 2000 networks.

Several Bulgarian non-governmental organisations oppose the project for the following reasons:

- it is likely to have a highly detrimental impact on numerous protected habitats and species, most of which are included in the appendices of the Bern Convention and the Birds and Habitats Directives; the gorge provides habitats for 123 bird species, 17 bat species, 31 amphibian and reptile species and 14 species of fish (lists of all the species concerned have been passed on to the Secretariat). Furthermore, the gorge runs along a bird migration route. There are 23 species included in Annex 1 of the Birds Directive which nest in the area. The Tissata reserve, located in the gorge, is a site of global conservation importance;
- it will adversely affect socio-economic activities and the local community of the town of Kresna, which profits from the traditional trade, practised along the current road and tourism linked to nature protection.

The project has been studied since 1997. The General Roads Administration (GRA) commissioned the preliminary feasibility study and environmental impact assessment (EIA). The conclusions were rejected by the Ministry of the Environment and Water (MoEW), which asked that alternative solutions be sought.

II. Application of the convention

Article 3.2 stipulates that:

"2. Each Contracting Party undertakes, in its planning and development policies and in its measures against pollution, to have regard to the conservation of wild flora and fauna."

Article 4 stipulates that:

"1. Each Contracting Party shall take appropriate and necessary legislative and administrative measures to ensure the conservation of the habitats of the wild flora and fauna species, especially those specified in the Appendices I and II, and the conservation of endangered natural habitats;

2. The Contracting Parties in their planning and development policies shall have regard to the conservation requirements of the areas protected under the preceding paragraph, so as to avoid or minimise as far as possible any deterioration of such areas;

3. The Contracting Parties undertake to give special attention to the protection of areas that are of importance for the migratory species specified in Appendices II and III and which are appropriately situated in relation to migration routes, as wintering, staging, feeding, breeding or moulting areas."

Article 5 stipulates that:

"Each Contracting Party shall take appropriate and necessary legislative and administrative measures to ensure the special protection of the wild flora species specified in Appendix I. Deliberate picking, collecting, cutting or uprooting of such plants shall be prohibited. Each Contracting Party shall, as appropriate, prohibit the possession or sale of these species."

Article 6 stipulates that:

"Each Contracting Party shall take appropriate and necessary legislative and administrative measures to ensure the special protection of the wild fauna species specified in Appendix II. The following will in particular be prohibited for these species: [...]"

- b. *the deliberate damage to or destruction of breeding or resting sites;*
- c. *the deliberate disturbance of wild fauna, particularly during the period of breeding, rearing and hibernation, insofar as disturbance would be significant in relation to the objectives of this Convention; [...]"*

III. Standing Committee decisions

The case was examined for the first time at the 21st meeting of the Standing Committee in 2001. The Committee did not think it useful to open a file, preferring to act on the Bulgarian authorities' proposal to organise an on-the-spot appraisal, which was conducted from 30 May to 1 June 2002 [document T-PVS/Files (2002) 7].

At its 22nd meeting, in 2002, the Standing Committee was informed of the findings of the visit, which showed that the preliminary environmental impact assessment did not supply any decisive arguments allowing a choice of environmentally compatible alternatives. Efforts to identify alternative routes were to be pursued, with all the partners involved. Preference was to be given to the variant passing outside the gorge.

The Standing Committee decided not to open a file and to leave the possibility of reconsidering this decision open to the Bureau, if it emerged that the decision on the route had been taken without a fuller, in-depth environmental impact assessment. It adopted Recommendation no. 98 (2002) (see appendix 1).

At the 23rd meeting, the Representative of Bulgaria informed the Standing Committee that:

- the new environmental impact assessment was being prepared; it would consider all the alternative routes proposed, including the alternative outside the gorge;
- the procedure for enlarging the protected area around the gorge was under way;
- a new Law on the Environment had been passed.

The representative of the Bulgarian NGOs thanked the Ministry of the Environment for its efforts to find a solution to the problems raised by this project, but pointed out that there had been no progress in implementing the recommendation and asked that a file be opened. Several delegations thought that a strong signal should be sent to the Bulgarian Government.

The Standing Committee instructed the Bureau to re-examine this question.

At its meeting in April 2004 the Bureau was informed of the lack of new information on developments, the concerns reiterated by the NGOs and the European Commission's reply to the request for clarification of the project's financing, stating that it had received no aid request from the Bulgarian authorities for the section including the Kresna gorge. The Bureau expressed its concern with regard to the project's funding, which, in its opinion, had to be viewed in global terms for the whole of Corridor no. 4 Sofia to Kulata (Greece) and not on a section-by-section basis. It reiterated that financial aid had to be dependent on compliance with environmental constraints and the community acquis.

It instructed the Secretariat to ask the Bulgarian Government to provide it with a full report including an opinion from the Ministry of Regional Development and Public Works and the General Roads Administration.

At the 24th meeting of the Standing Committee, the Secretariat informed the Committee that the Bulgarian Government had forwarded to the Secretariat an opinion from the Ministry of Regional Development and Public Works (Executive Agency for roads), which planned to organise an expert meeting with all the authorities concerned by the project to discuss, in particular, matters connected with the choice of route.

The Bulgarian delegate said that four options had been put forward, one of which avoided the prospective protected area. She stressed that NGOs were involved in the procedure for declaring the new protected area.

The Committee decided to open a file in order to encourage the Bulgarian Government to further implement the actions and intentions set out in Recommendation No. 98 (2002).

In 2005, the Bulgarian delegate informed the Committee of the decision taken by the Ministry of Regional Development and Public Works (MRDPW) to prepare a new and detailed environmental impact study on the motorway project, which would analyse all the alternatives proposed.

An agreement on joint action had also been concluded between the Ministry of the Environment and Water (MoEW) and the NGOs.

A decree of the Ministry of the Environment and Water (MoEW) was approved on 14 November 2005; it prohibited certain activities which could have adverse consequences for the site, such as the building of hydro-electric power stations.

While welcoming the agreement concluded with the ministry, the representative of the Bulgarian NGOs informed the Committee that the agreement had not really been implemented. He condemned the lack of progress in implementing Recommendation No. 98 (2002).

The Committee welcomed the passing of the decree by the Bulgarian authorities and decided to keep the file open.

IV. Information provided in 2006

The Secretariat has not been informed of any new developments in this file.

Appendix 1



Convention on the Conservation of European Wildlife and Natural Habitats

Standing Committee

Recommendation No. 98 (2002) of the Standing Committee, adopted on 5 December 2002, on the project to build a motorway through the Kresna Gorge (Bulgaria)

The Standing Committee of the Convention on the Conservation of European Wildlife and Natural Habitats, acting under the terms of Article 14 of the Convention,

Having regard to the aims of the Convention to conserve wild flora and fauna and their natural habitats;

Recalling that under Article 4 of the Convention each Contracting Party shall take appropriate and necessary legislative and administrative measures to ensure the conservation of the habitats of the wild flora and fauna species, especially those specified in Appendices I and II, and the conservation of endangered natural habitats;

Recalling that Article 4 of the Convention stipulates that the Contracting Parties in their planning and development policies shall have regard to the conservation requirements of the areas protected under the preceding paragraph, so as to avoid or minimise as far as possible any deterioration of such areas;

Recalling that Article 4 further provides that the Contracting Parties undertake to give special attention to the protection of areas that are of importance for the migratory species specified in Appendices II and III and which are appropriately situated in relation to migration routes, as wintering, staging, feeding, breeding or moulting areas;

Referring to the report of Mr Guy Berthoud on the project to build a motorway through the Kresna Gorge, drawn up following his on-the-spot appraisal [document T-PVS/Files (2002) 7];

Bearing in mind the work carried out under the Pan-European Biological and Landscape Diversity Strategy, notably the code of practice for the introduction of biological and landscape diversity considerations into the transport sector;

Considering that the Kresna Gorge site and its surroundings contain rare and endemic species and habitats of European importance that are conservation priorities and which Bulgaria has undertaken to protect;

Recognising the role of the gorge on an international scale as a prime axis of migration for migratory birds and insects and also at regional level as a point of exchange for the different types of vegetation and animal populations;

Having regard to the diversity of the ecological networks existing in the sector and the value of the archaeological heritage;

Considering that the area concerned is a major component in the implementation of the Emerald Network;

Aware of the foreseeable ecological impact of the motorway project on this natural sanctuary unique in the Balkans region;

Mindful of the need to reconcile the economic and ecological issues raised by this project and convinced of the necessity of identifying a route compatible with the natural and human environment,

Recommends that the Bulgarian Government:

1. take account, in the development of this project, of the imperatives of conserving fauna, flora and habitats as well as the concerns of the local communities in the municipalities concerned;
2. ensure that the decision on the routing of the motorway is taken on the basis of an in-depth environmental impact assessment (EIA) supplemented by scientific and mapping data and any other useful source of knowledge on the area concerned by the project, to justify the choice of alternative as recommended in the expert's report;
3. consider the possibility of abandoning the option of enlarging the current road since this would substantially increase damage to a unique site, without possible measures of compensation, and continue studying alternative routes located outside the gorge that would respect the natural constraints as far as possible and provide for the integration of engineering works and compensate for environmental impact;
4. ensure that the choice of alternative is based not only on technical, legal and economic criteria but also on social and ecological criteria;
5. institutionalise dialogue and seek consensus solutions with the different partners concerned; active partnership could be forged with non-governmental organisations with sound knowledge of the location of habitats and the presence of protected species, and the setting up of advisory groups could be envisaged;
6. provide for the downscaling and rehabilitation of the existing road, restoring its initial status of a local road used by the farming community and tourists and thus ease current pressure on the site, with suitable planning to revitalise damaged areas and provide user information services;
7. establish periodic site assessments (Kresna Gorge and motorway route), providing, as soon as the EIA is produced, the mapping and biological inventories necessary for long-term bio-monitoring;
8. select the zone concerned for the Emerald Network, by extending the central site to cover the gorge entrance and exit areas, to take stronger account of the biological functioning of the natural habitats and the connecting areas between the sites (ecological network of core area plus complementary areas);
9. ensure that adequate legal protection is given to the whole of the gorge site and its development areas.