

T-PVS/Files (2005) #

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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee
25th meeting

Strasbourg, 28 November – 1 December 2005

Open file

**Construction of the Struma motorway (Motorway E79:
Sofia-Kulata) through the Kresna Gorge, Bulgaria.**

Report by the NGOs

Document prepared by

Wilderness Fund, Environmental Association "Za Zemiata" (For the Earth), BirdLife International (represented by the Bulgarian Society for the Protection of Birds and the Royal Society for Protection of Birds (BirdLife in the UK)), BALKANI Wildlife Society, Centre for Environmental Information and Education, Association "ECOFORUM" and CEE Bankwatch Network/Friends of the Earth International.

August 2005 NGO update for the September 19 meeting of the Bern Convention Bureau on progress on implementation of Recommendation No. 98 (2002) on the project to build a motorway through the Kresna Gorge (Bulgaria)

1. Introduction

Wilderness Fund, Environmental Association "Za Zemiata" (For the Earth), BirdLife International (represented by the Bulgarian Society for the Protection of Birds and the Royal Society for Protection of Birds (BirdLife in the UK)), BALKANI Wildlife Society, Centre for Environmental Information and Education, Association "Ecoforum" and CEE Bankwatch Network/Friends of the Earth International, hereafter referred to as 'the NGO partners', call on the 25th Meeting of the Bern Convention's Standing Committee, to:

- Note the lack of progress made by the Bulgarian government and Ministry of Regional Developments and Public Works (MRDPW) in implementing Points 3, 4 and 5 of the Recommendation No. 98 one year after the file on the case was open;
- Note the lasting threats to the Kresna Gorge resulting from the lack of progress in proclaiming the protected area and the decision of the Ministry of Environment to approve 3 new small hydro-plants in addition to already 6 permitted ones in the future EMERALD site. Three of the previously allowed hydro-power plants are under different stages of construction.
- **Note that after strong declaration and protesting action organised by NGOs on 5 August, an agreement was made by the Ministry of Environment and Waters (MoEW) and NGO partners on common activities in the field of protection of Kresna Gorge and fulfilling obligations to the Bern Convention;**
- Note that this agreement includes obligation of MoEW to undertake urgent action to proclaim the protected area and to suspend construction of small hydropower plants in Kresna Gorge and thus implementing points 8 and 9 of Recommendation 98 (2002) and applying prevention and precautionary principles regarding this future Emerald/NATURA 2000 site;
- Note that this is the first and to date the only real signal from the Bulgarian government that it will take serious measures to implement Recommendation No 98 (2002), and thus;
- **Continue close monitoring of the open file, request the Bulgarian government to submit a report, and discuss this report at the 25th Standing Committee.**

2. NGO monitoring of the implementation of Recommendation No 98 (2002) and implementation of the Bern Convention Resolutions

2.1 Environmental Impact Assessment procedure for Struma Motorway and study of the alternatives (Points 2, 3, 4)

No progress on implementation of the recommendation for an in-depth EIA procedure and study of alternatives including those outside the gorge was encountered in the last year. Sofia-Kulata Motorway (Strouma Motorway) continues to be envisioned as a priority

project in the new governmental program for the use of EU Structural and Cohesion funds for the period 2007-2013. We would like to remind Standing Committee that there has been no official revision of the July 2002 decision of the Ministry of Regional Development and Public Works (MRDPW) to construct the motorway through the Kresna Gorge and Tisata Reserve, taken on the basis only of technical criteria, without any EIA or public consultations and rejecting consideration of any alternative routes. In a letter of 31.03.2004 MoEW refused to consider Kresna gorge as a future EMERALD and NATURA site during the EIA procedure. The northernmost section of the Strouma motorway (1/5th of the motorway) is under construction despite the lack of EIA for the whole motorway. Current construction works are under way in sections 100 km north of the Kresna Gorge. They were allowed by the MoEW after partial EIA without any public consultations.

The NGO Partners wish to highlight the need for continuing close monitoring of implementation of points 2, 3 and 4 of the Recommendation No 98 (2002) by the Bern Convention Standing Committee to encourage the Bulgarian Government and MRDPW to implement Recommendation No 98 of the 22nd Standing Committee and specifically:

- to reconsider the motorway routing (brown alternative passing through the gorge) and to continue to study alternative routes outside the gorge
- to conduct a comprehensive environmental impact assessment (which should include data on key fauna, flora and habitats from at least one field season) etc.

2.2 Adequate legal protection of the whole gorge (Points 8 and 9)

The first signal that MoEW will take real measures to implement points 8 and 9 of the Recommendation 98 (2002) came on 5 August 2005. Before that to the end of July 2005, there were no positive developments. The MoEW has stalled the process of creation of the protected area and has officially refused to ensure protection of the Kresna Gorge as a future EMERALD and NATURA 2000 site. In addition, in June 2005 three new hydropower plants on Struma river were allowed in the Kresna Gorge by the MoEW's Regional Inspectorate in Blagoevgrad. In granting consent for these projects, the MoEW disregarded again the status of the gorge as future Emerald/NATURA 2000 site and protected area and the expected strong impact on habitats and species. To the end of July MoEW rejected demands and appeals of the NGOs and National Natural History Museum to apply the precautionary principle and to prevent further deterioration of the habitats and species in the site.

On 29 July, NGO partners sent a protesting declaration to the MoEW and Ministry of Foreign Affairs asking them to undertake urgent action for saving the gorge and for starting implementation of Recommendation 98 (2002). A deadline of 10th of August was given in order to have positive signal in this NGO report. NGO partners argued in front of the government that Bulgaria needs to fulfill both the Bern Convention and European Directives, which are closely related and that applying of precautionary principle and applying prevention policy in potential Emerald/NATURA 2000 sites are important obligations arising from both laws.

On 5 August after a meeting of the MoEW's and NGO's representatives an agreement was achieved to work together for implementation of Recommendation 98 (2002) (see in

attachment official press release of the MoEW). The agreement was made without participation of the MRDPW and it was focused only on points 8 and 9 of the Recommendation 98 (2002). NGOs believe that real steps should be undertaken by the MoEW on the basis of this agreement. NGOs believe that MoEW should change its passive position to the points 1 to 7 of the Recommendation 98 (2002) and should initiate a dialogue with the MRDPW to achieve similar results in that direction.

The Ministry guaranteed that it will undertake measures as fast as possible by using article 45 of the Bulgarian Protected Areas Act to ban the construction of 6 of the allowed hydropower plants and permits given for them to be revoked. Urgent steps to proclaim the protected area itself will be undertaken. NGOs informed the Ministry that there is agreement with the local people and authorities in the Municipality of Kresna on proposed borders and regime, which are achieved after long process of consultation. The NGOs declared that they will support the Ministry and will submit all documents relevant for the proclaiming of protected area, resulting from the consultation process, before 20th of August.

3. Future steps requested by NGOs

The NGO Partners call on the Bern Convention Secretariat and 25th Standing Committee to:

- a) Put the case into discussion on 25th Standing Committee;
- b) To ask the Bulgarian Government to send a detail report on implementation of Recommendation 98 (2002) and especially on points 2, 3, 4, 8 and 9 of it;
- c) Request the Bulgarian Government, having allocated adequate resources, to prepare an action plan for the protection of the Kresna gorge and the enforcement of the Recommendation No 98 (2002);
- d) Request the Bulgarian Government to withdraw the MRDPW's Decision No RD-02-14-611 of July 23, 2002 (which granted consent for construction of the motorway through the Kresna Gorge and Tisata Reserve).
- e) A dialogue between MoEW, MRDPW and NGOs on the implementation of points 1 to 7 of the Recommendation 98 (2002) should be initiated by the MoEW;
- f) Request that reporting by the Bulgarian Authorities to the Bern Convention Bureau and Standing Committee should include reporting on the progress of the implementation of the Bern Convention Recommendation by the MRDPW as well as by the MoEW [explain that this is sought because the MRDPW is the authority with responsibility for the road?].

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Attachment 1

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PRESS RELEASE

On August 5th, 2005 Friday, the Vice-Minister of environment and waters Nikolay Kuyumdgiev and experts from the MEW performed a working meeting with representatives of eight non-governmental environmental organizations, who have undertaken advocacy campaign for the protection of the nature in the Kresna gorge.

At the meeting were present the directors of the National Service for Nature Protection Hristo Bozhinov, Basin Directorate "West-White Sea Region" Krasimira Tagareva and the Regional Inspectorate Environment and Waters, Blagoevgrad – Angel Georgiev.

During the meeting an agreement was reached regarding the responsibilities that each party will take in the process of the natural protection of this territory in line with requirements of both Bulgarian and European legislation.

The representatives of the non-governmental organizations agreed to present as soon as possible the necessary documentation for the recognition of "Kresna gorge" as protected area. The MEW will organize and implement the procedures for the recognition, so as to holding a protected area status, any activities which might harm the biodiversity in the region will be prohibited, including the construction of small hydro-power plants.

For the period until the "Kresna gorge" is recognized for protected area, the MEW has agreed based on Article 45 of the Protected Areas Act to issue a preventive order to ban any activity in the region, some of which (including the construction of small hydro-power plants) will overlap with the banning regime for such activities in the future protected area.

The reached agreements between the two parties will be included in the reports, which will be sent to the Bern Convention Secretariat (Convention on Conservation of European Wildlife and Natural Habitats), where presented will be:

- the conservation status of the eco-systems of the Kresna gorge;
- the mutual efforts of the government with the non-governmental sector (already undertaken and future measures) for the protection and sustainable development of the biodiversity in the Kresna gorge.

Press centre of the MEW