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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE  
AND NATURAL HABITATS

Standing Committee

28<sup>th</sup> meeting  
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**Windfarms in Balchik and Kaliakra  
– Via Pontica (Bulgaria)**

**REPORT BY THE NGO**

*Document prepared by:  
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## SUMMARY

This document provides information on implementation of Recommendation No. 130 (2007) on the windfarms planned near Balchik and Kaliakra, and other wind farm developments on the Via Pontica route, Bulgaria, up to early October 2008. It includes comments on the information provided in Bulgarian Government's August 2008 report.

It appears that the Bulgarian authorities are still not implementing any aspect of the Recommendation. The case is now at a critical stage. In addition to the wind farm projects, Balchik and Kaliakra proposed Emerald Network/Natura 2000 sites are being damaged by a large number of other developments, including tourist complexes, golf courses and infrastructure, which are also being planned and consented without proper regard to the nature value of the sites.

In September 2007 BSPB submitted a complaint to the European Commission concerning inadequate SPA (Special Protection Area) designation and protection in Bulgaria generally, including at Kaliakra. Then because of the intense development pressure at Kaliakra, in February 2008, BSPB submitted a specific complaint about inadequate designation and protection at Kaliakra. At the request of the European Commission, in May 2008 BSPB submitted further information about the developments (wind farm and other) at Kaliakra and their potential impacts.

Without international intervention Balchik and Kaliakra, Emerald Network/Natura 2000 sites of exceptional value for globally threatened birds and other animals, plants and habitats listed in the Annexes of the Habitats Directive and Appendices of the Bern Convention, could be irreparably damaged. This would be in contravention of Articles 2, 3, 4 and 6(b) of the Convention, as well, as Recommendations No. 93 (2002) and No. 108 (2003) of the Standing Committee.

We thus urge the Standing Committee to take further action, as appropriate, to assist Bulgaria to avoid irreversible damage to Europe's natural heritage.

Most urgently, the NGOs request that the Standing Committee urge

- *the EC, without delay, to progress the general designation infringement against Bulgaria*
- *the EC to open proceedings regarding Kaliakra and expedite these in order to avoid wide scale damage at Kaliakra, including ensuring that a sufficient area of the site is designated and that the site is properly protected*
- *the Bureau to ensure a meeting with Bulgaria to work on implementation of the recommendation.*

## INTRODUCTION

On 30 November 2006 the Bern Convention on European Wildlife and Natural Habitats ‘opened a file’ on wind farm development on the *Via Pontica* bird migration route along the Bulgarian Black Sea coast. On 29 November 2007 the Bern Convention adopted recommendation 130 (2007) following the on-spot appraisal carried out in 2007, and consideration of updated information on the case.

Consents have been granted to enable installation of over 664<sup>1</sup> wind turbines in the Bulgarian Coastal Dobrudzha region (Kaliakra, Shabla and Balchik municipality) and projects for another 38 turbines are currently under EIA procedures – in total 702 turbines. These include 224 turbines in the Kaliakra and Balchik Important Bird Areas (IBAs) (212 in Kaliakra and 12 in Balchik). Further we have recently obtained information that consent has been granted for a further 4 turbines in Balchik IBA, but we are currently awaiting the information needed to verify this. These IBAs are of special significance as bottlenecks on the ‘Via Pontica’, one of the two main migration routes of birds moving between Europe and Africa.

Both IBAs have been approved by the Government as Natura 2000 sites (SPA and pSCIs) but are still not legally designated according to Bulgarian law. Further, for Kaliakra the approved SPA covers only two-thirds of the area of the IBA (originally the entire IBA was proposed as SPA). The consequence of this is that areas of key importance for birds will not be protected within the SPA. In particular: one of the most important roosting areas for the White Stork migrating along the Black Sea coast; a key part of the “bottleneck” site, where up to 42% (196770 individuals) of the migratory population of white stork along the Black Sea coast passes<sup>2</sup>; breeding habitats for 10% of the national breeding population of the Calandra Lark, 3% of the national breeding population of the Greater Short-toed Lark, and 1% of the national breeding populations of the Stone Curlew and Tawny Pipit; and about 80% of the foraging habitats of Red-breasted Goose within the IBA. Furthermore, insufficient protection is being accorded to the proposed SPAs, which should have been designated by January 2007, at accession.

In September 2007 BSPB submitted a complaint to the European Commission concerning inadequate designation and protection of SPAs in Bulgaria generally, including at Kaliakra. Then because of the intense development pressure at Kaliakra, in February 2008 BSPB submitted a specific complaint (see Annex 1) about inadequate designation and protection at Kaliakra and at the request of the European Commission, in May 2008 submitted further information (see Annex 2) about the developments (wind farm and other) at Kaliakra.

In June 2008 the European Commission sent Bulgaria a first written warning for insufficient SPA designation, an action which we strongly welcomed. We understand that Bulgaria has now responded to this warning and that this response is being assessed by the European Commission. However, the

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<sup>1</sup> It is difficult to obtain an accurate overview of the numbers of wind turbines and individual projects because the figures obtained from different sources of information eg from the internet sites of relevant authorities (RIEW Varna and Kavarna Municipality), information provided by RIEW Varna in response to a BSPB access to information request and information in the Government’s 2008 note to the Bern Convention. Therefore the figures given in this report are based on the information available to BSPB from all these sources as summarized in Appendix 5. However it is very likely that these figures are not complete due to the difficulties in obtaining systematic data. The figure of 702 wind turbines includes permissions given by RIEW-Varna (Regional Inspectorate for Environment and Water in Varna) for: 503 turbines in Kavarna Municipality, more than 108 Turbines in Shabla Municipality (including the 10-turbine project mentioned in the Governmental report to the Bern Convention and 92 turbines in Balchik Municipality. According to the information officially provided to us by RIEW Varna (which may not be complete), the RIEW approved in Coastal Dobrudzha: 13 turbines in 2003, 16 turbines in 2004, 163 turbines in 2005, 99 turbines in 2006, 282 turbines in 2007, 91 by 30 May 2008, and 38 turbines are proposed and currently under EIA procedure. Some of turbines are already operational. This demonstrates the large scale of the constructed/planned wind farms in the Bulgarian Coastal Dobrudzha region and therefore the need for proper assessment of cumulative impacts. Further due to lack of systematic public data the figures presented above may not be complete – there may be additional projects.

<sup>2</sup> Also passing the site are over 100 000 other migratory soaring birds, including a significant proportion of the migratory populations of the following species that are known to pass through the country: Levant Sparrowhawk (54%), Booted Eagle (30%), Montagu’s Harrier (31%), Pallid Harrier (28%), Red-footed Falcon (21%), Black Kite (15%), Common Buzzard (12%), Honey Buzzard (10%), White Pelican (8%).

situation in Bulgaria is such that by the time the designation process for the sites is finally completed, many sites including Kaliakra will have been seriously damaged.

Furthermore, the 702 wind turbines planned in the coastal part of the Bulgarian Dobrudzha region are only a proportion of the total, in excess of 940 turbines (see Appendix 5), planned in the whole Dobrudzha region along the Via Pontica migration route. 105 of the turbines have already been constructed and 12 have been under construction in the beginning of September 2008.

While the development of renewable energy sources is generally to be welcomed in the face of climate change, **these are among the least appropriate sites for wind farm development in Europe.** This is due to the risk of collision with thousands of birds, including most of the world population of White Pelican, half the European population of White stork and ten species threatened with global extinction:

- Globally threatened - Dalmatian Pelican (*Pelecanus crispus*) (VU), Greater Spotted Eagle (*Aquila clanga*) (VU), Eastern Imperial Eagle (*Aquila heliaca*) (VU), Lesser Kestrel (*Falco naumanni*) (VU) and Saker Falcon (*Falco cherrug*) (EN), Red Breasted Goose (EN)
- the near threatened Corncrake (*Crex crex*) (NT) Pallid Harrier (*Circus macrourus*) (NT), Red Kite (*Milvus milvus*) (NT) and Red-footed falcon (*Falco vespertinus*) (NT)

In the following sections of the report, we first describe the progress on implementation of each aspect of the recommendation and then outline key developments in relation to the wind farm developments at Kaliakra and Balchik. We have linked the responses of the Bulgarian Government to the relevant aspects of the recommendation in the first section of our report and commented on the information provided. At the end of this first section we also comment on the overall conclusions of the Government response.

## **RECOMMENDATION 130 (2007) – STATE OF IMPLEMENTATION**

*1. review relevant decisions, at the local, regional and national level, concerning wind energy plants and ensure that new plants are not built in the region unless Environmental Impact Assessment (EIA) prove they do not have a substantial negative effect on the biological diversity protected under the Convention - EIA reports should be more precise and scientifically sound than those already presented and should formulate independent peer reviewed conclusions;*

### **Review of decisions**

To date (early October 2008) none of the relevant decisions mentioned above have been reviewed.

One of the big windfarm projects within Kaliakra IBA/SPA – a 13 wind turbine project of Bulgarian Windfarms Ltd - was not approved by the Regional Inspectorate of Environment and Water for Varna Region (RIEW Varna) on 14 May 2008. This was due to *poor quality and incompleteness of the EIA report and lack of consultation with 'Oil and Gas' Company.* This company owns the gas extraction concession for the same area, which according to Bulgarian law has higher priority than other development types. Hence the investor is obliged to consult them. According to the decision of RIEW Varna the EIA report has to be improved. There is, as yet, no final decision on approval/rejection of the project.

According to recent data officially provided to us by RIEW Varna (and which may not be complete) from 2003 to date, more than 940 wind turbines (see Appendix 5) have been approved for construction or are currently under approval procedure in the North-East region of Bulgaria<sup>3</sup>, along the Via Pontica migration route. Of these, 347 turbines were considered by RIEW Varna in 2007, 46 of which are situated in close vicinity to the Kaliakra IBA, with a further 61 within the IBA<sup>4</sup>, and 2 turbines at its border.

<sup>3</sup> Covering the region under the jurisdiction of Varna RIEW, Districts of Varna and Dobrich, including Dobrudzha plain.

<sup>4</sup> 45 wind turbines out of 53-windfarm project of Geopower Ltd, approved on a base of EIA; 16 wind turbines approved without EIA as 7 small scale projects. Three of these are part of a 6-wind-turbines farm project of Dicib Ltd, for which there is a decision of RIEW Varna since 2006 (No. 72-IIP/13.6.2007) that EIA has to be

85 wind turbines (out of 347) were approved on the basis of EIA reports (Geopower Ltd (53 turbines) and Eolika Ltd (32 turbines)). The remaining 262 turbines were approved as single/small wind turbine projects without EIA.

For 96 turbines currently being planned<sup>5</sup> RIEW Varna decided that an EIA had to be carried out (although there is no information about completion of the EIA procedures).

### **New projects**

From January 2008 to the end of May, RIEW Varna considered 110 wind turbines - 100 were approved without EIA as single/small wind turbines projects, and 10 – on a base of EIA report (according to the information in the Governmental report to Bern Convention, that was not provided to us earlier; see the details below). Five of these turbines are in the settlement areas of Kavarna, Hadzhi Dimitar and Rakovski and lie in close vicinity to the part of Kaliakra IBA that has been excluded from the Natura 2000 site.

### **Comments on the governmental report**

The section of the Government report headed ‘General Information about the development of the EIE procedures’ provides information about the numbers of wind farm projects and turbines which have been consented in the Varna region since January 2007.

To understand the current numbers of wind farm projects in Varna, BSPB has prepared a full list of wind farm projects which have passed any decision-making process in RIEW Varna with information about their location in relation to Natura 2000 sites. This list is provided in Appendix 5 and was prepared entirely based on information officially provided by RIEW Varna (on its internet site and in response to an access to information request initiated by BSPB in April 2008 for information about all decisions for wind farm construction under the jurisdiction of RIEW Varna in the period 2005-30 March 2008). The 10-wind turbines project of “Borko” Ltd, that is mentioned in the Governmental Report to Bern Convention in August 2008 is also included in the list.

The figures for the numbers of wind turbines stated in the Government report are very different from the official information available for the region in question, and clearly not complete eg as they do not include information about consents granted in 2003-2006. From the information we have collected (see Appendix 5) we are aware that consents for a total of 332 turbines during this period (mainly single wind turbine/small projects).

According to the information provided in the Government report in the years 2007/2008 consents were given for 471 turbines (95 based on EIA, and 376 – without EIA). However, according to the data provided to us by RIEW Varna for the same period 447 consents are granted –85 on a base of EIA and 362 – without EIA). Looking at the Governmental report we realized that 10 more wind turbines (the “Borko” Ltd project) were approved on the basis of EIA – the RIEW response to BSPB’s access to information request did not include information about this project. In addition, as noted above, there might be new windfarm projects announced to RIEW Varna after 30 March 2008, for which we do not have official information. Because of the lack of detailed information provided in the Governmental report it is not possible to make a complete comparison between the figures of windfarms provided by the Governmental report and those, provided by RIEW Varna to BSPB and the public.

Therefore we would suggest that Bern asks the Bulgarian Government to provide clear information about and explanations for the differences between the information provided in the Government report and that available to BSPB from RIEW Varna.

Despite the fact that the Government does not present complete information about approved wind turbines in the region of Dobrudzha, the report clearly states that there are significant number of wind turbines approved for construction without EIA, even in the years 2007/2008 – 376 turbines according to the Governmental data. However, as noted above according to the information available to BSPB

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elaborated. One of the 16 approved wind turbines is a part of a project of Long Man Ltd, for which there is also a decision of RIEW Varna since 2006 (No. 126-IP/30.08.2006) that EIA has to be elaborated. See appendix 5.

<sup>5</sup> One big project of 87 wind turbines outside Natura 2000 sites and 5 small projects (one of the projects is in the vicinity of Kaliakra IBA; the other four are in Batova IBA/SPA);

457 wind turbines were approved in 2007-8 of which 362 were not subject to EIA; and 100 of these were approved without EIA in 2008, after the recommendation 130/2007 was adopted. The absence of an EIA means clearly that there has been no consideration of cumulative effects.

The statement in the Governmental report “For all investment proposals for constructing wind generators, an Appropriate Assessment under art. 6 of the Habitats Directive is carried out” is not true for any of the projects for which BSPB has information (ie the 940 wind turbines mentioned above). In our opinion at least 22 projects for a total of 118 wind turbines either approved in 2007 or for which the EIA procedure is still ongoing should be subject to appropriate assessment under art. 6 of the Habitat Directive because they are situated in IBAs/Natura 2000 sites. Appropriate assessments have been carried out for projects related to construction of houses and summer villages within Natura 2000 sites, but in BSPB’s opinion the reports produced are of very poor quality. Based on BSPB’s analysis of these reports it seems that the common practice is not to evaluate the full and real cumulative impacts, no alternatives are assessed and despite the big numbers of projects in individual sites the conclusion is always that the projects will not have significant impacts on birds and their habitats.

We would therefore propose that the Bern Convention should invite the Government to support its statement by providing detailed information about the Appropriate assessments elaborated for windfarms – number of consents, for each consent – the issuing number and the recommendations and mitigations set in the document, in order to prevent or mitigate adverse impacts on birds.

The Government report states that 81 wind turbines have already been constructed. However, during an on-the-spot visit at the beginning of September 2008 the BSPB team observed a total of 105 wind turbines erected in Dobrudzha, almost all of them operational. Of these 36 turbines are in Kaliakra SPA, 10 are in the part of Kaliakra IBA that is excluded from the SPA, and one is in Batova IBA. The remaining wind turbines are outside Natura 2000 sites but still on Via Pontica migration route. A further 12 turbines were ready onsite awaiting erection – all outside Natura 2000 sites. According to our preliminary assessment most of the constructed wind turbines were consented in 2005/2006, but this information is still under examination.

The Government report mentions three projects having EIA decisions in 2007-2008 (Geopower Ltd., Eolika Bulgaria Ltd. and Borko Ltd.) all outside Natura 2000. However, in fact the Geopower project while situated outside the approved Kaliakra Natura 2000 site is almost entirely within the part of Kaliakra IBA excluded from the approved SPA, ie in the area which is currently subject to the European Commission’s infringement concerning inadequate SPA designation. Therefore the original provisions of the first sentence of art. 4.4 of the Birds Directive should be applied to this area obliging Bulgaria to take steps to avoid deterioration and disturbance.

The project of Eolika is located in the settlement area of the town of Suvorovo, which is situated about 40 km West-Northwest of the city of Varna (and the Black Sea coast) and about 20 km from the nearest Natura 2000 sites (Batova – to the east and Provadiisko-Royaksko Plateau to the southwest). For the purposes of preparation of the EIA report for this project detailed surveys on autumn and spring migration were carried out by BSPB which confirmed that the intensive migration corridor is passing outside the project site to the east.

According to the official information provided to BSPB by RIEW Varna the company “Borko”Ltd. has:

- 3 investment projects (4 wind turbines, 3 wind turbines and 2 wind turbines) in the settlement area of Gorichane (several kilometers west from Shabla Lake Complex Natura 2000 site) approved by RIEW Varna without EIA (decisions No.: 465/18.12.2007, 493/18.12.2007, and 494/18.12.2007).
- two projects – 4 wind turbines in the settlement of Prolez, and 2 wind turbines in the settlement of Shabla, both also situated out of any Natura 2000 sites.
- Plans for a 10 wind turbines project mentioned in the Government report. This is not situated in a Natura 2000 site, but is located about 5 km from the western border of Shabla Natura 2000 site. BSPB participated in the public hearing for this project but we do not have information about a positive decision on EIA. BSPB was not able to look in details the EIA report elaborated for this project because of the late information we received about the public hearing. Neither the EIA

decision for the 10 wind turbine project mentioned in the Government report, or any earlier decision on the necessity for EIA for the project were provided to BSPB in response to the BSPB access to information request referred to above.

Further, the list of the windfarm projects that are approved by RIEW Varna based on EIA reports, but where construction has not started yet included in the Government report is not complete. The list does not include the windfarm project (7 turbines in Kaliakra IBA/SPA) of Yomi Engineering Ltd (now Geopower Ltd) approved by RIEW Varna in 2004. This project is a separate one from the other Geopower project approved in 2007.

### **EIA quality**

For most of the wind turbine projects, no ornithological surveys were carried out. As BSPB has not been involved by the investors in the consultation procedures for elaboration of the six EIA reports for the projects initiated in 2007 (four projects in settlement area of Lyben Karavelov village, out of Natura 2000; one in settlement area of Hadzhi Dimitar village – close to Kaliakra IBA; one project of 87 turbines in the settlement area of Dobrin village, about 60 km inland from the coast, close to Suha Reka IBA/SPA – see appendix 5), we are not able to comment on the procedures and quality of the EIA, or whether any peer review has taken place. Although under European EIA law there is an obligation to publish EIA reports for public consultation, the implementation of this in Bulgaria is weak. The announcements of publication of EIA reports for consultation and timings of public hearings are often poorly publicized eg by small advertisements buried on pages of local newspapers containing hundreds of job advertisements and public hearings announced at short notice eg in less than 7 days time. Hence unless an investor contacts BSPB direct concerning a particular project it is very difficult for BSPB and other NGOs find out about/monitor which projects are subject to EIA and to participate in consultation processes.

A good development is that most of the new wind farm projects are planned outside (proposed) Natura 2000 sites, but they are still on the Via Pontica migration route and hence could result in impacts to birds, including cumulative impacts and hence therefore still require EIA and appropriate assessment to examine potential cumulative effects on Natura 2000.

As described above a key problem is the lack of EIA and ornithological surveys being required for the vast wind farm development. Another issue is that windfarms previously assessed by RIEW Varna as requiring EIA, are now being resubmitted as new projects often divided into a number of separate smaller projects, and are then being approved by the RIEW without EIA and consideration of cumulative impacts. Furthermore, many of the single-turbine projects are being sold to big investors, and in this way the investors can establish a windfarm with many wind turbines without carrying out EIA.

In May 2008 the Bulgarian Chamber of Auditors published an extensive audit of the work of the Ministry of Environment and Water. This covered the implementation of actions under the EIA/SEA Programme and includes inspection, analysis and assessment of the actions implemented by the Central Management Unit (CMU) of the Ministry of Environment and Waters (MOEW) and four Regional Inspectorates of Environment and Waters (RIEWs) in Burgas, Plovdiv, Stara Zagora and Sofia for the period from 01.01.2005 to 31.12.2006 (see Annex 4). Some of the main conclusions of the report are as follows:

- there is a delay and a lack of clarity in the conduct of procedures regarding the assessment of compatibility of investment intentions with potential protected sites (NATURA 2000) (ie appropriate assessments).
- there was no fulfillment of the requirements for control over the implementation of the recommendations defined in the EIA decisions.
- during the screening of investment proposals on the need for EIA there was no consideration of the criteria set in Art. 93(4) and of the regulations of Art. 82(3), which require coordination of the evaluations of individual investment proposals (cumulative effect, etc.)
- No on-site checks have been performed to supporting the decisions on the need for EIA

- the control in the area of EIA/SEA is not sufficiently effective with regard to transparency and undertaken measures
- As a result of violations, omissions and weaknesses in the performing of the EIA/SEA procedures, part of the provided products/services under the EIA/SEA Programme are inadequate in terms of timeliness and quality, and there is no opportunity for taking suitable decisions to improve the management and increase the efficiency in preventive tool application.

### **Comments on the government report**

The section of the Government report headed 'Analysis of the EIE Procedure' purports to provide information about EIA quality.

The description of the EIA procedure in the Governmental report is very general – setting out how the process should be implemented rather than the real situation in Bulgaria eg as documented in the May 2008 report of the Bulgarian Chamber of Auditors (see above) and progress in implementation of point 1 of the recommendation.

For example the statement “The content of the EIA reports as well as the procedures on their elaboration, discussion, approval and appeal are fully harmonized with the EU legislation in this domain.” is not true for the any of the EIA reports produced for windfarm projects in Kaliakra and Balchik IBAs. These reports were evaluated last year by the expert of the Bern Convention - prof. Kuijken, as poor quality reports. None of these reports have been updated and amended or externally assessed since that assessment. Only the project of Geopower has been subject to any additional Ecological assessment, and this further analysis was carried out in connection with the application for funding to EBRD and IFC, rather than in relation to any requirements of the Bulgarian authorities. Further even this assessment has a number of gaps and weaknesses which mean it does not provide an objective assessment of potential impacts on birds (see further below).

It is the same for the statement that EIA reports comply with the provisions of Bern and Bonn conventions. As was also confirmed by the report of prof. Kuijken - the elaboration of the EIA reports by registered experts is not a guarantee for the quality of the reports.

The only EIA report which was elaborated after the report of prof. Kuijken and on the basis of which consent has been granted is that for the 10-turbines windfarm of Borko Ltd. And as mentioned above BSPB has not had access to this EIA. Thus there is no information currently available to BSPB which could support the assertion in the Government report that the quality of elaborated EIA reports has changed and improved recently.

The Government should therefore provide more concrete information about the progress in implementation of this particular point of the recommendation, e.g. how the requirements of the EU Directives, Bern and Bonn conventions are incorporated into national legislation ensuring elaboration of better EIA reports (eg if existing regulations have been amended, or new regulations adopted or under elaboration, a peer review procedure is adopted or other action is taken); and how this aspect of the recommendation is being implemented in the decision-making procedures for specific wind farm cases.

Page 3 of the Government report sets out a list of 18 'obligatory conditions' included in EIA decisions. We have prepared information about the conditions actually included in specific wind farm consents issued by RIEW Varna (see Annex 6). BSPB evaluated only the consent documents available to it - all of which were issued before recommendation 130/2007 was adopted. As can be seen from Annex 6, the only mitigation measures mentioned in all the consents are related to lighting the wind turbines, the condition about carrying out bird monitoring as presented in the Governmental report is only included in one consent. In the other cases it is formulated as a 1-year survey instead of real monitoring. Some of the mitigation measures mentioned in the Governmental report were not found in any of the consents, eg “determination, if necessary of special regime of generator operation, conformed with the results from the bird monitoring”, “Installation of protective elements, preventing alighting of the birds on the power lines connecting the substation to the power transmission network”, etc..



*2. fully reconsider the development of approved windfarms projects in the Balchik and Kaliakra region situated within or nearby sites designated as important bird areas and special areas of conservation;*

To date the Ministry of Environment and Water (MoEW)/RIEW did not reconsider any of the approved windfarms projects in or near the Balchik and Kaliakra IBAs. Since the recommendation was adopted there have been 50 new wind turbines approved in the vicinity of Kaliakra IBA, six within Kaliakra IBA, five near Belite skali IBA (situated between Balchik and Kaliakra IBAs), and 16 near Shabla Lake Complex IBA (situated north of Kaliakra IBA). In total of these 110 turbines 77 are in or near IBAs.

*3. investigate the possibility of relocating the windfarm projects already under construction as well as the single turbines (whose building is possible without EIA) in order to restore the integrity of sites to be considered as Natura 2000 sites, IBAs, or under other protection status;*

The Bulgarian authorities have not taken any actions to implement this point.

*4. select alternative locations for future and not yet operating turbines based on appropriate data (including long-term monitoring of biodiversity) and assessments (e.g. using multicriteria-analysis); key bird areas, potential SPAs, IBAs, intensive bird migration corridors and sites regularly used by large flocks of roosting species such as storks and wintering geese must be avoided from windfarm development;*

The Bulgarian authorities have not taken any actions to implement this point.

In one particular case, the developer of the biggest windfarm project within Kaliakra IBA (the 53 turbine project of Geopower Ltd – now AGE – located in the part of the IBA excluded from the proposed SPA), which is approved by RIEW Varna in March 2007<sup>6</sup>, is seeking finance for the project from the EBRD and IFC. To support the finance application further environmental assessment was carried out (including on bird impacts) and published for consultation<sup>7</sup>.

Although this further analysis strengthened the EIA carried out before the consents for the project were granted in Bulgaria, there are still significant gaps and weaknesses in the assessment of potential impacts on birds eg a lack of consideration of impacts on red-breasted geese and roosting storks. As a result of these deficiencies we do not believe that the conclusion of the assessment – that the project will not have significant effects on birds – is valid and we have urged the developer and the Banks to undertake further assessment to address the gaps in the current analysis before taking a decision on whether to finance the project. However unfortunately recently both IFC (11 September 2008) and EBRD (30 September 2008) decided to approve the project despite these gaps.

However, given that the project has already been granted consent in Bulgaria – although we would query whether this is are valid under European law – we have concerns about how seriously our comments will be considered when the financing decision is taken. We understand that the Banks intend to make a decision on whether to finance the project sometime after late August 2008. For further details of BSPB's concerns about this project please see the position on the project submitted to AGE, EBRD and IFC in August 2008 (see Annex 3).

*5. assess the impact of the current operating turbines;*

The Bulgarian authorities have taken no action to implement this point. No access is permitted to the newly operating wind farm of INOS 1 in the steppe area of Kaliakra IBA/SPA.

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<sup>6</sup> See (T-PVS/Files (2007) 17 Report by NGO report to the Balchik and Kaliakra - Via Pontica (Bulgaria)

<sup>7</sup> See <http://www.ebrd.com/projects/psd/psd2008/38838.htm>,  
<http://www.ifc.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/7788db6ab582961485257474007010b6?opendocument> and  
<http://www.ifc.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/261fc876841f69b3852574740071d47a?opendocument>

**Comments on the government report**

The section of the Government report headed 'Information for the wind-park already in exploitation' provides information about the monitoring and control for the INOS 1 project. This states that the project became operational on 17 June 2008, however we observed that the windfarm was already operational on 7 June 2008 during our regular on-spot visit (documented on video) and believe that it has been operating since May 2008.

In terms of the monitoring and control described in the Governmental report concerning INOS 1 project we should state that the access to the area is restricted by the investors and it is not possible to visit windfarms and do observations in the area. In relation to the monitoring – information about the agreed monitoring plan has not been made public so we cannot comment on the appropriateness of the monitoring programme being implemented eg frequency of monitoring, methods used, etc, although given the sensitivity of the area a monitoring programme of only one year would not appear to be sufficient.

In addition it is stated in the governmental report, that the monitoring carried out in 2008 does not have the goal to cover the migration season. The statement about lack of detected dead or injured birds, could be matter of methodology used rather real situation. Whether or not these are found will be related to the frequency of the monitoring/corpses search and without knowing more details about the monitoring protocol its therefore hard to assess the results.

The monthly monitoring report provided by the investor to RIEW as referred to in the Government's report has not been made available to the public and as access to the area is restricted by the investors it is not possible for BSPB to visit the windfarm site and undertake its own monitoring. However BSPB did visit the Kaliakra IBA around Balgarevo village in September 2008 and we detected a small flock of white storks trying to pass the windfarm area of INOS 1 windfarm. After a lot of efforts the flock did succeed in passing the area, but throughout this time the wind turbines were fully operational. Hence, we have serious doubts about the effectiveness of using the radar system as a mitigation measure for early detection of flocks and stopping the wind turbines to prevent collisions.

*6. conduct an Strategic Environmental Assessment (SEA) of Bulgaria's wind energy programme, taking into account possible conflicts of wind energy production within the most intensive bird movements areas, in particular along the Black Sea coast;*

No actions have been taken by the competent authority, the Ministry of Economic and Energy(MoEE) to implement this point. However wind farm construction is increasing rapidly all over Bulgaria including in North-East Bulgaria where the scale of development is described under point 1 above. Furthermore, in response to the windfarm development there are plans for expansion of the electricity power line network in North-east Bulgaria, with associated risks to birds from collision and electrocution. The wind farm developments are always justified by reference to the Kyoto Protocol and EU target for production of electricity by renewable sources and this is one of the regular arguments in the decisions of RIEW Varna to approve projects without EIA.

**Comments on the governmental report**

The section of the Government report headed 'Obligations regard to the renewables energy resources' stresses the EU target for renewable energy resources and refers to three strategic documents (the Energy Strategy of Bulgaria, the National Long Term Programme 2005-2015 and the National Short Term Programme). However, although they are being implemented none of these documents has been subject of SEA, which is clear violation of the Bulgarian Environmental Protection Act.

The section of the Government report headed 'SEA of the National long-term program...' states that the MoEW sent a letter to the MoEE about the issue of SEA/Appropriate Assessment for the programme. However, the report does not provide any information about the results from this single action of the MoEW or any reaction or response from MoEE.

7. *establish a strict moratorium on further turbines and windfarm projects in the coastal areas of Bulgaria until EIA and SEA reports mentioned in paragraphs 1 and 6 are completed;*

The Bulgarian authorities have taken no action to implement this point. The government report confirms this fact.

8. *respect the need to focus on the avoidance of the impacts coming from outside having negative effects on areas of recognised conservation importance;*

The Bulgarian authorities have taken no actions to implement this point.

9. *take into account the following guidance to improve EIAs for future and not yet operating turbines, including in accordance with “Regulation about the conditions and the order for accomplishment of assessment for compatibility of plans, projects, programmes and investment intentions with the subject and the aims of the conservation of protected zones”:*

- *further research and monitor birds, bats, other fauna, vegetations and key landscape-ecological structures and processes influencing biodiversity; to this end long-term monitoring of flora and fauna, review and validation of all data is required, included those from NGOs, institutes and independent scientists;*
- *apply collision modelling of cumulative effects of several wind farms or turbines along intensive flyways, followed by the assessment of the suitability of localities using multicriteria-analysis methods;*
- *develop compulsory procedures to peer review the completeness and quality of biodiversity chapters of EIAs and their conclusions before continuing the administrative and legal processes;*

The Bulgarian authorities have not taken no actions to implement any of the elements of this point.

10. *develop guidelines for appropriate planning of the construction of windfarms and/or individual turbines, taking account of the following issues in order to integrate biodiversity conservation concerns:*

- *initiate a broad debate on the precautionary principle regarding development projects in relation to sites with outstanding biodiversity values;*
- *take measures for the removal of turbines in case of unacceptable bird collisions where no alternatives exist; this require the drafting of a set of mitigating and compensatory measures when biodiversity losses occur;*

The Bulgarian authorities have taken no actions to implement this point.

### **Comments on the Conclusions of the governmental report**

The conclusions of the Governmental report are too general and not sufficiently supported in the statements of the report. In practice they are also not supported by the information available to the general public. Bearing in mind the sensitive areas, the lack of strategic approach to wind farm development in Bulgaria, led by the Government is the biggest problem. Regarding the problems with uncertainty of scientific opinions, methodologies, etc, In fact a lot of data in the international arena shows strong evidence about adverse impacts on birds, depending on the location of windfarms. The Governmental report shows that very little effort is being put into solving the issue in Bulgaria generally or in the particular case of Kaliakra and Balchik along the black sea coast. The lack of enough transparency and even providing incomplete or misleading information by the authorities to other parties (e.g. Bern Convention, BSPB, etc.) is also creating a barrier to a positive solution of the problem.

The last conclusion of the Government's report is “The application of the good practices, the principle of cautiousness and following up monitoring on the impacts by using contemporary technical means is of primary importance in this case. This is the stand which the Ministry of Environment and Water keeps to in its practice”. We would appreciate seeing implementation of this approach in practice on the ground in Bulgaria and our efforts are strongly focused in that direction. However, unfortunately to date neither the Governmental report nor the Governmental efforts on the ground support this conclusion.

## KALIAKRA CASE

### The Kaliakra wind farm projects

To date (October 2008) 212 turbines of different Bulgarian private companies have been approved or under procedure of approval within the boundaries of Kaliakra IBA.

By December 2007 10 turbines had already been built inside Kaliakra IBA and a further 151 turbines had been approved by RIEW Varna: 137 turbines within the IBA, 3 turbines at the IBA boundaries and 11 turbines just outside the IBA boundaries. Eight of the turbines at/just outside the IBA boundaries are being developed by Geopower, which is also the developer of two of the larger wind farm projects within the IBA. In addition, another project of 25 turbines was planned in the IBA and the EIA procedure is underway). In February 2008 BSPB submitted a complaint to the European Commission, focused on unsuitable windfarm development within Kaliakra IBA, non designation of Kaliakra IBA as SPA and lack of preventive protection, as explained above (Annex 1).

In addition to these 186 wind turbines detailed in the complaint, new data obtained in July 2008 revealed a further 25 wind turbines planned in the period 2005 – 2007. Five of these were approved without EIA before 2007, 12 were approved without EIA in 2007 and 8 are under EIA procedure. All wind turbines approved in 2007 are located within the area that was not approved as a Natura 2000 site. In addition to this vast development of wind turbines extensive building of houses and hotels is taking place within the IBA and the approved but still not designated SPA (Annex 2).

A summary of the recent developments of the windfarm projects in Kaliakra IBA is given below.

- **Geopower Energy** (7 turbine project in the region of Sveti Nikola)
  - According to information given by the investor during meetings concerned the other windfarm project (53 turbines), the investor is thinking about abandoning this project.
- **Geopower Energy** (53 turbine project North of village of Balgarevo)
  - The Geopower Company has created a new company - AGE in Partnership with the US company AES, for the implementation of the project. The new company is seeking finance for the project from the EBRD and IFC.
  - To support the finance application further environmental assessment was carried out (including on bird impacts) and published for consultation in June 2008<sup>8</sup>. BSPB prepared a statement and submit to EBRD (Annex 3)
- **Universum Energy Ltd.** (32 turbines between Kavarna town and Balgarevo village)
  - The court case initiated by BSPB against the approval decision of RIEW Varna, was judged in favor of the windfarm project.
- **INOS-1 Ltd** (35 turbines between Balgarevo village and the buffer zone of Cape Kaliakra nature reserve)
  - Windfarm is constructed and start to operate in April 2008
  - The court case initiated by BSPB against the approval decision of RIEW Varna, was judged in favor of the windfarm project.
  - MoEW impose fine of 10 000 Euro to INOS 1 because it does not comply with the approval decision of RIEW Varna, especially because of damage of steppe habitat. No actions are taken to restore the damaged habitat.

<sup>8</sup>

See <http://www.ebrd.com/projects/psd/psd2008/38838.htm>, <http://www.ifc.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/7788db6ab582961485257474007010b6?opendocument> and <http://www.ifc.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/261fc876841f69b3852574740071d47a?opendocument>

- **“Vertical-Petkov”** – (1 turbine out of 3 is constructed)
  - Operational. BSPB are carrying out impact monitoring of birds in the area financed by the investor.

## **BALCHIK CASE**

Investor “Tessa Energy” Ltd. (12 turbines approved by RIEW at Balchik IBA)

No development of the case.

In July 2008 we obtained a new information about another project of “Tessa Energy” Ltd. – 4 wind turbines park situated in the settlement area of Balchik, approved by RIEW Varna, most probably without EIA (decision No.335/8.8.2007). This information was not provided to us officially by RIEW in their access to information response in June 2008. Recently we received confirmation from RIEW that such a decision has really been issued, but we could not obtain details about the content of the decision and its exact location. . Thus at present we can not confirm if it is situated in Balchik IBA. We will make further attempts to get detailed information, but we would suggest that the Bern Convention asks for official information from the government about this particular case to clarify the issue (particularly whether or not the project is located in Balchik IBA).

## **ATTACHED TO THIS REPORT ARE:**

Annex 1 - Complaint to the European Commission on Kaliakra dated 8 February 2008

Annex 2 – Additional information concerning the complaint dated 29 May 2008

Annex 3 - Final Statement of BSPB concerning the AGE project dated 17 July 2008

Annex 4 - Translation of report on results of the audit of the Environmental Impact Assessment and Strategic Environmental Assessment Programme in the Ministry of Environment and Waters for the period from 01.01.2005 to 31.12.2006

Annex 5 – List of wind farm projects based on information provided by RIEW Varna.

Annex 6 – Summary of the conditions included in wind farm consents granted by RIEW Varna