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**Wind farms in Balchik and Kaliakra –
Via Pontica (Bulgaria)**

REPORT BY THE NGO

*Document prepared by
the Bulgarian Society for the Protection of Birds / BirdLife Bulgaria,
the Royal Society for the Protection of Birds / BirdLife UK*

The document is elaborated under the project LIFE09/NAT/BG 00230



WINDFARMS IN BALCHIK AND KALIAKRA – VIA PONTICA (BULGARIA)

FOLLOW-UP OF THE NGO'S REPORT

Document prepared by
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- August 2014 -

Summary

This document provides a follow up update of the reports submitted by NGOs to the Bern Convention Standing Committee in 2013 - T-PVS/Files (2013) 6 and T-PVS/Files (2013) 13.

Since December 2013 the Bulgarian Society of the Protection of Birds (BirdLife Bulgaria) and the Royal Society for the Protection of Birds (BirdLife UK) have not registered any progress in implementation of most aspects of the Recommendation. The case continues to be at a very critical stage, where new possibly harmful wind farm developments are being allowed to go ahead and sufficient actions have not been taken to implement sufficient measures to meet Recommendation 130 (2007). Between December 2013 and March 2014 BSPB made a detailed assessment of the efficiency of actions taken so far (as part of work on amendments in legislation and the Strategic Environmental Assessment of the National Action plan on renewables) and has found that the improvement of the situation is minimal and far from the goal set through Recommendation 130 (2007). The assessment was carried out under the project LIFE09/NAT/BG 00230 "Conservation of the Wintering Population of the Globally Threatened Red-breasted Goose (*Branta ruficollis*) in Bulgaria".

Lack of progress in the "Kaliakra" case run by the European Commission for the same dangerous wind farms in Kaliakra Important Bird Area (IBA), that are the subject in this case file as well, led to opening of a court case against Bulgaria in the European Court of Justice under the reference C-141/14 on 08/05/14.

Apart of the threatened and deteriorated habitats for many migratory birds in Kaliakra IBA and Coastal Dobrudzha, the globally endangered Red-breasted Goose faces immediate and direct threats by continuing large scale wind farm development in the region. Despite the fact that the dangerous wind park close to Durankulak lake was stopped by the Ministry of Environment and Water (MoEW) in October 2013, the latest development of the case in July 2014 was that the National Court rescinded the last order of the MoEW, thus the wind farm appears again to be an immediate danger for the Red-breasted Goose. Without urgent coordinated actions the most important areas for the species in the world could be damaged. Over the period that this case file has been open the Bulgarian Government has systematically failed to take appropriate and long-lasting measures to secure the protection of migratory birds and their habitats along the Bulgarian Black Sea coast, especially in Dobrudzha.

We thus urge the Bern Convention to take further action, as appropriate, to assist Bulgaria to stop irreversible damage to Europe's natural heritage. Sadly it seems that without further international pressure the Black Sea coast sites will be damaged further. We also request the Birds Experts Group assists the Bern Convention with appropriate proposals for further actions in order to stop continuing pressure on birds and habitats in the area of Kaliakra and Dobrudzha.

I. IMPLEMENTATION OF RECOMMENDATION NO. 130 (2007) – STATE OF IMPLEMENTATION

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 an on-spot appraisal carried out in 2007, and consideration of updated information on the case.

General progress

Since 2012 the Bulgarian Government has presented information to Bern Convention about the numbers of operational, approved but not constructed and planned wind farms, as well as those which were stopped by MoEW. Unfortunately this information was not complete, and different from information from other sources of public information, even sometimes contradictory. Thus BSPB asked the Regional Inspectorate of Varna (RIEW Varna) for official information according to the Access to Public Information Act which includes:

1. Copies of all the decisions related to procedures of EIA, Ecological assessment and Appropriate assessment taken by RIEW Varna for the period 2007 - 2013¹, so to be sure that we have available all the decisions taken by that competent authority;
2. A list of the decisions for approval of wind farms, which have lost their validity due the changes in law in 2012 (the construction has not been started in 5 years after the consent was given).

By using these sets of official documents, as well as the internet sites of RIEW Varna and MoEW, Google Earth and by visiting Dobrudzha to check all the wind turbines in the field (both constructed and under construction) from December 2013 to March 2014, we carried out an in-depth analysis of the wind farm development in Dobrudzha. The aim of the analysis was to find out the real scale of wind farm development and the mitigation of this development based on the efficiency of measures taken so far by MoEW:

1. The SEA of the NAPDRES 2011-2020²;
2. Changes in the Environmental Protection Law;
3. Elaboration of the Bird sensitivity map;
4. Elaboration of the Guidance document for wind farm construction and bird protection;
5. Approval of wind farms only through EIA procedure and better control on the process by rescinding improper decisions.

The efficiency of each measure taken so far will be presented in more detail below, in the chapter “Specific progress”. Here we will present a summary analysis of the state and scale of wind farm development in Dobrudzha by March 2014 and the expected trends.

It is important to note that information provided by RIEW Varna in some cases was different from the one in the documents or from the real situation in the field, and in those cases we rely on the facts presented in the documents and the facts found out on the spot (in the field). The main discrepancies in the information provided are as follows:

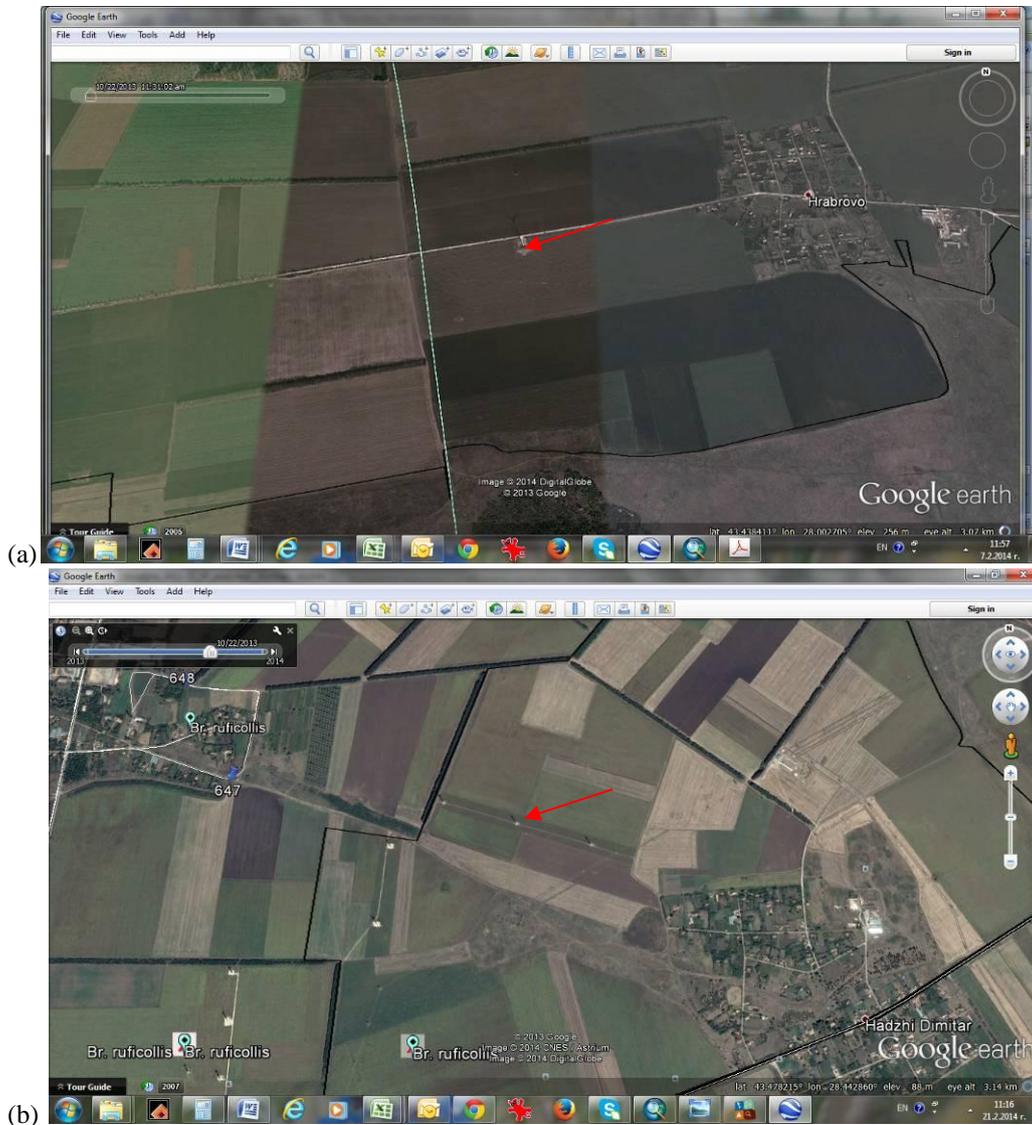
- **Decisions for approval of windfarms that at present and are operational but were reported by RIEW Varna as decisions with expired validity, because they were not realised.** This includes 15 consents given by RIEW Varna for a total of 29 wind turbines, which are in fact operational (fig.1). This also includes the consents given for two wind farms in Kaliakra IBA, which are operational – the wind farm of Vektor Delta Ltd and the wind farm of Universum Ltd. The wind farm of Universum Ltd was reported by the Government to Bern Convention as a stopped project three years ago, but despite of this in the beginning of 2012 part of the wind farm

¹ For the period 2004 – 2007 we already received all the decisions for approval of wind farms again using the same procedure.

² National Action Plan for Development of the Renewable Energy Sources 2014 - 2020

was build and now is operational. The rest of the turbines are under construction. All the 29 wind turbines approved with the decisions in question we accept as operational in the analysis below, because this reflects the true situation detected in the field.

Fig.1 Two examples for wind turbines that are operational, but which RIEW Varna reported as expired consents – decision VA 215-PR/2008 (a) and decision VA 38-PR/2005 (b)



- **Decisions for approval of wind farms, which are not constructed yet, and are reported by RIEW Varna as decisions with expired validity, because they have not been constructed, but this is not true because some of projects are partially realised, and for the rest of the projects new decisions were issued, which replace the old ones and the last decisions are valid.** This includes 45 decisions for a total of 58 wind turbines that are approved, but not build yet (including 3 decisions, that are partially realised thus the already operational turbines are calculated above). The new decisions were issued in the period 2008 – 2014. The common approach in these cases is that the new decisions approve the wind turbines again without EIA, arguing that there are previous consents given already. However, in June 2012 MoEW declared that no more consents for wind farms will be given without EIA, the same year are they gave many new consents without EIA. Even in 2014 there are three decisions for approval of wind farms on the basis of older consents. Another characteristic of these projects is that many of them belong to a few companies connected to each other, so the approach of “salami slicing” of a project is likely applied there. In BSPB’s analysis all these turbines are treated as approved but

not constructed, besides those that are treated as rescinded because there have been appealed and later rescinded by MoEW.

- **Decisions for approval of wind farms, which are not constructed yet, and are reported by RIEW Varna as decisions with expired validity, because they have not been realised, but this is not true because new decisions were issued, which replace the old ones and required an EIA procedure.** This includes 3 decisions for in total 3 turbines. For the analysis below these projects are counted as still under EIA procedure.
- **Decisions for wind farm projects, which should be expired because they have not been realised and there is no evidence for construction in the field, but RIEW Varna did not report them as expired.** This includes 63 decisions of RIEW Varna for in total 99 wind turbines - one decision was issued in 2005, 5 in 2006, 16 in 2007 and the rest in 2008. Because we do not have official statements that these decisions are expired, and also because we do not have any evidence for construction has started on the ground, for the purposes of our analysis we treat these projects as having an unclear status.

It is also important to stress that according to the legal practice in Bulgaria when MoEW rescind a decision of RIEW, it does not automatically stop the project in question, but it requires a new decision to be issued by RIEW. Thus the projects with rescinded decisions also should be treated as potential (planned) projects, and in the analysis below these are also included.

On the basis of both the full in-depth analysis of all decisions on wind farms, issued by RIEW Varna, and the on-spot check carried out by BSPB, it is found out that by the end of February 2014 only in the geographical area of Dobrudzha there are operational, approved or planned in total 2623 wind turbines with a total rated power capacity of 6364 MW (Table 1, figure 2). In total 327 wind turbines are operational with total power of 490 MW. The total power of the approved but not yet constructed/operational wind farms (including those under construction) is 3520 MW, which exceeds the overall total consumption of electricity for a 24-hour period in the whole of Bulgaria. The wind farms which are appealed, rescinded, under EIA procedure or with unclear status but also possible to be constructed have a total power is 2354 MW. In practice if all the projects are realised they would provide at least twice the electricity power which is necessary for the entire country, and these are densely concentrated in a small area where at the same time the risks for migratory, breeding and wintering birds are higher than other regions in the country.

Table 1 Status of the wind farm projects in Dobrudzha by the end of February 2014

| status of the projects | total number of wind turbines | total power (MW) |
|--|-------------------------------|------------------|
| operational (proof during in the field check) | 327 | 490 |
| under construction (proof during in the field check) | 11 | 22 |
| approved, not constructed | 1316 | 3498 |
| approved, but appealed (General Toshevo WF) | 150 | 300 |
| rescinded (returned for new decision or new EIA procedure, but not entirely stopped; include the Smin WF near Durankulak lake) | 184 | 434 |
| under EIA procedure | 536 | 1434 |
| unclear status (probably still approved, but not constructed) | 99 | 186 |
| TOTAL | 2623 | 6365 |

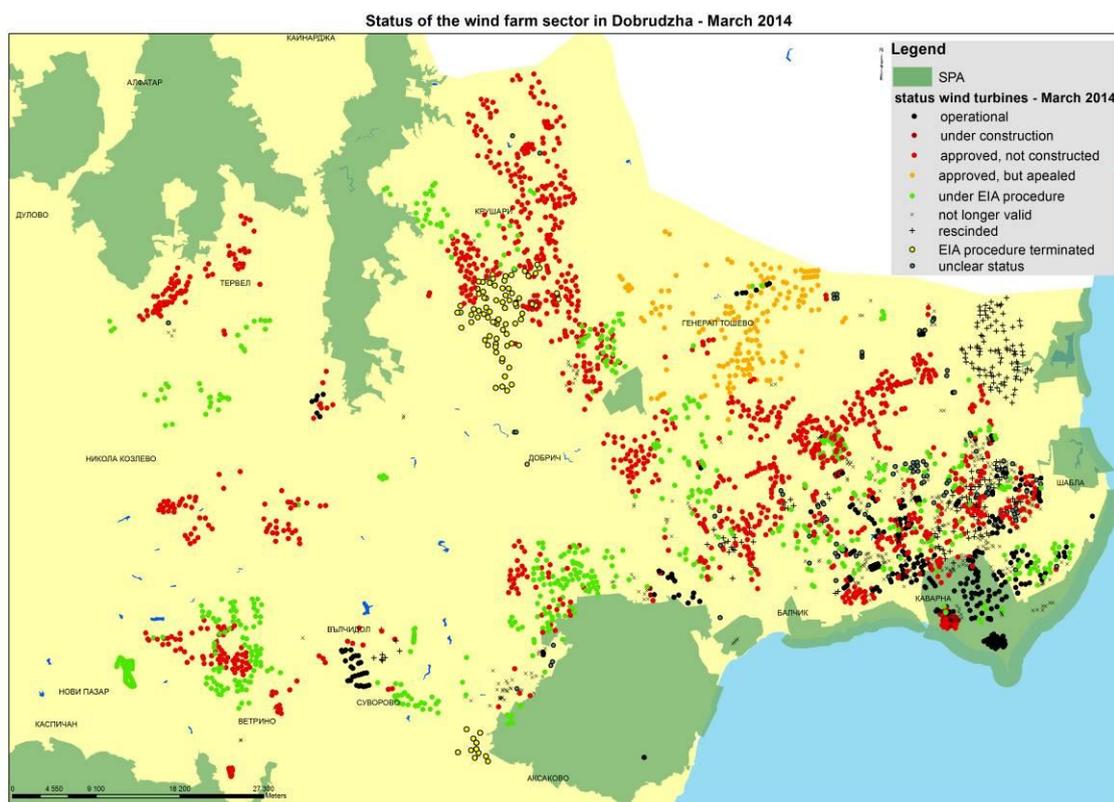


Figure 2

According to the Sensitivity zonation map, produced by MoEW in 2013, in Dobrudzha are defined two regions with technical capacity for wind farm construction “Dobrudzha” and “Shabla” (Table 2, figure 3), where their total technical capacity for wind electricity production is 1490 MW (without taking into consideration environmental constraints). The operational and approved capacity is 4010MW, which is 2,5 times more than the existing technical capacity of the two regions in Dobrudzha.

Table 2 Technical power capacity of the two regions in Dobrudzha versus the real scale for wind farm development

| Regions for wind farm development, as defined in the zonation map | max technical capacity (MW) | operational power (MW) | under construction (MW) | approved, not constructed (MW) | potential (under procedure) (MW) | total power (MWt) | total balance according to the capacity ("-" = over the capacity) | operational and approved power - balance according to capacity (MW) |
|---|-----------------------------|------------------------|-------------------------|--------------------------------|----------------------------------|-------------------|---|---|
| Dobrudzha region | 890 | 183 | 0 | 3150 | 1726 | 5059 | -4169 | -2443 |
| Shabla region | 500 | 307 | 22 | 348 | 628 | 1305 | -805 | -178 |

Regions with technical potential for wind farm development versus the bird sensitivity map

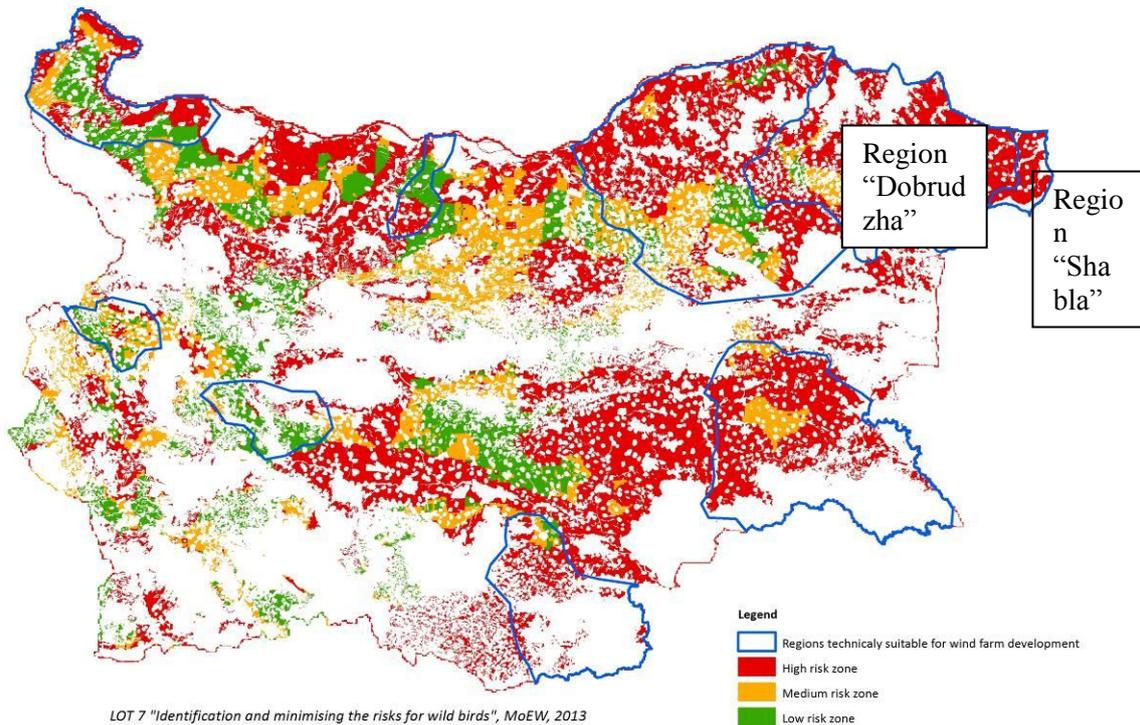


Figure 3

Due to the change of legislation and set 5-year expiration period for all decisions in fact the decisions for total of 383 wind turbines (with power of 632MW) lost their validity and cannot be built any more. In addition RIEW Varna stopped the EIA procedures for another 89 wind turbines (with power of 257MW), because the investors did not submit all the necessary documentation. These projects are also permanently cancelled. Thus the real decrease in number of wind turbines is 18% of all the planned wind turbines in Dobrudzha. Despite the fact that submission of new projects in Dobrudzha is banned³, the trend of approval of new projects continues, because of the ongoing EIA procedures started before the ban came into place. The measures taken so far are insufficient to ensure the safe migratory routes and appropriate habitats for birds during migration.

Specific progress for fulfilling each aspect of Recommendation 130 (2007) is presented below with more details.

Specific progress

In the following sections of the report, we first describe the progress on implementation of each aspect of the recommendation, including the evaluated efficiency of the measures taken and then outline key developments in relation to the wind farm developments at Kaliakra and Balchik.

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;

To date (August 2014) none of the relevant decisions mentioned above have been reviewed, except the approval of the SEA of the NAPDRES 2011-2020. As mentioned above for 58 wind generators new decisions were issued in the place of the old ones, but no review of the old decisions was made. The old decisions just were used as an argument for approval of the same turbines with a new decision without EIA. It also contradicts the directive from the MoEW not to approve new wind farms without EIA. The last two such decisions for neighbouring projects for total of 26 wind turbines were approved at the beginning of 2014 without EIA. BSPB has

³ Opinion №1-2/2012 of the Minister of Environment and Water on the SEA of the NAPDRES 2011-2020

appealed the decisions and these were rescinded by MoEW. MoEW does not in practice review the decisions issued by RIEW. MoEW rescind decisions taken by RIEW only if these were appealed and if MoEW decide that the appeal is justified. For example, many of the decisions taken to re-approve wind farms without EIA were appealed by BSPB in front of MoEW, but MoEW neglected the appeal and did not rescind them.

So far MoEW rescinded decisions for 184 wind turbines, where the Smin windfarm with 95 wind generators close to Durankulak lake is also included. These projects are in Coastal Dobrudzha near Kaliakra IBA, Shabla Lake Complex and Durankulak lake IBAs. None of these projects is permanently stopped, but the procedure allows new decisions to be taken by RIEW Varna. There is an ongoing case related to Smin windfarm, which was stopped by MoEW in September 2013. In July 2014 the Highest Administrative Court rescinded this last decision of MoEW and gave the possibility for the wind farm to be constructed. Because the decision of the Court has been appealed, the court case is not finalised, but it is quite possible this wind farm will still be finally realised.

The other big wind farm in Dobrudzha – General Toshevo windfarm (150 wind generators) also has been appealed and stopped by MoEW and still under court procedure, despite the fact that the court took a decision to rescind the decision of MoEW to stop the wind farm. These procedures are taking a long time and the outcome is largely unpredictable.

Since 2010 most of the new wind farm projects have passed through an EIA procedure and the content of the reports has been improved since 2007. However, there are number of weaknesses that can be seen in most of the reports, which relate mainly with interpretation of the results of the migration studies in the project area, lack of adequate assessment of alternatives, as well as adequate assessment of cumulative impacts. External independent peer review is often completely missing. Instead of this 10 of the bigger projects (including Smin and General Toshevo windfarms) are not only approved, but decisions for preliminary implementation of the project has already been taken to ensure that the project will be realised despite of potential court cases (in the same way as has happened with Kalikara WF in Kaliakra IBA).

In conclusion this recommendation is not implemented fully and properly by the Government, and processes continue to contradict this recommendation.

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

Changes in the Environmental Protection Law and Biodiversity law give legal right to the authorities to reconsider at least part of the decisions taken for construction of wind turbines. For the period until November 2013 the permits for in total 482 wind turbines should have been reported as not valid anymore because the projects are had not been realised and no construction works had been started on the ground. Nevertheless the permits only for 383 wind turbines are reported to be no longer valid. Of them, 24 wind turbines are located in Kaliakra IBA and the other 33 are located in close vicinity to Kaliakra IBA (figure 4). Four of the no longer valid wind turbines are located in Balchik IBA. The rest of the 99 turbines are with unclear status because RIEW Varna did not report officially that their permits are not longer valid. In addition the permits for 58 wind turbines were replaced with newer decisions just before the changes in the law were adopted so these are approved and can be built. Most of the no longer valid permits are for projects in Coastal Dobrudzha, so this revocation measure could be an effective one for the decisions taken without EIA before 2010, if it was applied correctly and on time. However, because not all the information provided by RIEW Varna has been correct there is still a question about how the new amendments in the law are applied in practice.

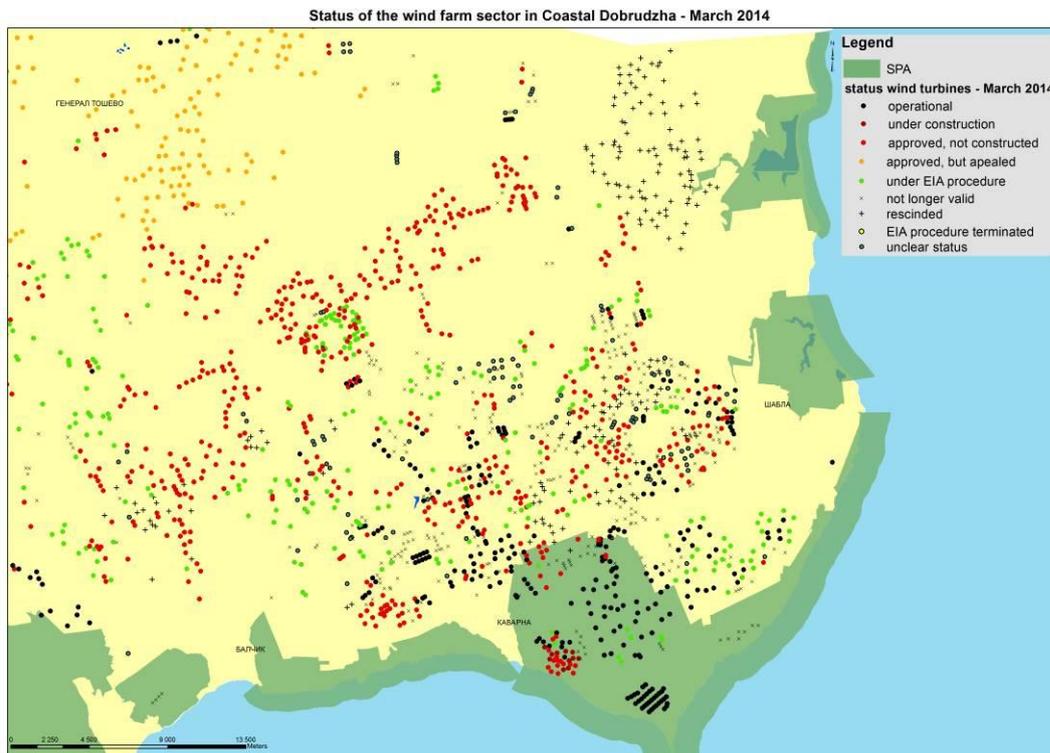


Figure 4

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;

According to our information, the Bulgarian authorities have not taken any actions to implement this point and do not plan to implement this recommendation.

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 by windfarm development;

In addition to the Opinion №1-2/2012 of the Minister of Environment and Water on the SEA of the NAPDRES 2011-2020, since September 2013 a zonation map for development of windfarms in respect of risks for birds has been made publically available. This map provides alternative locations for wind farm development. By August 2014 there is not any information about how this map is used in practice.

However according to our information, the Bulgarian authorities have not taken any actions to implement this point in case of approved but not constructed wind farms in Dobrudzha or elsewhere along the Black Sea coast.

5. Assess the impact of the current operating turbines;

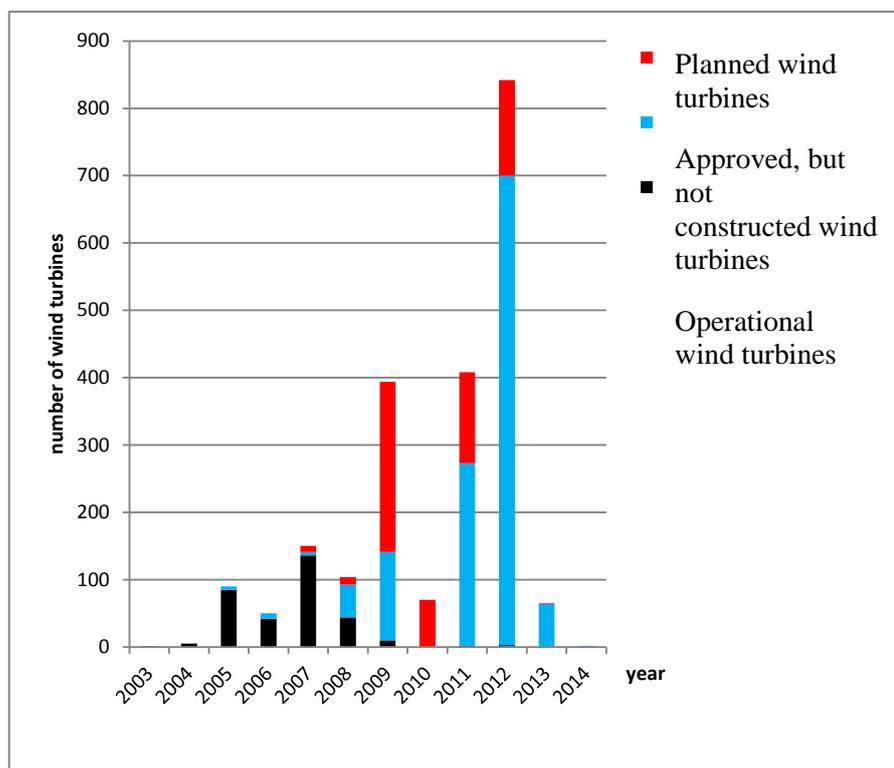
No new information. For details see NGO`s reports T-PVS/Files (2013) 6 and T-PVS/Files (2013) 13.

6. Conduct a 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;

The Opinion №1-2/2012 of the Minister of Environment and Water on the SEA of the NAPDRES 2011-2020 is valid since August 2012 only for new submitted projects. Because between 2010, when the SEA became publically available for discussions and August 2012, when it has been adopted a lot of wind farm projects have been submitted to RIEW Varna, all these projects do not

fall under the restriction for approval of new wind farms. Many of them have been approved after the adoption of SEA, in autumn of 2012. After 2012 the approval of new wind farm in Dobrudzha significantly decreased, but still there are many wind turbines under EIA procedure which could be approved soon. The adoption of the SEA slowed down the process of approval of new wind farms, but this effect is negligible in comparison to the amount of already approved wind farms during the period of preparation of the SEA - 2010 – 2012 (figure 5).

Figure 5 Operational, approved but not constructed and planned wind turbines in Dobrudzha for the period 2003 - 2014



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;

No new information. For details see NGO`s report T-PVS/Files (2012) 16.

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, except for no new renewable energy development in buffer zones around a small number of SPAs, as outlined in the NAPERES 2011-2020.

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, including 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;*

In July 2013 the project of MoEW “Mapping and identifying the FCS [Favourable Conservation Status] of habitats and birds Phase I”, with a special section “Birds: **Identification and minimizing the risks for the wild birds**” was finalised successfully. Final results from the project became publically available in September 2013 and have been officially presented in December 2013. The main result of the project, that relate to implementation of this action point is the zonation map for wind farm development based on large scale field studies on birds and modeling using multi-criteria analysis.

However complete studies on biodiversity and landscape are not applied in EIAs. Compulsory procedures for peer review of the EIAs are not elaborated and introduced in Bulgarian legislation and in practice.

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 requires the drafting of a set of mitigating and compensatory measures when biodiversity losses occur;*

The guide on wind farm development with respect of risk for birds, elaborated under the project “Mapping and identifying the FCS [Favourable Conservation Status] of habitats and birds Phase I” has been published on the internet site of MoEW and available to the public since September 2013. By August 2014 there is not any information on how this guide is used in practice.

On the other hand no actions for removal of dangerous operational turbines have been taken so far.