

“Balkanka” Association, Sofia, Bulgaria
“Nature has all the time in the world, we do not”.

COMPLAINT

TO

THE COMMISSION OF THE EUROPEAN COMMUNITIES

CONCERNING FAILURE TO COMPLY WITH COMMUNITY LAW



Representative for this complaint:

/dipl.eng. Dimiter Koumanov/

Chairman of the board:

/Kraislav Dimitrov/

Sofia, Bulgaria
29.06.2015

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ABBREVIATIONS

MOEW	- Ministry Of Environment and Waters of Bulgaria
RIEW	- Regional Inspectorate/s of Environment and Waters
RBD	- River Basin Directorate/s
BDDR	- Basin Directorate Danube Region
EARBD	- East Aegean River Basin Directorate
WARBD	- West Aegean River Basin Directorate
WA	- Water Act
FA Act	- Fishing and Aquaculture Act
EIA	- Environmental Impact Assessment
AA	- Appropriate Assessment
RBMP	- River Basin Management Plan
HPP	- Hydropower Plant

I. IDENTITY AND CONTACT DETAILS

1. Name:

"Balkanka" Association, Sofia, Bulgaria

2. Sector / field of activity and location(s) where active:

"Balkanka" Association is a non-profit, non-government organization, registered in Bulgaria for action in public benefit, on 07 August 2013, company file 203/2013 of the Sofia City Court, UIC 176566443. The main objectives of "Balkanka" are protection and conservation of river biodiversity, with a focus on conservation and restoration of indigenous Balkan brown trout */salmo trutta fario/* populations in Bulgarian rivers.

3. ADDRESS OR REGISTERED OFFICE

3.1. Surname and forename of complainant:

Kraislav Dimitrov, Chairman of the board

3.2. Where appropriate, represented by:

Dipl.eng. Dimiter Koumanov, member of the board

3.3. Nationality:

Bulgarian

3.4. Address:

Petko Todorov blvd, bl.8, en. D, app.87

3.5. Town: Sofia

3.6. Post code: 1408

3.7. Country: Bulgaria

3.8. Mobile telephone:

+359 887 931 241

3.8. E-mail: dkoumanov@abv.bg

4. Correspondence from the Commission can be sent to the complainant

5. Member State or public body alleged by the complainant not to have complied with Community law:

The Bulgarian Ministry of the Environment and Waters (MOEW), the Regional Inspectorates of Environment and Waters (RIEW) and the River Basin Directorates (RBD) with MOEW.

II. DESCRIPTION OF THE SUSPECTED INFRINGEMENT OF UNION LAW

This complaint is about systematic violation of Community law (the Water Framework Directive, the Habitats Directive, the SEA Directive and the Flood Risk Directive) and of national strategic documents that correspond to planning, approval, construction, operation and control of hydropower plants (HPP) in Bulgaria.

In recent years many members of “Balkanka” visit the trout zone of the rivers in Bulgaria on a regular basis, having the opportunity to register the damage caused by “modern” hydropower plants. Last year we decided to inform the society about what we see and for all registered infringements, by setting up /with the substantial help of *WWF-Bulgaria*/ an internet platform <http://dams.reki.bg/> - where we upload and expose all information that refers to commissioning, design, construction and operation of HPP.

At present - anglers, tourists, bikers, hikers, kayak guys and local people are sending us pictures and videos of hydropower river barrages to upload them on the site map, exposing this way the ugly truth about the actual status. Dry riverbeds, poor fish pass design and construction - impossible to be passed through even by experienced climbers - this is the actual truth for about **50** /out of some 220/ new HPP in Bulgaria, that we have already visited and taken pictures of, with a regrettably small number /about 10%/ of properly operating HPP exceptions registered. Please note - we shoot them all. Not only the bad cases but the good ones as well - in order to promote the good, hoping that one day, sooner or later, the better will prevail.

Furthermore, after studying the Bulgarian legislation and legal court practice on the matter, we found too many gaps, ambiguities and inaccuracies in the corresponding legal acts.

Thriving to resolve some of the problems, within our country we have walked all possible paths - including meetings with RBD management, meeting with the Minister of Environment and Waters, with the Supreme Water Council and the Commission of Environment and Waters of the Parliament, exposing many documented infringements. We managed to achieve sympathy, empathy, consent, yet no action by means of any follow-up measures taken by the state authorities whatsoever.

That is why, believing that Bulgarian state authorities responsible for the environmental protection are breaching EU law, at present we want to inform the EU commission, by lodging this complaint which refers to “modern” HPP planning, design, authorization and operation practice in Bulgaria.

As described above, we have already shot **50** out of **220** new HPP, already operational. /Hopefully we will shoot them all by the end of this year/. Some other **260** HPP have all necessary state permits i.e. construction can start any time now, with investment plans for about **450** HPP more, that have the first stage Water Abstraction Permit, already issued by RBD. So this complaint is our last hope for the EU commission to intervene, forcing state authorities to take all necessary steps to improve the situation - mainly in means to comply with Community law and perform their administrative and controlling duties properly. Otherwise no river in Bulgaria will rest unaffected by the adverse impacts disclosed herein.

IMPORTANT:

Please note that the facts described below are way too many, so we have exposed each fact all along with a proof, uploaded on <http://dams.reki.bg/Dams/Map> - when pictures and/or videos are concerned. A picture is extracted from the contents of each link /usually the most clear one/ to verify the fact, but while in some cases videos are also attached to the links - it will be much better to follow the links in order to get a full view on the problem. We have also enclosed a CD containing the Complaint files - to enable easier and direct internet access to the links.

When documents are referred to - they are quoted as numbers in the list of evidence /see chapter III please/. Copies of these documents are attached to the Complaint.

We are also aware of the fact that pictures and videos can not be accepted as proof in a legal Court of law. That is why we are ready to support each picture with a statement by the person who took it. We can send copies of such statements to the Commission any time upon request, if necessary.

Furthermore, just a few of the cases in which we have observed completely dry river stretches and/or improper fish passes, are disclosed herein. **If appropriate - Association representative can visit the Commission headquarters, in order to display all evidence on the matter**, showing to the Commission members the entire contents uploaded on the site HPP map - one after the other, if necessary. Alternatively - should any unconvinced member of the commission decide to visit Bulgaria, we can arrange visits of HPP sites, under two conditions - visits must be held in dry months - August or September preferably, and the visits /not the complaint/ must be kept secret to the state authorities, otherwise HPP operators will be warned in advance. Poor fish passes can be visited any time of year of course, because they cannot go anywhere.

The fundamental facts justifying this complaint are:

A. River stretches dry between the barrage and the turbine house of HPP.

1. **Fact** - A minimum of water flow /ecological minimum flow required to support life in the river/ must be discharged below the barrage. It is definitely set in the Water Permit for each HPP. Still, some operators of HPP do not discharge a single drop of water - the river bed is gunpowder dry and life in it has gone completely. In many cases there are some 5-7 kilometers between the weir and the turbine house of HPP.

Proof:

- <http://dams.reki.bg/0257-dam/2013-05-17> - Kriva reka river



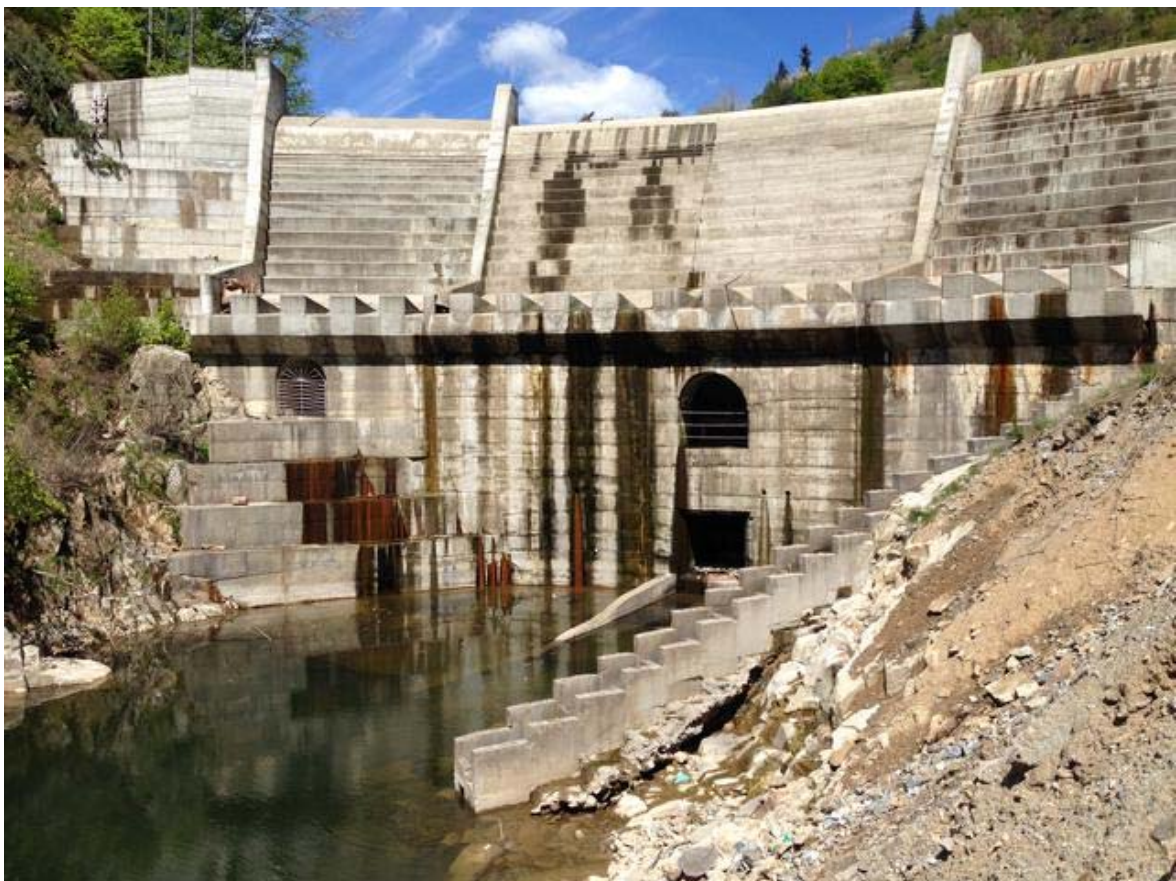


This picture corresponds to the river barrage displayed on the front page of this Complaint.

2. **Fact** - In most of the other cases discharged water quantity is far less than the one, set in the Water Permit. It is the most common case that the only water that gets into the river below the barrage actually sneaks through micro cracks in the concrete wall of the barrage.

Proof:

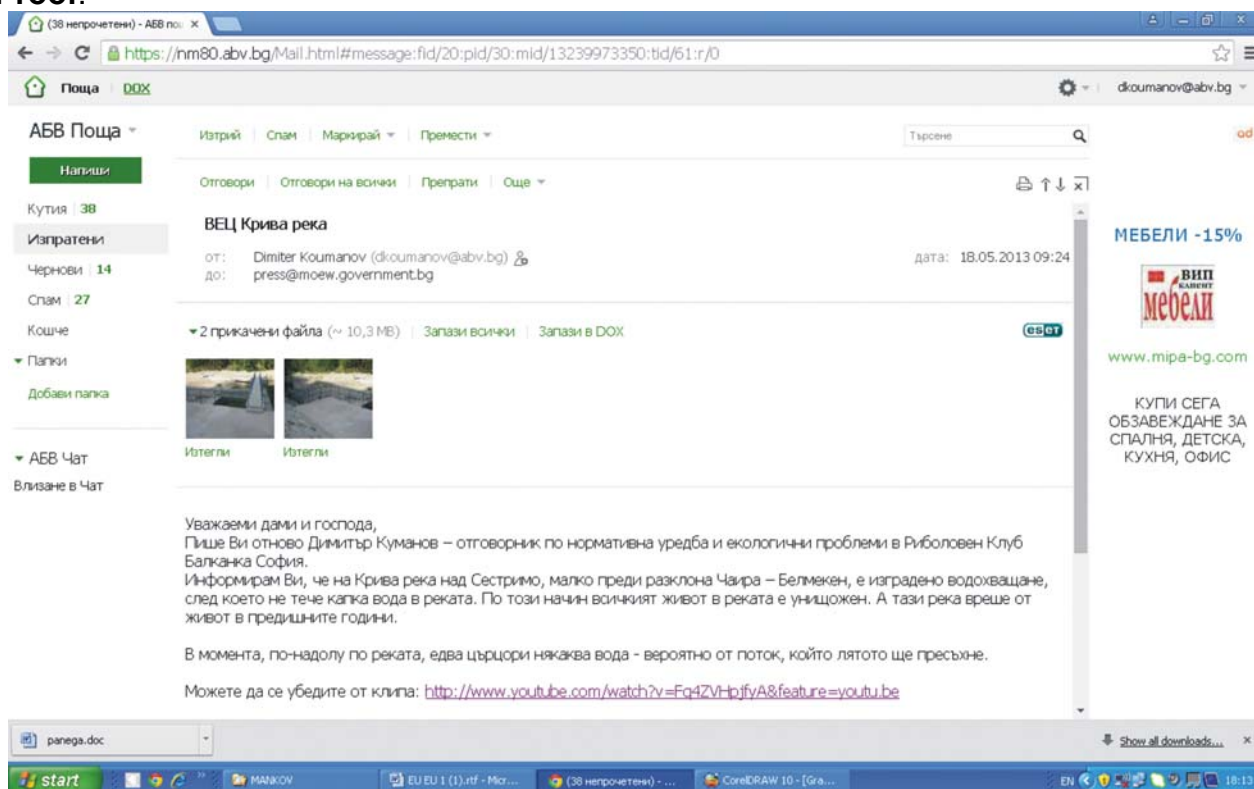
- <http://dams.reki.bg/0013-dam/2015-05-10> - Malka Arda river





3. **Fact** - Discovering each and every next dry river bed, we send signals to the controlling Basin Directorate and/or to the Ministry of environment and waters and in some cases they do not react at all, by executing any checkup

Proof:



Signal sent via e-mail to MOEW for Kriva reka - fact No1. No reaction whatsoever

4. **Fact** - there are cases when a checkup carried out by the Basin Directorate discovers a dry riverbed - i.e. a flagrant infringement of the Water Permit. Under Article 199 of the Bulgarian Water Act - even if there is only a risk of adverse impact on environment, administrative measures should be imposed. Those may be - Water Permit suspension and cease of HPP operation. None of this happens in life, due to the general definition of the term - "Environment" in the Water Act. According to the legal court practice in Bulgaria, where such an administrative act will be appealed by the operator - to consider environment impaired or damaged - the planet must have stopped spinning. Nothing less than that! Therefore - said art.199 of WA means absolutely nothing and drying up of rivers by HPP, when registered by the state authorities /seldom as it happens/ always gets away with a fine of some 2500 euro or so and, **more importantly - the infringement continues after the fine.**

Proof:

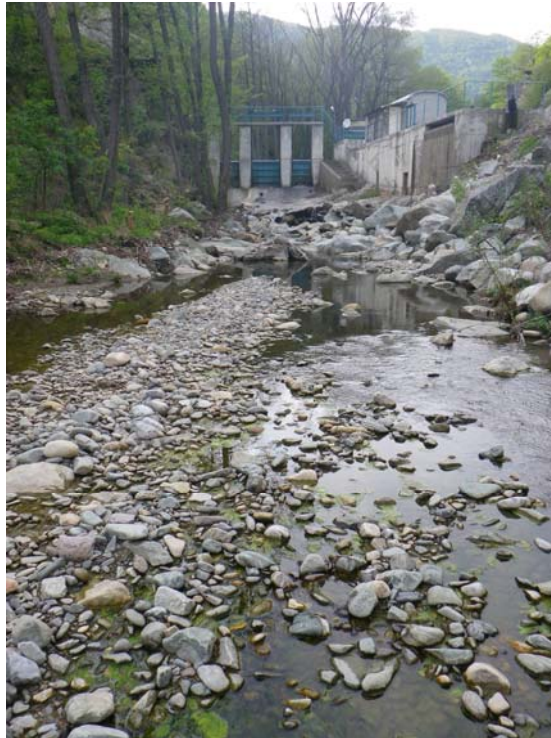
Document No 002 - see chapter III - Statement by WARBD that during a check Petrovska river was found completely dry and only a fine has been charged

<http://dams.reki.bg/uploads/0210-dam/2014-08-29/OTGOVOR%202.jpg>

<http://dams.reki.bg/0066-dam/2014-03-22> - **Lazova river**, HPP Gurkovo. EARBD establishes the infringement. - date of the picture - 22 March 2014.



<http://dams.reki.bg/0066-dam/2015-05-10> - same Lazova river almost dry again.- date - 10 May 2015 - during spring high water.



5. **Fact** - Due to drying - the river bed gets clogged with bushes that, within 9 years of HPP operation and no check by BDDR in some cases, become a dense impassable forest. Note that BDDR does not check the situation at all. The conductivity of the river bed is reduced significantly, leading to a subsequent increase of flood risk.

Proof:

<http://dams.reki.bg/0253-dam/2014-09-25> - 9 years old forest in **Zlatna Panega river** bellow the barrage of Rumyantsevo HPP, with three signals sent by fishermen to MOEW through these years. Only after a NOVATV television broadcast - the forest was finally removed last year. It is growing up again now.



6. **Fact** - Due to drying - from the clogged bushy riverbed cannot be pumped any water out to fight and extinguish forest fires when necessary

Proof:

<http://dams.reki.bg/0257-dam/2014-09-05> - **Kriva reka river** again - one year after the signal sent to MOEW for the dry river bed - see Facts No 1 and 3.



Another signal was sent to MOEW, yet again no reaction whatsoever.

B. Fish passes design and construction.

7. **Fact** - Under the Bulgarian Fishery and Aquaculture Act, owners of water abstraction facilities /no matter existing or designed at present, for HPP purpose or other/ must provide options for fish and other aquatic organism migration, by planning and building up fish passes fit for the purpose. The same FA Act claims that the Minister of Agriculture and Foods and the Minister of Environment and Waters must release an Ordinance on fish passes within a period of one year after the FA Act was published. Still, eight years since, there is no sign of the named Ordinance at all. **As a result - in order to save costs, many fictitious fish passes are built, impassable even by climbers.**

Proof:

<http://dams.reki.bg/0070-dam/2009-01-01> - **Davidkovska river - HPP Davidkovo-2**





8. **Fact** - Despite the aforementioned legal requirements, there still are too many old water abstraction facilities /some of them for HPP/ that have no fish pass at all, no matter appropriate or not.

Proof:

<http://dams.reki.bg/0325-dam/2014-07-02> - Cherni Vit river - HPP Cherni Vit



IMPORTANT:

Please note that many of the HPP river barrages, disclosed as proof herein or hereafter, are actually located in **Natura 2000** Habitats and/or Birds Directive Sites. For more information, please check **Document 001 - HPP data table.xls** file /see Chapter III - List of documents/ containing all results about checked by us HPP barrages, together with some important information, such as: location in protected areas, action taken by MOEW, etc.

Furthermore, all disclosed in sections A. and B. facts prove that Bulgaria, as a member state of EU, stands far away from achieving the objectives set in Directive 2000/60/EC, article 4, which is constantly breached by the state authorities responsible for environmental protection, actually favoring deterioration of the status of all bodies of surface water, but not implementing any measures to prevent it.

Those objectives can be achieved neither in dry rivers nor in rivers sliced by obstacles obstructing migration, essential for natural reproduction of migrating aquatic species. By any means - not till the end of 2015 year /being the last year of those 15, defined by EU Water Framework Directive as a deadline to achieve good surface water status/, neither in any next 15 years period to come, no matter how many times the deadline will be extended.

C. Legislation gaps.

9. **Fact** - The case, described in fact No 4 /see section A/ shows that the Water Act is ambiguous and imprecise - hence it has no effect at all, being not applicable. The reason - there is no legal definition in WA what is the meaning of “adverse impact to environment”. MOEW personnel are aware that said article 199 of WA means nothing at all. Still, in the forthcoming amendment of WA forwarded to the Parliament, there is

not a word on this issue - to clarify whether total drying of rivers counts as "adverse impact to environment" as it should or it doesn't. For example - just by a simple definition included to distinguish breach of the Water Permit terms /which can get away with a fine/, from risk of "adverse impact to environment". This can be achieved by setting up percentage limits of the minimum allowable water flow - to distinguish one thing from the other, for instance.

- 10. Fact** - In the case, disclosed in fact No7 /see section B/ - the legal deadline for the "Ordinance on fish passes" release is not met by far, resulting in gross errors in many designed and built fish passes - not only failing to provide, but actually obstructing migration.
- 11. Fact** - The Water Act rules that in order to achieve the objectives of providing good ecological status in rivers, a minimum allowable flow below water abstraction facilities must be discharged. It is also claimed that the Minister of Environment and Waters must release a Methodology for minimum allowable water flow determination, within a period of one year after the Act was published. Still, eight years since, there is no sign of the named Methodology at all. It is also said that until the methodology is released /i.e. - temporarily within one year/ the minimum allowable flow is defined as 10% of the average multiannual /long term/ flow, but not less than the minimum average monthly flow within 95% probability. This definition, incorrect and imprecise as it is, often leads to gross errors as a result. For example - for Preboinitsa river, located in a karst region, a minimum water quantity discharge of 40 l/sec. is defined for a new HPP - being 10% of the average multiannual river flow, knowing that within 200 meters after the outlet those liters will sink into the karst grounds, leaving during summer no water in the river at all. **In other words - the legal deadline for the said Methodology release is not met by far, resulting in gross errors in some cases.**
- 12. Fact** - related to the above case. If we still assume that the above temporary definition of minimum allowable flow is applicable /though not correct as we know/ - it is the practice of RBD in Bulgaria to constantly breach it. As a rule, the minimum water flow is determined only as 10% of the average multiannual flow, not considering the minimum average monthly flow at all, although it sometimes is much bigger than 10% of the average multiannual. For example, in rivers, fed by large springs - **like Petrovska river**. This unique river has been thoroughly studied through the years by MOEW and the absolute minimum flow registered was **187 l/sec**. Still WARBD has set in the Water Permit a minimum water quantity of only **50 l/sec** to be discharged by **HPP Petrovo** into the river. **In other words - RBDs violate the Water Act in the issued Water Permits, breaching the existing legal requirements for minimum allowable water flow**
- 13. Fact** - To use surface river waters for HPP purpose is prohibited by the Water Act in rivers with average multiannual /long term/ water flow less than 100 l/sec. At each river with a slightly bigger water flow - HPP is allowed. In such case - following the rules described above - one will need only to lose one bucket of 10 liters per second into the river bellow the barrage, hence no life will survive. **In other words - the law itself has predetermined destruction of river ecosystem acceptable for each river with average multiannual flow equal to- or slightly bigger than 100 l/sec.**
- 14. Fact** - The Water Act explicitly prohibits use of river waters for HPP purpose, when built in "cascades". Still, at a small river - Blagoevgradska Bistritsa, at least 12 Water Permits have been issued by WARBD and 12 HPPs are already in operation. The reason - there is no legal definition of what "cascade built up" HPPs means. In other words - the law is unclear and incomplete again.

15. Fact - Under article 174 of WA - HPP operators must check and report the status of the river stretches between the weir and the turbine house of HPP on their own. In other words - potential sinners should self-check and self-report themselves for the sin - if and when they succeed to get caught - by themselves again, that is. Is there any sense in that?

16. Fact - With quite a few exceptions if any, at most of the water abstraction facilities there are no measuring rods neither any other devices installed, in order to enable monitoring, control and verification of the water flow discharged into the river. **No legal requirements on this issue are available too.**

17. Fact - Under the Bulgarian Fishery and Aquaculture Act, fishing is prohibited during low water periods. There is no such rule for HPP to cease operation during low water in the Water Act at all. Obviously relying on HPP operator's good will to consider low water and meet the requirements by discharging the minimum water flow - alone, without being controlled or ordered to do so by anyone. Hence most of the HPP in dry summer months should not work at all, only at their own good will? What actually happens is - rivers get dry, while fishing is prohibited??? And the solution of this problem is so simple - during low water periods announced to prohibit fishing, the National Electric Company or the Electricity Distributing Companies should simply not receive energy from HPP located in the affected areas.... Alternatively - any HPP operator can be checked via comparison of the data from the Water Monitoring Stations to the operator's energy production reports. When a Water Monitoring Station reports river flow less than the minimum flow set by the Water Permit - HPP should not have worked at all....**Such a check has never been carried out by MOEW.**

18. Fact - Article 118j (1) 4, together with art.119a (1) 5 of WA, explicitly prohibit use of river waters for HPP purpose *in Habitats Directive Protected Area Sites designated and announced for protection of habitats and species where the maintenance or improvement of surface water status is an important tool in their protection and conservation.* The following sections E. and F. of this chapter will clearly show many cases in which the above legal ban, introduced also by the RBMP, is disregarded. One may ask - why are these cases not brought in a legal court of justice? The answer is simple - the reason is hidden behind the key word - **“announced”**

According to the Biodiversity Act these habitats protected area sites must be announced by an Ordinance of the Minister of Environment and Waters. **Named Ordinance is not available yet - many years after the deadline expiration again, hence Natura 2000 Habitats Directive Sites do not legally exist.**

19. Fact - In many cases it is very important to establish whether any activity within the investment plan has started, or not. Just one example - Article 93 (7) of the Bulgarian Environmental Protection Act claims that decisions on EIA expire after a period of 5 years in case implementation of the investment plan has not started. In other words - If within 5 years implementation has not begun - a new EIA procedure should be carried out.

There is no legal definition for the moment that counts as “beginning of investment proposal implementation” at all. An interpretative statement by MOEW on the matter claims that “beginning of investment proposal implementation” can be considered - *“when a deadline for construction completion and/or for execution of the water abstraction rights is set in the Water Permit”....*

It is a favorite practice of state administration - to add enhancements to the law, but the said interpretative statement of MOEW actually undermines the meaning of article 93 of the Environmental Protection Act. For example - if each Water Abstraction

Permit contains a deadline for construction completion, which is the most common practice, then - in which case would the said article 93 be applied?

Please note - how does a simple existence of a deadline prove that execution of the activity subject to the same deadline has started? **To our opinion - to have a deadline to do something - doesn't mean that you have started doing the thing by any means!** You might have not started at all until deadline expiration - it is as simple as that. This is a common case with investment plans for new HPP that are not implemented yet.

But as a result of that - in many cases Water Permits are extended three or four times, maybe even more, each time together with an extension of the construction deadline. Thus - more than ten years might have passed from the date of the first water permit, in many cases - a single nail was not hammered within the investment plan, yet new EIA or AA procedures are not carried out at all. **More important** - this is widely used also when the first Water Permit was issued prior to the implementation of RBMP when it sets a ban for the water body on construction of new HPP located in Natura 2000 Habitats Directive area sites - aiming and achieving to disregard and pass by the ban for investment plans that have not started any activity. For an example - see **Fact No 25 and Fact No 27** please.

Proof:

http://www.moew.government.bg/files/file/Industry/EIA/2014/Ukazania_pravno_deistvie_reshenia_OVOS.pdf

Source - MOEW official internet site. Read carefully example No1 on page 3 please.

IMPORTANT:

This section clearly shows that by not providing an adequate and clear legal framework (for fish passes, ecological flow etc.) national authorities have breached the provisions of the Habitat Directive and WFD. The lack of appropriate legislation justified deterioration and even direct destruction of habitats in recent years - as already shown in sections A. and B. of this chapter, leaving us no hope to achieve good ecological status of surface water bodies used for HPP purpose in the years to come.

D. Control on operational HPP by MOEW, RIEW or RBD.

20. Fact - some dry river bed cases with no reaction to signals sent by fishermen were described in **section A**. Those shall not be repeated. In most of the other cases - fictitious control reports are the common practice of RBD, establishing that everything is OK. For example - in June 2013 WARBD reports 133 checks performed /6 checks per working day ?/ and discovers not a single infringement. Is this a new world record or what? By any means it is not the picture we all see along the rivers.

Proof: <http://www.wabd.bg/bg/index.php?option=content&task=view&id=1110>

- Check the report for June please.

- **Source** - WARBD internet site: <http://www.wabd.bg/bg/>

21. Fact - A single "minor" problem during the same **June 2013** checks is discovered by WARBD on its own good will /not by anyone's signal/, while checking the HPP weir at Skokova river. That is - the existence of a large mass of accumulated silt in the pond. WARBD orders operator to remove silt. **One year later - in August 2014**, checked by anglers silt is still there. In other words - RBD does not execute their controlling duties properly, even in the rare cases when they do anything at all.

Proof:

<http://dams.reki.bg/0392-dam/2014-08-15>



22. Fact - In 2008 “Lakatnik” HPP discharged a large amount of silt deposited behind the barrage. At least 15 km downriver all aquatic organisms and fish died - that is a fact reported by all media nationwide. On the next day RIEW Vratsa establishes that *“The water of the river Iskar is visibly muddy and turbid, but the analysis of the samples is within the design category of the river in this area”* - whatever that means.

Proof: http://news.ibox.bg/news/id_1682133195

Source - news.bg Same source reports that the information was forwarded to the competent BDDR - to take administrative measures. We are not able to discover traces of such administrative act in BDDR official internet site at present, but chances are low since *“the analysis of the samples is within the design category”*....which gives every chance for an appeal by the operator in a court of law to be successful.

23. Fact - To our knowledge - in Bulgaria there are no inspections carried out by RBD, Regional Inspectorates of Environment and Waters, nor by any other state authority, under the Ordinance for Water Monitoring /first edition published in 2007, last amendment - in 2011/ - in order to check the ecological status of the river stretches between weirs and turbine houses of derivation type HPPs. There are such programmes executed - e.g. for a few impoundment type HPP /one case at Iskar river that we know/, but a thorough survey of RBD internet sites discovers no reports about ecological monitoring on derivation type HPP.

IMPORTANT:

According to mr.Asen Lichev - director of the Waters Management Directorate /WMD/ with MOEW - conductivity of rivers used for HPP purpose is subject to RBD monitoring performed two times per calendar year. Each year conductivity monitoring reports are submitted by RBD to MOEW and for 2014 - all RBD in the country reported no problems discovered at such rivers, i.e. on paper everything is OK.

In the light of facts No1, 5, 6, 20, 21 which show quite a different picture than written RBD reports do - it will be no surprise to anyone if at the end of 2015

Bulgaria as an EU member state succeeds to report that the objectives set in Directive 2000/60/EC have been achieved - on paper again.

I.e. - the necessary measures to prevent further deterioration of the status of all bodies of surface water were implemented and - more importantly - compliance with all standards and objectives for protected areas has been achieved, after some hard MOEW personnel paperwork. Please do not have faith in that, if or when it happens. Just come and see what is really going on.

Proof: A **novatv** broadcast concerning HPP problems. The interview with mr.Lichev begins at 1minute 15 seconds from the start.

Link:

<http://novanews.novatv.bg/news/view/2014/09/28/87586/%D1%80%D0%B8%D0%B1%D0%B0%D1%80%D0%B8-%D0%B0%D0%BB%D0%B0%D1%80%D0%BC%D0%B8%D1%80%D0%B0%D1%82-%D0%B7%D0%B0-%D1%80%D0%B5%D0%BA%D0%B8-%D0%BF%D1%80%D0%B5%D0%B2%D1%8A%D1%80%D0%BD%D0%B0%D1%82%D0%B8-%D0%B2-%D0%B4%D0%B5%D1%80%D0%B5%D1%82%D0%B0/>

E. RBD practice on Water Permits

24. Fact - In some cases there is a ban in the River Basin Management Plan /RBMP/ set on construction of new and expansion of existing HPP for a given water body, due to registered significant cumulative effect from existing impacts on Natura 2000 Habitats Directive Sites /SCI/. Disregarding the ban, same RBD still issues brand new water permits for new HPP construction. **Examples - Rumyantsavo-2 HPP at Zlatna Panega river, and HPP near the village Dolna Studena at Yantra river** - this second one was consequently rejected by RIEW Ruse thankfully.

25. Fact - In the presence of the above mentioned RBMP ban, there are cases when RBDs change the terms or extend old Water Permits, issued prior to the introduction of the RBMP, not taking into account the new ban, although no actual steps within the investment plan have been taken whatsoever - such as Investment Project lodged for approval and Construction Permit issued by the municipality, neither start of any construction works. **Example - HPP at Preboynitsa river near the village of Lakatnik.**

Proof:

Document No 003 - see chapter III - **Svoje Municipality** Statement proving that Project approval, together with Construction Permit, was issued on **04.07.2011**.

Document No 004 - see chapter III - BDDR statement, proving that on **24.02.2015** construction works have not started yet and that the Water Abstraction Permit was extended or changed three times - first on **08.02.2010** - at this point the investment plan must have been rejected, last - on **09.12.2014**.

26. Fact - Under the Bulgarian Fishery and Aquaculture Act, the Minister of Agriculture and Foods releases an annual Ordinance to prohibit fishing in some river stretches, located mainly in the trout zone of rivers. The said Ordinance is due to critical decrease in fish populations, established by the Fishing and Aquaculture Agency. The goal is to allow natural reproduction of harmed fish populations - a process that in some cases takes at least 5 years /sometimes much more/, hence river fishing stays prohibited for as long as needed. Some of those rivers are located in Natura 2000 protected areas, others are not, but adverse impact on fish populations is a proven fact. **Disregarding that,**

EARBD issued new Water Body Exploitation Permit for a new HPP at Dormushevska river, knowing very well that natural reproduction of harmed fish population in a river used for HPP purpose is impossible. Disregarding even more the existence of another HPP nearby which most probably caused the said critical decrease in fish populations.

We have the same paradox - fishing is prohibited to allow natural reproduction of harmed fish populations while HPP operation is permissible? **In other words - deterioration of the ecological status of surface water body is a proven fact, and the necessary measures to prevent further deterioration considered by EARBD are - a brand new HPP approval at the affected river?** See also Directive 2000/60/EC, Art.4.

Proof:

Document No 005 - see chapter III - EARBD Public Announcement of Water Body Exploitation Permit - in this river fishing is prohibited by the said Ordinance.

Note: there is further development in this case on which we are working at present. We can submit additional data, if necessary.

F. MOEW or RIEW practice on Environmental Impact Assessment and/or Appropriate Assessment

27. Fact - In the case described as **Fact 25** for Preboynitsa River located in Natura 2000 Habitats Directive Site /SCI/ assigned with an RBMP ban on water abstraction for HPP purpose, an appeal by many NGOs and local people was forwarded to MOEW on the grounds that the Water Act has been breached - § 146 of WA, according to which **old Water Permits** “*shall be brought into conformity with the requirements of this Act upon the earliest modification or extension of the said permits*”, while article 118j together with art.119a of WA prohibit water abstraction for HPP purpose in Natura 2000 Habitats Directive Sites /SCI/ *where the maintenance or improvement of surface water status is an important tool in their protection and conservation*. MOEW transferred the appeal to RIEW Sofia to take a decision on the matter pointing out that according to the Biodiversity Act for this project an Appropriate Assessment /AA/ procedure must be carried out. It was also declared by MOEW that during the check - an additional violation of the Water Permit was established - the Turbine house location is misplaced, with increased length of the pipeline. Please note - the answer of RIEW Sofia claims that for the violation - an administrative act was issued and construction works have been temporarily stopped. It is also declared that the final administrative act will decide - either if Environmental Impact Assessment /EIA/ is not necessary at all, or the Investment Plan will be approved through an EIA procedure. **No other option** - like rejecting the plan due to many registered infringements of the law, and not a single word about Appropriate Assessment in accordance with the Bulgarian Biodiversity Act.

More important - not only according to Bulgarian Biodiversity Act, but in accordance with **Council Directive 92/43/EEC of 21 May 1992** on the conservation of natural habitats and of wild fauna and flora, article 6(3) - this project has to be subject to an Appropriate Assessment /AA/ of its implications for the site in view of the site's conservation objectives. It was declared and proven in the above mentioned NGO appeal that this site hosts some species with priority conservation status like AUSTROPOTAMOBUIIS TORRENTIUM hence the only considerations within AA procedure for any project which may be raised are those relating to human health or public safety.... that a small HPP project has nothing to do with. Yet not a word on this issue in both MOEW and RIEW answers.

In other words - not only problems within the corresponding legal requirements as described in fact 25 for the Water Permit are available, but a violation of the same is a proven fact, yet a single negligible fine will be charged and the violation will be approved, without the necessary Appropriate Assessment procedure being carried out at all.

Proof:

Document No 006-1 - see chapter III - MOEW letter about the Preboynitsa river case.

Document No 006-2 - see chapter III - RIEW Sofia answer.

28. Fact - related to the above cases. There is a ban again in the River Basin Management Plan /RBMP/ set on construction of new and expansion of existing HPP for a water body, due to registered significant cumulative effect from existing impacts on Natura 2000 Habitats Directive Sites /SCI/. Despite the ban, the Regional Inspectorate of Environment and Waters decides that Environmental Impact Assessment / EIA / for a brand new HPP investment plan **is not necessary**, although it is explicitly written in the background by the expert, that there is a significant risk of adverse impact on a Habitats Directive Site. Example: Rumyantsavo-2 HPP at Zlatna Panega river. See also Directive 2001/42/EC, article 3(2)(a) and Directive 92/43/EEC of 21 May 1992, article 6(3)

Proof:

Document No 007 - see chapter III. Decision on Environmental Impact Assessment by RIEW Pleven. See background **page No 3/5** - the last text before the bold.

29. Fact - in the above case an appeal by fishing associations was forwarded to the Ministry of environment and waters, after objections deadline expiration. Still there is no answer from MOEW on the essence of the infringement whatsoever. There is only an answer meaning to prove that the deadline for objections has expired, but the word is for an opposition to an illegal act, not for an appeal due to interests harmed by a lawful act. **In other words - the Ministry is informed that the law has been breached and doesn't react at all - by suspending the illegal Water Permit and the Decision on EIA for instance.**

Proof:

Document No 008 - see chapter III. MOEW answer to the complaint forwarded by fishing clubs.

30. Fact - In the same situation as described in **fact No 28**, yet for another river /river Yantra, at Dolna Studena village/, with assigned new HPP construction ban by RBMP, in another district - BDDR issues a brand new water permit again, but this time, under severe local society pressure, RIEW directly rejects the project due to incompliance with the measures provided by RBMP for Habitats Directive Protected Area Site. The Director of RIEW Ruse, Mrs.Lilia Atanasova follows the legal requirements exactly..... then gets dismissed from duty.

Proof:

Document No 009 - see chapter III. Decision on Environmental Impact Assessment by RIEW Ruse.

31. Facts No 28 - 30 present two identical cases, in which the same government body, only in different districts of the country, issued two completely opposite

decisions. In an EU member state - is it possible that both decisions are legally correct at the same time?

G. Practice on new HPP approval for operation.

- 32. Fact** - After construction completion, HPP is checked and approved for operation by a state acceptance commission, when ready for it. In some cases the commission either doesn't check at all, or reluctantly finds out that the barrage is misplaced, with coordinates that differ from those set in Water Permit - usually below the next tributary stream downriver, in order to collect more water - example Cherna Mesta HPP. In some other cases the commission finds out that, in order to increase water fall pressure, the water level at the weir is higher than the one set in Water Permit, with a consequently increased area of the lake. Disregarding these, HPP is approved for operation, getting away only with a fine of 5000 euro. **In other words - a flagrant violation of the water permit is discovered, a single negligible fine is charged, yet again the violation is not removed.** These cases present a brand new Bulgarian contribution to legal practice.

Source: <http://www.24chasa.bg/Article.asp?ArticleId=1474158> reporting higher water level at HPP Zaburdo charged with 5000 euro.

Proof: Some HPP barrages are misplaced. We have coordinates data submitted by RBD, and in some cases the weir is not on the spot when we try to locate and check it. This is quite common in the West Aegean River Basin Region.

- 33. Fact - More important** - the same **Source** reports that several HPP at Davidkovska river have been charged with a fine of 5000 euro for being built without any Water Permit at all. Those were charged with a fine... and immediately approved for operation. This is happening in an EU member state, in which one can build an HPP - a process that takes about two years - without a Water Permit and meanwhile manage not to get caught by the controlling Basin Directorate?

- 34. Fact** - For an impoundment type HPP at Ogosta river adjacent to the village of Hayredin, located in Vratsa district, Northern Bulgaria lowland, construction has been divided in two stages within the project. First stage - maintaining a water level that requires no measures against groundwater rise in the area. Second stage - higher water level, with measures against groundwater rise provided - such as dikes, water shields, drainage system etc. Note that for the first stage the height of the barrage wall was designed as high as it is in the second stage, yet no technical measures - such as temporary spillway or water outlet openings, to guarantee appropriate first stage water level, were provided. The first stage was built, approved and set into operation, but HPP operator maintains water level higher than provided for the same first stage - with none of the above measures against groundwater rise executed. As a result - **since HPP Elena was set into operation, the basements of many houses in the village are flooded** and the general flood risk in the area has risen significantly due to reduced effective natural riverbed cross section and constant groundwater level rise. Some people in the village pump the water out of the basements from time to time, other people haven't got the possibility to do so. Fluctuation of groundwater level causes uneven settlement of foundations, houses begin to crack, people complain... **and no state authority does anything to solve the problem.** There is only an expert statement by a hydrotechnical engineer, hired and paid for by the owner of the HPP. This "expert" statement claims that groundwater rise has no relation to the new HPP barrage whatsoever, although water level in the lake has been raised by more than 3.0 meters higher than the natural water level of the river at the barrage. State authorities do not carry out any check whatsoever - neither geodetic measurement of water levels

and terrain elevations, nor hydrogeological survey. In other words - due to a false and incorrect division of the entire project in two stages - a river barrage that rises water level with some 3.8 meters /acc. to Document No 010/ was built and approved by the state authorities without any protection measures executed /only to save costs for the operator of HPP again/. Thus damage to property of citizens has occurred, the general flood risk has risen and the state does not take any measures.

Note:

One may find some irony in the fact that the Investment Plan was initially called and approved for construction as “Measures to reduce flood risk in the area”, but to local people this is no joke at all.

More important - it should be noted that similar Investment Plans like the described at the village of Hyredin exist for about 8 new HPP along the same Ogosta river and more than 10 new HPP - at Iskar river, located nearby in the same Northern Bulgaria lowland. Construction of these has not started yet.....

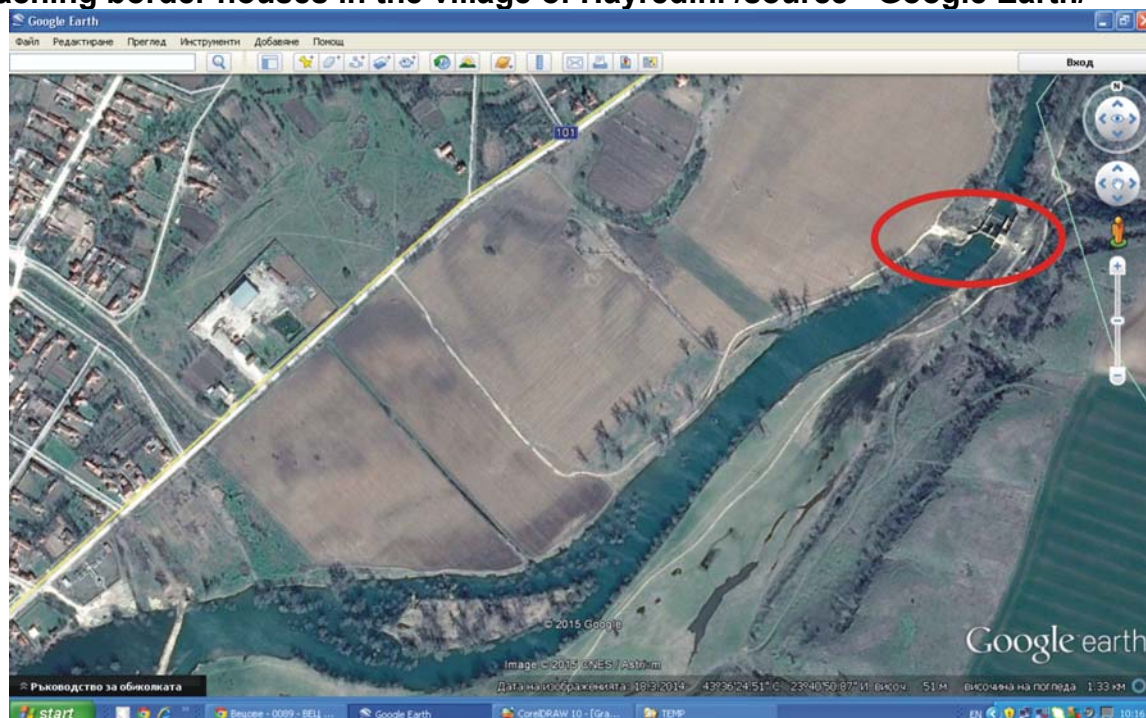
It may be better to reconsider such “measures against flood risk” within the new Flood Risk Management Plan which is prepared at present using Community funding, than to multiply the same mistake, “reducing” the risk at each village in the area in the same way.

Proof:

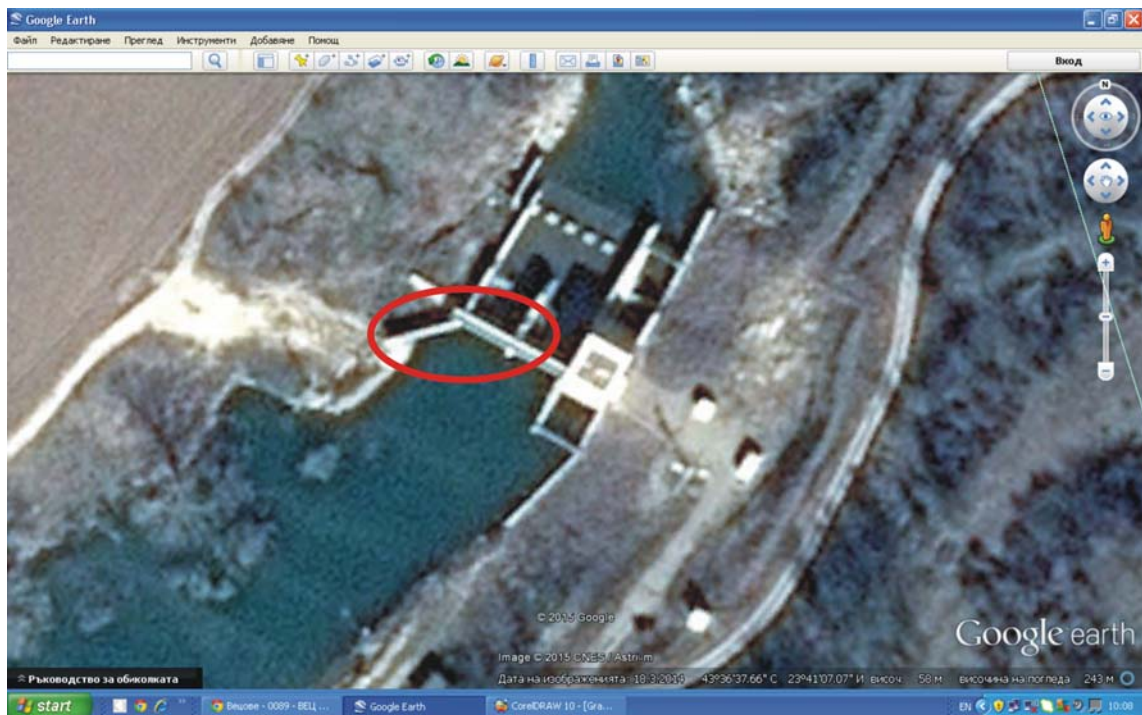
Document No 010 - see chapter III. Statement by BDDR, indicating that according to the Water Permit - the first stage water level is **48.00** meters above sea level, together with a declaration that no measures to guarantee first stage water level are provided, but this level when checked, has never been over passed.

Document No 011 - see chapter III. Expert Statement proving actual first stage water level - **48.65** meters above sea level geodetically measured, and stating that ground water rise is due to heavy rainfall, lack of effective street drainage... everything but the new HPP barrage, which is located right by the village. /Note - only Bulgarian RBD and MOEW personnel can have faith in this/.

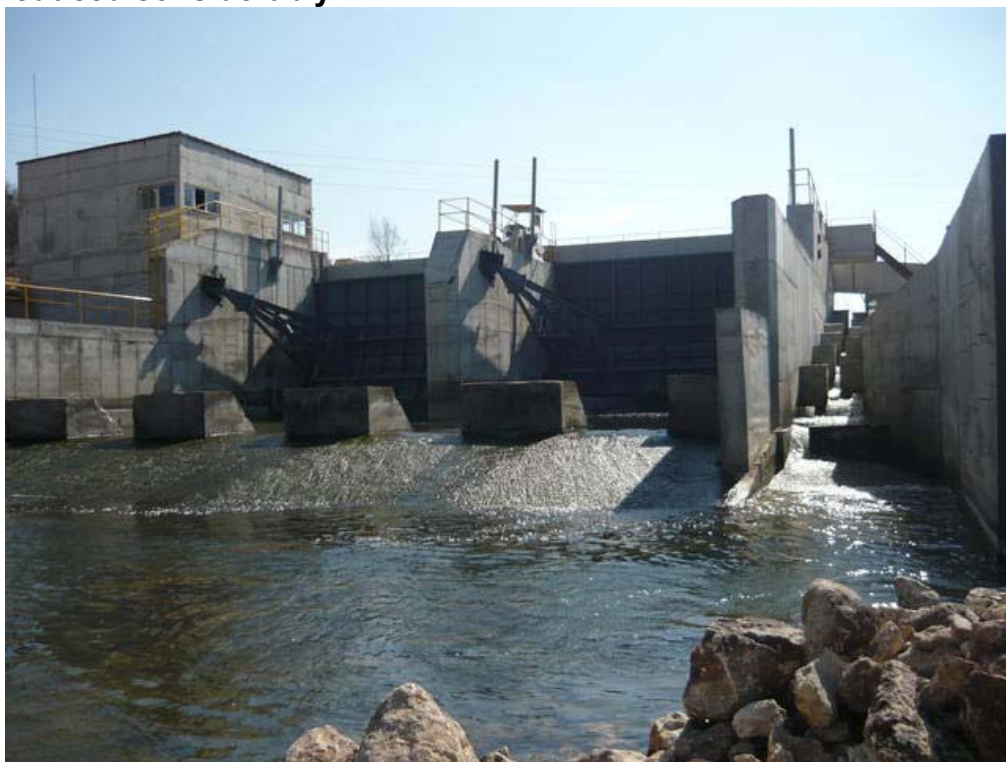
The following picture clearly shows the river barrage position and the lake reaching border houses in the village of Hayredin. /source - Google Earth/



The next picture shows the water level at the barrage together with the absence of any dikes. /source - Google Earth again/



The next picture shows the barrage. Even if the steel barriers are uplifted at top position - the natural cross section of the river bed and its conductivity would still be reduced considerably.



There is an additional problem here - the village is situated in the lower part and the terrain at the opposite river bank is about four meters higher. But the barrage and the fish pass are looking perfect - this project would have been assessed as a very good one - if only there were any protective measures executed.... On the other hand - why was this perfect facility positioned right by the village, and not some 1.5 kilometers downriver to avoid damage to property of people? We have no reasonable answer to this question at all.

In summary of this case - an obstacle has been built in the river, reducing its conductivity, the groundwater level has been uplifted, no protective facilities have been

executed - and this is considered by the state authorities as “measures against flood risk” for the nearby village situated on the lower bank of the river? We consider this as a gross violation of **Directive 2007/60/EC**

H. Fundamental problem.

35. Last fact - In Bulgaria there are no National Standards for hydrotechnical design and construction of hydropower plants. With a small exception of an Ordinance №14 / 2005. - containing general rules for the design of all types of electric power facilities. This Ordinance contains only 7 / seven / pages that relate to hydrotechnical design of HPP, half of which are occupied by definitions - what a derivation or impoundment type hydropower plant is, big or small, etc. Hence the named Ordinance doesn't count for an HPP Planning, Design and Construction Code by any means. In other words - no legal /i.e. mandatory/ rules for the design of hydropower plants are available, consequently everyone does whatever is necessary just to reduce costs and gain profit, no matter how stupid, harmful or life-destroying the facility may be.

Proof:: Hladilnika HPP - Rhodopi mountain.

<http://dams.reki.bg/uploads/0309-dam/2012-04-15/davitkovska.jpg>



This picture displays the most stupid fish pass on Earth. Should any fish manage to pass through - it will immediately be killed by the abrupt change of about 10 meter difference in water pressure. Thankfully no fish would be so stupid, as incompetent are the fish pass designer and MOEW personnel that has assessed this facility acceptable for operation. Sadly, this is the fourth HPP barrage slicing

Davidkovska river /two out the other three already used as proof herein/, hence no life survived in this river to worry about any migration.

Furthermore - the bottom right hand edge of the picture clearly shows the water quantity discharged into the river through a small hole in the fish pass entry. It is supposed to be 300 l/sec according to the Water Permit.....

Anyway, there is a much more important question to ask - to our knowledge, there are no common European rules for planning, design, construction, operation and monitoring of HPP - is that possible at all? So many other common European rules, conventions, directives etc. available, yet not a word on HPP design? Following the same principle, established by the Eurocode system /concerning structure's design of buildings and facilities/, that is already operational in the EU and mandatory in some countries, including Bulgaria. In this case - any national specifics could be considered by some relevant national annex, whilst the general rules are applied throughout EU..... - just like the Eurocode does. After all - rivers are all alike in Europe, aren't they?

Note:

Some members of "Balkanka" Association are professional civil engineers - experts in the field of structural design, perfectly well acquainted with the Eurocode structural system. They say Eurocode contains about 5000 pages of regulations. Having those 5000 pages /for structural design only/ compared to some poor seven pages of Bulgarian HPP hydrotechnical design regulations and, to our knowledge - none European, they insist on this question to be transmitted to all EU personnel /no matter how high the level required/, authorized to take a decision on the matter.

I. Union laws (e.g. Treaties, regulations, directives, decisions) or principles underpinning Union law that we believe to have been breached by the authorities of the country

- **Directive 2001/42/EC** of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment:
 - **Article 3(2)(a)**
- **2. Subject to paragraph 3, an environmental assessment shall be carried out for all plans and programmes,**
- **(a) which are prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management...**
 - Article 8
- The environmental report prepared pursuant to Article 5, the opinions expressed pursuant to Article 6 ... shall be taken into account during the preparation of the plan or programme and before its adoption or submission to the legislative procedure.
 - Article 11

Relationship with other Community legislation

- 1. An environmental assessment carried out under this Directive shall be without prejudice to any requirements under Directive 85/337/EEC and to any other Community law requirements.
- 2. For plans and programmes for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and other Community legislation, Member States may provide for coordinated or joint procedures fulfilling the requirements of the relevant Community legislation in order, *inter alia*, to avoid duplication of assessment.
- 3. For plans and programmes co-financed by the European Community, the environmental assessment in accordance with this Directive shall be carried out in conformity with the specific provisions in relevant Community legislation.
- **Directive 2000/60/EC** of the European Parliament and of the Council establishing a framework for Community action in the field of water policy

(1) Water is not a commercial product like any other but, rather, a heritage which must be protected, defended and treated as such.

- **Article 4**
- 1. In making operational the programmes of measures specified in the river basin management plans:
 - (a) for surface waters
 - **(i) Member States shall implement the necessary measures to prevent deterioration of the status of all bodies of surface water, subject to the application of paragraphs 6 and 7 and without prejudice to paragraph 8;**
 - (ii) Member States shall protect, enhance and restore all bodies of surface water, subject to the application of subparagraph (iii) for artificial and heavily modified bodies of water, with the aim of achieving good surface water status at the latest 15 years after the date of entry into force of this Directive, in accordance with the provisions laid down in Annex V, subject to the application of extensions determined in accordance with paragraph 4 and to the application of paragraphs 5, 6 and 7 without prejudice to paragraph 8;
 - **(c) for protected areas**
 - **Member States shall achieve compliance with any standards and objectives at the latest 15 years after the date of entry into force of this Directive, unless otherwise specified in the Community legislation under which the individual protected areas have been established.**
- 2. Where more than one of the objectives under paragraph 1 relates to a given body of water, the most stringent shall apply.
- **Article 11**
- Programme of measures
 - 1. Each Member State shall ensure the establishment for each river basin district, or for the part of an international river basin district within its territory, of a programme of measures, taking account of the results of the analyses required under Article 5,

in order to achieve the objectives established under Article 4. Such programmes of measures may make reference to measures following from legislation adopted at national level and covering the whole of the territory of a Member State. Where appropriate, a Member State may adopt measures applicable to all river basin districts and/or the portions of international river basin districts falling within its territory.

- **Council Directive 92/43/EEC of 21 May 1992** on the conservation of natural habitats and of wild fauna and flora
- Article 6
- 1. For special areas of conservation, Member States shall establish the necessary conservation measures involving, if need be, appropriate management plans specifically designed for the sites or integrated into other development plans, and appropriate statutory, administrative or contractual measures which correspond to the ecological requirements of the natural habitat types in Annex I and the species in Annex II present on the sites.
- 2. Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive.
- **3. Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.**
- **4. If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.**
- **Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.**

- (9) In developing policies referring to water and land uses Member States and the Community should consider the potential impacts that such policies might have on flood risks and the management of flood risks.**

Article 1

The purpose of this Directive is to establish a framework for the assessment and management of flood risks, **aiming at the reduction of the adverse consequences for human health, the environment, cultural heritage and economic activity associated with floods in the Community.**

Bern Convention

The aim of this convention is to ensure the conservation of European wildlife and natural habitats by means of cooperation between States.

The parties undertake to:

- **promote national policies for the conservation of wild flora, wild fauna and natural habitats;**

J. Does the EU country concerned receive EU funding relating to the issue that prompted your complaint, or may it receive such funding in future?

To our knowledge - River Basin Management Plans were prepared and are updated at present using Community funding, and so were all proceedings on Natura 2000 Habitats and Birds Directives Protected Area Sites. At present the preparation of Flood Risk Management Plans is also financed using Community funding.

III. LIST OF DOCUMENTS / EVIDENCE

Document 001 - HPP data table.xls file

Document 002 - Statement by WARBD that during a check Petrovska river was found completely dry and only a fine has been charged

Document 003 - Svoqe Municipality Statement

Document 004 - BDDR statement.

Document 005 - EARBD Public Announcement of Water Body Exploitation Permit

Document 006-1 - MOEW letter about Preboynitsa river case

Document 006-2 - RIEW Sofia answer

Document 007 - Decision on Environmental Impact Assessment by RIEW Pleven.

Document 008 - MOEW answer to complaint forwarded by fishing clubs.

Document 009 - Decision on Environmental Impact Assessment by RIEW Ruse.

Document 010 - Statement by BDDR

Document 011 - Expert Statement about HPP Elena at the village of Hayredin

Document 012 - Invitation for a meeting between NGO and RBD

Document 013 - Invitation by Pavel Gudjerov /Deputy Minister of MOEW/ for a meeting with the Supreme Water Council

Document 014 - Bulgarian Chamber of engineers request for a meeting with the Minister of Environment and Waters

Document 015 - an invitation by Atanas Kostadinov /Deputy minister of MOEW at the time/ to the Chairman of the board of the Chamber of Engineers in the Investment Design.

Document No 016 - Statement by the Department of "General and Applied Hydrobiology" at the FACULTY OF BIOLOGY of the UNIVERSITY OF SOFIA "ST. KLIMENT OHRIDSKI"

IV. APPEALS/LEGAL ACTIONS/ OTHER ACTIONS

Have you already taken action in the EU country concerned to attempt to solve this problem, or are you aware of any action in the country concerned covering the issue you raise in this complaint?

A. Actions taken by “Balkanka” Association

We permanently send signals concerning discovered problems to MOEW and RBD. In some cases there is no reaction to our signals at all. When they react - the best that we have achieved so far is a fine of some 2500 euro charged - for a totally dry river bed discovered by WARBD at Petrovska river.

More important - like we already said - within our country we have walked all possible paths - including meetings with RBD management, meeting with the Minister of Environment and Waters, with the Supreme Water Council and the Commission of Environment and Waters of the Parliament. From all these - the only outcome is some promise for minor insignificant changes in the unknown future, yet no steps at present whatsoever.

Proof:

Document No 012 - see chapter III. Invitation for a meeting between NGO and RBD

Document No 013 - see chapter III. An invitation by Pavel Gudjerov /Deputy Minister of MOEW/ for a meeting with the Supreme Water Council, confirming many of the problems disclosed herein.

IMPORTANT:

Document No 013 is the key proof to this complaint, in which a high-ranking government official confirms almost every detail we have disclosed herein. It contains many intentions for future amendments of the problematic Water Act, together with recommendations for some of the subsidiary acts that do not legally exist yet, aiming to achieve better results as declared. **Yet an amendment of the Water Act was forwarded to the Parliament and will recently be approved and released, without any of these included.**

It is a common practice of MOEW - promise is the easiest thing in the world, while real action is not delivered. Moreover - there is a proposition in this document for a Moratorium on new Water Abstraction Permits that was not- and will never be the point. At a preceding meeting with Minister Ivelina Vasileva after a presentation of all evidence on the matter we insisted on temporary Moratorium on Construction Permits for new HPP construction, until reasonable National Standards for hydrotechnical design of HPP are introduced. Otherwise some 700 HPP investment plans that already have Water Abstraction Permits will be implemented, multiplying all mistakes made so far. And the Water Act is the hardest legal act to change, due to many corporate interests of powerful people involved, including major politicians. Another amendment of WA is not reasonable to expect in the near future, neither is there any guarantee that proper changes will be considered acceptable. **By any means - not until State authorities are forced to do so under EU demand**

Please note - at the meeting with the Supreme Water Council - we have disclosed all evidence on what is going on, a discussion was held, propositions were imposed, consent was achieved... and not a single decision was taken. That is another favorite practice of MOEW - at such meetings, just when the time for decisions has come, they always say - you are absolutely right, thank you for the efforts, have a nice day.....

B. Action taken by other NGOs

To our knowledge, other NGOs in Bulgaria - like WWF–World Wide Fund for Nature Danube – Carpathian Programme Bulgaria (**WWF Bulgaria**) and Association for

the Wild Nature “Balkani” are also working on this issue - appealing many decisions of RBD, RIEW and MOEW in court, with relatively small success. Sometimes we take actions together with the same success.

WWF Bulgaria have also declared intentions to lodge a Complaint to the EU Commission on this issue, but we are not sure whether they will do so in the near future.

C. Action taken by the Bulgarian Chamber of Engineers

In February 2014 the Bulgarian Chamber of Engineers requested a meeting with the Minister of Environment and Waters to discuss the problems concerning HPP design, operation and monitoring in the absence of proper regulations. This was the first attempt on the matter, actually taken by the national organization /with about 30 000 members/ of all engineers working in the field of investment design /including hydrotechnical and HPP/, aiming to establish any design and monitoring regulations. The following **Document No 014** contains another confirmation of the details we have disclosed herein

Proof:

Document No 014 - Chamber of engineers request for a meeting with the Minister of Environment and Waters to discuss the same problematic issues and the necessary steps that should be taken.

Document No 015 - Invitation by Atanas Kostadinov /Deputy minister of MOEW at the time/ to the Chairman of the board of the Chamber of Engineers in the Investment Design.

This meeting was held in exactly the same scheme, described in section A of this chapter: evidence - discussion - propositions - consent.... thank you, good bye. No decisions, neither any subsequent action whatsoever.

D. Action taken by the Department of "General and Applied Hydrobiology" at the FACULTY OF BIOLOGY of the UNIVERSITY OF SOFIA "ST. KLIMENT OHRIDSKI"

In January 2015 the Department of "*General and Applied Hydrobiology*" made another attempt - forwarding to MOEW and to the Commission of Environment and Waters of the Parliament a Statement concerning the same problem. The following **Document No 016** confirms the absence of any reasonable regulations /see page 22 of this Complaint again please/ with an emphasis on the implications of such absence on HPP planning, design and operation practice in the country.

More important - there is a proposal in this document for the implementation of a temporary Moratorium on all kind of further HPP approval procedures until reasonable HPP design and monitoring Standards are introduced. It also emphasizes the necessity of ecological impact assessment of all existing HPP in the country.

To our knowledge, there is no answer again - either from MOEW, or from the Commission of Environment and Waters of the Parliament.

Proof:

Document No 016 - Statement by the Department of "General and Applied Hydrobiology" at the FACULTY OF BIOLOGY of the UNIVERSITY OF SOFIA "ST. KLIMENT OHRIDSKI"

MOST IMPORTANT:

The described behavior of MOEW personnel /high-ranking, even top executive officials/ at all meetings, together with the absence of any subsequent results, combined with the tendency to neglect any reasonable appeal, only prove that state authorities utterly disrespect the efforts of all non government organizations towards any improvement, clearly indicating that further action within the country is meaningless.

E. Other actions

There is a case in which a legal Court of justice has prohibited further construction of HPP on Rilska river under an appeal by local people too, but this counts only for an exception in legal Court practice. In most of the other cases - all the gaps and inaccuracies of the law described herein are used by the court to overrule any appeal, proving such efforts pointless - costly and time-consuming as they are. As an example - see Fact No18, on page No 14 of this complaint again, please.

That is why: We have not appealed any of the above in a court of law. All our limited resources are focused on developing the internet platform and on monitoring of HPP.

We have not tried to contact any EU Institutions to request help on this issue until now. This is our first attempt. Actually - over the past two years we did everything possible to avoid lodging of this complaint.

We do not believe that SOLVIT is better placed to deal with this problem.

V. CONFIDENTIALITY – DATA PROTECTION

We authorize the Commission to disclose the identity of Association Balkanka and/or the identity of our representative in its contacts with the Bulgarian state authorities, against which we are lodging this complaint.

Moreover - should any steps be taken in order to establish common European rules for planning, design, construction, operation and monitoring of HPP, we also proudly authorize the Commission to disclose the identity of Association Balkanka to all EU member states.

VI. AIM OF THE COMPLAINT

Ladies and gentlemen,

Please note - at least one genuine proof stands behind each of the facts disclosed above, in some cases many more - as it is with dry river beds or with fish passes obstructing migration. We have proof for each of the cases at our disposal - such as photos, videos, copies of documents and statements.

They all show that anarchy governs the practice of planning, design, construction, operation and control of HPP in the country. Some of the reasons are due to a lack of subsidiary legal acts, which the state does not issue deliberately - just to allow anarchy to keep going on. In some cases the existing texts in legal acts are so intricate, twisted or tricky - only to justify, but not to obstruct breach. Things have gone out of control so far, that we wonder - why do we have all these:

- Natura 2000 protected area sites /most of the infringements we see are located in such areas/
- River Basin Management Plans /at present they are being updated and improved only to be disregarded again/
- Flood Risk Management Plans.....

..... River Basin Directorates, Regional Inspectorates of Environment and Waters, Waters Management Directorate with MOEW, Supreme Water Council, **the Ministry Of Environment and Waters itself - which among anglers, tourists, kayak and other water sportsmen is popular as The Ministry against Environment....**

So we wonder - what do we need all these things for, when nobody, led by the state authorities, respects and follows the law?

Members of "Balkanka" Association are not professional personnel on NGO payroll. We all work and pay taxes in different fields of professional activities - like journalists, engineers, IT guys, many other.... yet not a single lawyer or other expert in the field of EU environmental legislation, to our deepest regret.

Therefore we ask this final question as taxpayers only, having the right to know why so much money from the taxes we pay to support State administration allowance, are spent for all those things - only to protect corporate business interests of a few, opposed to the public interest in nature protection and conservation.

We do not know, whether we managed to discover and quote all EU directives, relevant to the problems described here.

But we are positive that what we see along the rivers violates at least one law - **the right of wildlife to exist** and the normal human right of contact with the same - that in about **50** proven cases in Bulgarian rivers has already gone /with the rest 170 existing HPP to be checked this year at low water hopefully/. We are positive - there has to be some written directive on this issue in EU law. We also hope that you will help us, discovering the proper directives which we couldn't, in order to support this complaint in an attempt to save the remaining **700** rivers, where plans for new HPP exist at present. Sooner or later, the same fate awaits those other rivers, if we don't do anything now.....

Moreover - apart from MOEW promises /those we have no reason to believe in/ for amendments of the Water Act in the unknown future - that we consider important to be implemented today - in the light of the **Last fact No 35** /underpinned by a Statement of respected scientific community members - see **Document No 016** again please/ due to the absence of any reasonable National Standards for hydrotechnical design and construction of hydropower plants - we believe that a temporary Moratorium on any further

HPP approval procedures including construction permits for new HPP is essential - until those Standards are prepared and introduced. Thus all existing-, but not implemented yet, or future projects shall be brought into conformity with these Standards and only then shall be approved for further development.

We also believe that prior to the preparation and implementation of National standards - a nationwide programme for ecological impact assessment of all existing HPP should be carried out - to get a clear picture of all the benefits and damage they produce, in order to draw the necessary conclusions for the future.

We have seen so many mistakes in the existing HPP - that must not be multiplied in the future 700 HPP, by any means.

Thank you for your kind understanding and cooperation.

"Nature has all the time in the world, we do not".

Place, date and signature of complainant/representative:

Chairman of the board:


/Kraislav Dimitrov/



Representative for this complaint:


/dipl.eng.Dimiter Koumanov/

Sofia, Bulgaria

29.06.2015

VII. SUPPORT:

The following organizations affirm to have witnessed the damage caused by HPP in Bulgaria and declare their utter support to the aim of this complaint:

Bulgarian Kayak Society:

Chairman of the board: /Dimitar Manev/

Spinning club "Stari Vidry" Sofia:

Member of the board: /Nikolay Kuyumdjiev/

Flyfishing club "Stari Vidry" Sofia:

Chairman of the board: /Stanislav Mankov/

Flyfishing club "Strimerite" Ruse:

Chairman of the board: /Rosen Velez/

Flyfishing club "Sofia 94" Sofia:

Chairman of the board: / Dancho Savov/

Flyfishing club "Mainafly" Plovdiv:

Chairman of the board: /Konstantin Karagyozev/

Flyfishing club "Gentleman" Gabrovo:

Chairman of the board: /Tsonyo Savekov/

Flyfishing club "Hatch" Sofia:

Member of the board: /Plamen Balinov/

Flyfishing club "Tsarevets" Veliko Tarnovo:

Chairman of the board: /Kancho Borisov/

Bulgarian Flyfishing Federation:

Chairman of the board: /Dancho Savov/

Bulgarian Society for Protection of Birds:

Executive Director /Nada Tosheva/

Sofia, Bulgaria
28.06.2015