

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

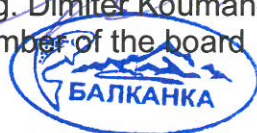
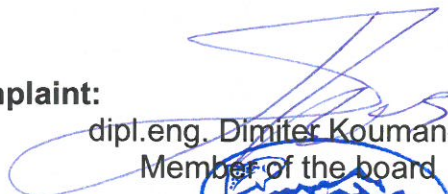
COMPLAINT
TO
THE COMMISSION OF THE EUROPEAN COMMUNITIES
CONCERNING FAILURE TO COMPLY WITH COMMUNITY LAW

APPENDIX 5



Representative for this complaint:

dipl.eng. Dimiter Koumanov,
Member of the board



БАЛКАНКА

Sofia, Bulgaria
19.06.2017

ABSTRACT

Regarding the Complaint to the Commission of European Communities, lodged by Balkanka Association, Sofia, Bulgaria on **30.06.2015**, followed by the **Appendix №1, №2, №3 and №4**, lodged on **06.01.2016, 20.06.2016, 03.10.2016** and on **14.01.2017** respectively - joined together in DG Environment case file ID number **CHAP(2015)02363**, the following document contains additional information concerning the second most brutal case of infringement we have encountered so far.

Furthermore, on June 15th 2017 a notification by DG Environment of the EC came, informing us that our previous complaints have been transferred to the *EU Pilot application under reference* **EUP(2017)9183**.

Although we managed to discover many other new infringements of Union Law since the Appendix №4 was lodged, we will not disclose them in this particular appendix.

It is a special edition - dedicated to one of the most beautiful rivers in Bulgaria - the Yadenitsa River, which is suffering a devastating hydro morphological pressure in the last four decades. It was once so rich of life, to be still able to host priority habitat types and priority species nowadays, despite the fact that the main river and the river tributaries are all 100% caught by some 22 water catchments of the Yadenitsa derivation channel. The protection of those priority habitat types and priority species is the reason the Habitats directive site **Yadenitsa BG 0001386** to be designated for. The river is also running through the **Rila Bufer** Habitats and Birds Directive sites, but these sites are still not announced by MOEW, for the reason that too many investment plans that will destroy the future protected area are planned, or are at a different early stage of progress.

One of the major and the most significant investment plans located in the Rila Bufer site is the future **Yadenitsa dam**. It is also quite close to the Habitats directive site **Yadenitsa BG 0001386** - some 500-600 meters away from its upper border line.

In Appendix №3 to our previous Complaint editions we conveyed to DG Environment description of the case, based on the information about the investment plan we had at the time. In the last month the new EIA and AA reports were assessed and published by MOEW for public consultation. These reports hold additional very important information we hadn't had at the time of the Appendix №3 preparation - some drawings of the dam wall, the tunnel to the existing Chaira.dam, crucial geological data, maps etc. They also hold description of the Habitats directive site **Yadenitsa BG 0001386**, together with the conclusion for the impact of the dam on the site's conservation objectives, namely that there will be no adverse impact whatsoever - neither on the Yadenitsa site, nor on the Rila Bufer site. Actually the impact on the Riila Bufer site was not studied and assessed at all.

Now this Appendix will prove again how all EIA and AA reports are prepared in Bulgaria, since the Yadenitsa dam EIA and AA reports are full of manipulated data in favor of the project's cost reduction only to save expenses for the investor, vastly disregarding the nature conservation objectives and restrictions. Moreover - we will even prove how seismic safety is not considered, by disregarding special bans in the Bulgarian legal regulations concerning the construction of large dams in areas with the highest seismic hazard possible in Bulgaria, areas that are torn apart by numerous huge faults, endangering this way human safety, property and wellbeing in the villages and cities along the river below the new dam.

However, we already managed to lodge a detailed objection against these EIA and AA reports with MOEW, which the ministry will disregard. There is too much money in the dam to be divided between the actors, to be lost so easily. The detailed Objection can be downloaded from the following link - Document No2:

http://dams.reki.bg/uploads/Docs/Files/OBJECTION_YADENITSA_draft4.pdf

Sorry it is in Bulgarian language - we hope it's not a problem but the document is huge for the reason that the Fraud called EIA/AA is huge, it really is. In case translation is a problem, don't hesitate to call us, please.

From the entire document we will extract and disclose only the major issues here, concerning infringements of the Bulgarian legal framework and the EU Directives as well. We will not include the evidence on which our full Objection is based upon, but anyone who's interested can read the full Objection for proof.

We also realize there is a question to be answered at this point - why are we lodging a Complaint appendix before the Public Consultation has been finalized? The answer is very simple - by the positive assessment of the EIA/AA reports and their announcement for public consultation, MOEW has already breached the law. Because there are so many lies in the reports, too obvious not to be discovered by the "competent" authority and too many violations of the legal framework missed as well, for the Fraud to be announced so carelessly. Some of the preliminary steps preceding the procedure present stage, namely the exemption for the project under article **4.7** of the WFD in the East Aegean River Basin Management Plan 2016-2021, present infringements of the law themselves. This project simply shouldn't have been developed in the first place, if the law was to be followed.

We therefore believe that MOEW will overrule our full Objection and then it will be too late for any other actions. In other words - it is the Precautionary Principle that we now follow. We will convey this document to INEA as well, for the reason that the Agency has already spent some European money for the Fraud, including ours, not knowing that it is a Fraud, of course.

Finally we have to underline the fact that The **Japanese Bank for International Cooperation (JBIC)** was invited by the National Electric Company - NEK to finance the project at the beginning of this century. Some experts of the Bank took a trip to Bulgaria to study the Investment Plan and ran like hell back home. Maybe it was the lack of seismic safety /the Japs are very good at it/, or of economic sustainability and sense, or something else - we have no knowledge of the reason for escape, but the answer must be hidden somewhere in the following document, it really must be.

Anyone who reads this document, please note that you need to have read the **Appendix №3** to the original Complaint first - DG Environment case file ID number **CHAP(2015)02363**, because it contains information about the adverse impact of the Belmeken-Sestrimo-Chaira Hydropower Group on the Rila National Park. That information will not be repeated herein. It will be mentioned briefly only in case of unavoidable necessity or of description integrity, but it's very important to be taken into consideration as well.

The following document contains full description of the case based upon the new information in the EIA/AA reports and on our additional research. Depending on DG Environment good practice and will - it may be considered as an integral **Appendix 5** to the original Complaint, or as an entirely new complaint. Only this time, except for the Appendix No3, there is no need to read the previous complaint editions again - DG Environment case file ID number **CHAP(2015)02363**, because the present case displays a separate infringement, not directly connected to the previous, but a huge one indeed. However, there still is a connection - we will once again prove that Natura 2000 and the small people safety and wellbeing mean nothing in Bulgaria, when big money comes along and has to be divided between the actors in the Fraud. Therefore it is recommended to read the previous complaints after all - to get a clear view on the entire social and environmental picture in our country. We are in the Middle Ages here, not in the European Union, when nature protection and small people's wellbeing are concerned.

Acknowledgements

We dedicate the following document to the poor people, living in the village of Golemo Belovo and in the city of Belovo, who will be waiting for the rest of their lives to hear the catastrophic wave that comes along under the risky dam, wishing them luck for the dam construction not to take place at all.

Contents:	Page
<i>I. IDENTITY AND CONTACT DETAILS</i>	005
<i>II. DESCRIPTION OF THE SUSPECTED INFRINGEMENT OF UNION LAW</i>	006
A. Short description of the Investment Plan	006
B. The administrative procedure thus far	009
C. The project's overall assessment	010
1. The EIA/AA reports - trustworthy information, gaps and direct lies	010
2. Infringements of the legal framework	011
3. Assessment of the project's seismic safety	013
4. Conclusion	014
D. 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	015
E. Does the EU country concerned receive EU funding relating to the issue that prompted this complaint, or may it receive such funding in the future?	015
<i>III. LIST OF DOCUMENTS / EVIDENCE</i>	015
<i>IV. APPEALS/LEGAL ACTIONS/ OTHER ACTIONS</i>	016
<i>V. CONFIDENTIALITY – DATA PROTECTION</i>	016
<i>VI. AIM OF THE COMPLAINT</i>	016

ABBREVIATIONS

MOEW	- Ministry Of Environment and Waters of Bulgaria
RIEW	- Regional Inspectorate/s of Environment and Waters
RBD	- River Basin Directorate/s
NEK	- National Electric Company
BDDR	- Basin Directorate Danube Region
EARBD	- East Aegean River Basin Directorate
WARBD	- West Aegean River Basin Directorate
BDBSR	- Basin Directorate Black Sea Region
SAC	- Supreme Administrative Court
WA	- Water Act
FA Act	- Fishing and Aquaculture Act
EIA	- Environmental Impact Assessment
AA	- Appropriate Assessment
RBMP	- River Basin Management Plan
HPP	- Hydropower Plant
WWTS	- Wastewater Treatment Station
IP	- Investment Plan

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-governmental 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/* populations in Bulgarian rivers.

3. ADDRESS OR REGISTERED OFFICE

3.1. Surname and forename of complainant:

Ivan Pandukov, 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 Environment and Waters (MOEW), the Regional Inspectorate of Environment and Waters (RIEW) **Pazardjik** and the East Aegean River Basin Directorate (**EARBD**) with MOEW.

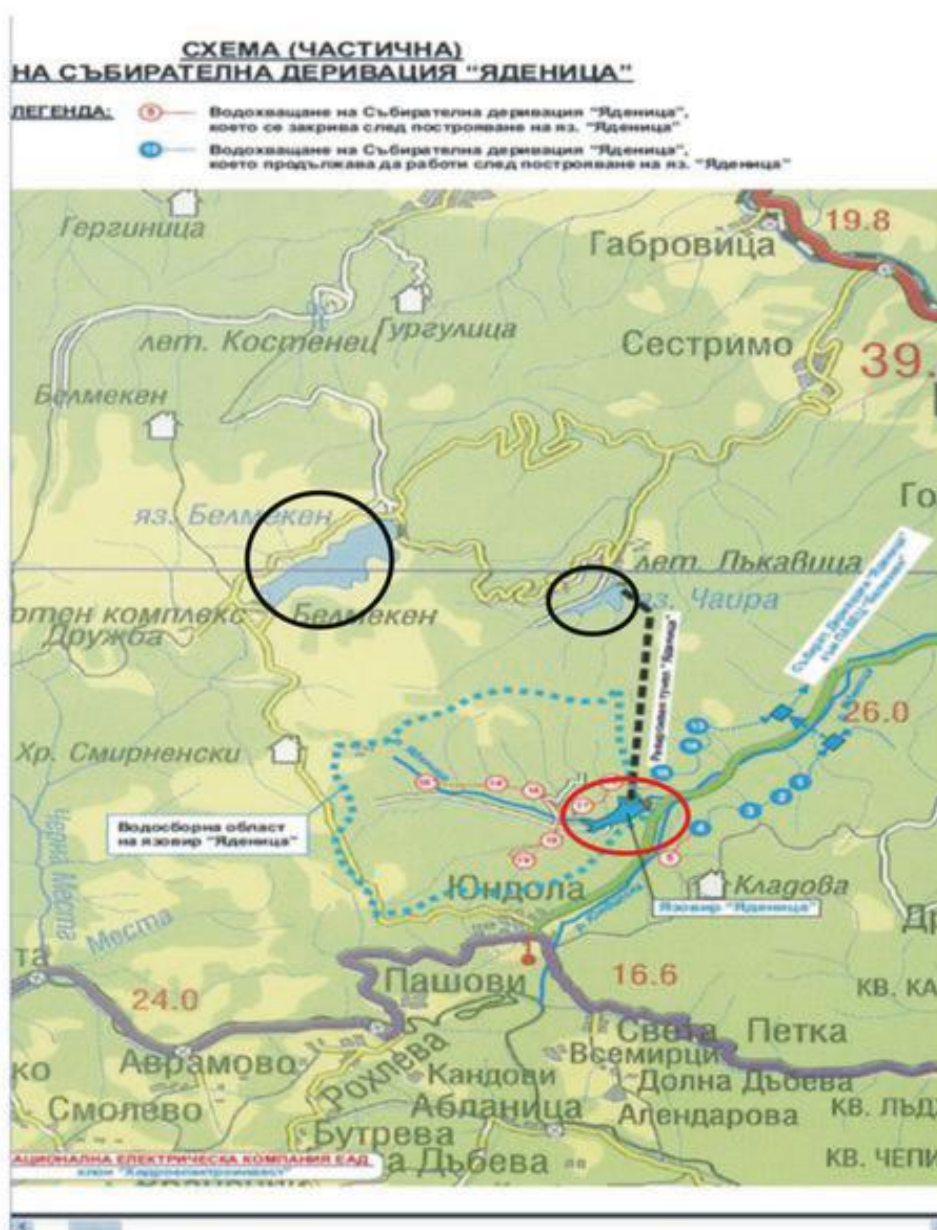
II. DESCRIPTION OF THE SUSPECTED INFRINGEMENT OF UNION LAW

The investment plan will have significant adverse impact on two Natura 2000 sites - one that is designated for the protection of habitats and species under the Habitats Directive - **Yadenitsa BG 0001386**, and another future one - the Habitats and Birds Directives **Rila Buffer** site.

A. Short description of the Investment Plan

The future Yadenitsa dam full story and description, as well as the description of the Belmeken-Sestrimo-Chaira hydropower Group, which the new dam is supposed be an important part of, can be downloaded from the following link, containing **document No1**:
http://dams.reki.bg/uploads/Docs/Files/BELMEKEN_CHAIRA_YADENITSA_STUDY_DRAFT4.pdf

We will display again here only the following partial map of the system:



Source:

<https://drive.google.com/file/d/0B6ariUc5IVEUeDZZamNGQm45b2c/view?usp=sharing>

The black circles are the old Belmeken dam /the bigger one/ and the Chaira dam. **The red one is the new Yadenitsa dam.** There still are some Yadenitsa channel water catchments and the small dam - Stankovi Baraki that are not displayed on the map.

The blue dots are old Yadenitsa channel water catchments that will continue working, transferring the water to the Stankovi Baraki dam to be used for the Belmeken-Sestrimo cascade again. The red dots will be closed, simply because the new dam will catch the water of the small Yadenitsa River anyway. There will be a big tunnel /7m diameter, 7 kilometers long/ connecting the Chaira and the new Yadenitsa dams. The same partial map is displayed in both the new Yadenitsa dam EIA and AA reports, never mind that it does not display all the water catchments, but only a small part of them.

There is something more to add here about the existing water catchments of the Yadenitsa derivation Channel. During our thorough survey of the entire system in the last few months, we managed to discover that there are many small drainage catchments installed on the channel's crossing every single gully in the mountain, no matter how small the gully is. The additional number of these drainage catchments is **11 /eleven/** pieces that we know of insofar.

At the moment not a single of all catchments releases any water in the river and the tributary streams, except for catchment №15. All the rest catch every drop there is. There aren't any fish passes built either, but that is not too big a deal, because there is no water running anyway.

Proof:

<http://dams.reki.bg/0488-dam/2017-05-05>

<http://dams.reki.bg/0488-dam/2017-05-17>

There are pictures and videos of many of the water catchments uploaded in the above links. We will show only two pictures here, because they are all the same:

One of the existing catchments on running streams:



And another drainage catchment at a small gully:



It is very important to note that after the new dam is done, **14 /fourteen/** of the water catchments on the tributaries and at least **11 /eleven/** pieces on the gullies, will remain operational. The rest **8 /eight/** water catchments will be closed, because the dam will catch the water anyway. But it still is best to follow the above links and watch the pictures and the videos to get a full view on the situation.

Acc. to the AA report a mitigation measure will be taken to let the Yundolska River run free, by closing only catchment No5, which will add only some 15 liters per second during low water periods. And the Yundolska river is the only one, coming from an urban zone - the Yundola village, which is a tourist and livestock breeding area. It flows into the Yadenitsa River just at the entrance in the **Yadenitsa BG 0001386** Habitats directive site.

Yundolska once hosted some life in it, including even Stone Crayfish /*Austropotamobius Torrentum*/, but nowadays the life in it has gone acc. to the locals, due to the pollution of the stream.

The future Yadenitsa dam is located entirely within the boundaries of the future Rila Bufer site and about **500-600** meters above the upper border line of the **Yadenitsa BG 0001386** Habitats directive site.

One last small detail to be mentioned - at least one new HPP on the Yadenitsa River is on its way. Its water catchment will be located on the Yadenitsa River, about **100** meters below the **Yadenitsa BG 0001386** Habitats directive site lower border line. There is another future SHPP situated entirely within the boundaries of the site - its water abstraction permit expires in 2022 - we are not sure if this one will be built.

So here is the entire description of the case in a few words:

The **Yadenitsa** Habitats directive site will have a new dam with a 110 meters high dam wall at the upper border of the site. It will have at least one new SHPP water catchment at its lower border, which is supposed to use the "ecological" flow under the new dam and the flow under the existing water catchments /that "flow" is shown in the

links above to be zero/, and fourteen of its tributaries will remain completely caught, with every small gully in the surrounding mountains being caught as well. There are no fish passes provided, except for the future SHPP, blocking fish migration to the tributaries and the sediment downriver transfer is fully blocked as well, because there are no recommendations and/or measures in the EIA/AA reports, and the only stream that will add some small water quantity is loaded with contaminants and pollution to an unknown by the AA experts extent. **And acc. to the AA there will be no adverse impact on the Yadenitsa Habitats directive site and there will be no cumulative effects as well? Not to mention the adverse impact on the Rila Bufer site - this impact was not studied in the EIA/AA at all.**

What then can cause adverse impact of any kind - an atomic bomb or even it may not? We then have the strongest, non destroyable by any impact Nature here, do we not!

And at the same time the dam itself is placed in the Rila Bufer habitats and birds directive sites for the delayed announcement of which the EC started an infringement procedure, **and at the same time the same EC will co-finance the new dam?**

If anyone sees any piece of sense in the above, just wait until you read about the seismic safety of the dam!

B. The administrative procedure thus far

It has been a long run during the times when our country was not an EU member state - therefore we will not dig in it in detail. The present stage is - the EIA/AA reports were assessed by the "competent" MOEW as being perfect and there is a public consultation going on at the moment of this appendix's preparation.

We will stress the point on only one major problem here. An exemption under article 4.7 of the WFD was included in the East Aegean RBMP 2016-2021 for the poor dam. This happened prior to the EIA and AA approval, because we are in a public consultation stage at present - at the middle of 2017. And it is not only the surface water body here that matters - it is the Habitats Directive site hosting priority habitat types and priority species that matters the most!

Detailed information on how to deal with such a problem can be found in section 2.9, on **page 9** of the following document:

https://circabc.europa.eu/webdav/CircaBC/ematic_documents/integrated_management/environmental_objectives/WFD.pdf

Here is a short citation:

In other words, article 4.7 cannot be used as an exemption from fulfilling the legal requirements of other Directives. For example, a new development is proposed that would cause deterioration of status and a failure to achieve the objectives for a Natura 2000 site. In such a case, in order to fulfil both the WFD and the Habitats Directive:

- The relevant conditions set out in Article 4.7 of the WFD for allowing deterioration of status would have to be met to the extent that it is a water body; and***
- The conditions set out in Article 6 of the Habitats Directive (92/43/EEC) for allowing a failure to achieve a Natura 2000 site's objective would have to be met.***

Absolutely the same requirements are written in our legal framework fair and square. Since the Habitats Directive site hosts priority habitat types and priority species that will be destroyed and none of the conditions set out in Article 6 of the Habitats Directive (92/43/EEC) are met /there is not a word about the approval by the EC for the Investment Plan's failure to meet the site's objectives or about any measures to compensate the damage in the EIA/AA reports/, **we find that the entire procedure is corrupt!**

It should not have been included as an exemption in the East Aegean RBMP 2016-2021 for the water body in the first place, because the EIA/AA procedure has not been finalized at the time - the end of 2016, and is still ongoing now.

Additionally - acc. to the Bulgarian Methodology for exemptions under article 4.7 of the WFD - such exemptions are not applicable for water bodies in an unknown status and the Yadenitsa HMWB is in an unknown chemical status acc. to the East Aegean RBMP2016-2021.

And there is yet another violation - in the East Aegean RBMP 2010-2015 the water body Yadenitsa was defined to be a natural one. In the RBMP 2016-2021 the same water body is already announced to be HMWB, before the new dam has been done. The construction has not even started yet, while on page 14, section 4.3 of the above document it's written that - ***water bodies cannot be designated as HMWBs before the new modification has taken place.***

C. The project's overall assessment

1. The EIA/AA reports - trustworthy information, gaps and direct lies.

Full information on the matter can be found in our official Objection lodged with MOEW - Document No2, which can be downloaded from the following link:

http://dams.reki.bg/uploads/Docs/Files/OBJECTION_YADENITSA_draft4.pdf

We will disclose here only a few of the most important gaps and lies discovered in the field of our expertise as follows:

- The experts lied about the "ecological" flow, not taking into account the numerous water catchments that will remain in operation. These weren't even shown correctly on the hydro morphological pressure map in the reports.
- They lied about the contribution of the Yundolska River, having no idea about the pollution in it. And there is pure water in a tributary to that river to remain also 100% caught - the experts didn't say a word about this one to be released.
- They lied initially, denying the fact that a priority species inhabits the Yadenitsa Habitats Directive Site - the Stone Crayfish */Austropotamobius Torrentium/*. MOEW then rejected the first edition of the EIA/AA reports, pointing out to the "experts" that the Stone Crayfish is registered acc. to the Natura 2000 report for the site.
- In the AA report's second edition the experts admitted finally the fact that Stone Crayfish is registered, only this time they lied about the registered location in the Yadenitsa River - under the confluence with Yundolska, stating that above this river, at the footprint of the future dam and its vicinity, there are no habitats suitable for Stone Crayfish. The picture at the front page of this document displays the Yadenitsa River where it is supposed to be flooded by the new dam - full of nice Stone Crayfish habitats it is. And the Stone Crayfish official registration is above the Yundolska River, not below. In our field research last year we found many of the same species in the river below the Yundolska River too and submitted the proof to MOEW. So the damn Stone Crayfish is everywhere.
- The experts managed to change the lie only in the AA report, in the EIA they didn't - they still insist in the EIA report that the Stone Crayfish is not registered at all. Some experts they are...

- They lied about the Yadenitsa River status - Good ecological and chemical status of the surface water body in both East Aegean RBMP 2010-2015 and the 2016-2021 RBMP. Acc. to the RBMP 2010-2015 the river was in a moderate ecological status and In the RBMP 2016-2021 it is in an unknown chemical status, with good ecological potential of the HMWB.
- They lied about the lack of any expected adverse impact and/or cumulative effects, together with the existing water catchments of the Yadenitsa derivation channel and with some other projects for small HPPs - read the entire description of the case at **page 8** bottom lines of this document again, please.
- They lied about the need of a fish pass at the new dam wall, stating that it is not necessary. Acc. to the BG Fishery and Aquaculture Act a fish pass is a must, with no exemptions.
- **Considering seismic safety they even lied about the famous Yadenitsa geological fault being reinforced!!!** We will elaborate on this one further in the following section 3, but This Is Huge! Reinforcing faults is impossible - no one on Earth can do that.

And the "competent" authorities have swallowed the above - all of it they have, with no exemptions whatsoever!

2. Infringements of the legal framework - again a full description can be found in the above document No2. Here are just a few:

- The existing water catchments are in breach of the BG Water Act, because they all are placed on rivers with an average multiannual /long term/ flow less than 100l/sec.
- The WFD and the BG Water Act are breached by the exemption for the new dam, included in the East Aegean RBMP 2016-2021, before the EIA/AA procedure was finalized, for a HMWB which is in an unknown chemical status.
- The Habitats directive and the BG Biodiversity act are breached, because an exemption procedure for the Habitats directive site conservation objectives has not been carried out at all. It is not even mentioned in the AA report, because acc. to the experts there will be neither any adverse impact, nor any cumulative effects and that is not true - see the entire description of the case at page 8 bottom lines of this document again please.
- Moreover - the BG Water Act is actually more stringent then the EU legislation particularly when hydropower is concerned. In WA article 118j there is a direct ban on hydropower in Natura 2000 Habitats Directive sites in case they host priority river species, due to the bad fame of hydropower in our country and there are no exemptions for this ban available at all.
- The EC recommendations on Hydropower development are breached, because the impact on the future Rila Bufer Habitats and Birds Directive site conservation objectives has not been assessed at all.
- The BG Fishery and Aquaculture Act is breached by the absence of a fish pass at the new dam wall and at all the other water catchments at the tributaries as well. There are no exemptions on this issue in the BG law.

- The BG Fishery and Aquaculture Act is breached, because it rules that, unless there is a flood risk, during the spawning period of fish the dam operators must maintain appropriate water level in the dam for the caviar and the offspring not to be destroyed. In our case that means - from the beginning of November, till the end of January the next year - for the trout. And our poor dam water level is supposed to go 30 meters down for 22.5 hours in pumping mode of the Chaira PSHP and then go 30 meters up for 20 hours in turbine mode. This means that the new dam cannot be used for four months acc. to the law, with no exemptions for this issue in the legal framework either.
- **The BG Seismic Design Code is breached** because it sets a direct ban on the construction of dams on rock formations that are torn apart by massive faults, but we will come to that in the next section.

NOTE:

There are still a few other curious lies in the whole thing:

In the analysis to justify the exemption for the Yadenitsa dam under art.4.7 of the WFD, included in Annex 5 - Section 5 of the East Aegean RBMP 2016-2021 - on page 7, there is a false statement about the future small Yadenitsa HPP -

***$Q_{95\%}$** (low water - the minimum average monthly flow within 95% probability) corresponds to the size of the natural flow of the river 60-70 years ago (before the Yadenitsa Channel was built)*

Now this is important in terms of the cumulative effects and it is big - it refers to the location of the small HPP water catchment, which is about 11 /eleven/ kilometers and 14 /fourteen/ tributaries below the new dam, while the "ecological" flow below the dam is supposed to be **$Q_{95\%} = 80$ l/sec** during low water acc. to the EIA for the dam. **What natural flow are these people talking about, when those 14 /fourteen/ water catchments at the tributaries are still supposed not to release a drop of water after the new dam is built and set into operation?**

Then, if a lie is included in the analysis for the exemption in the RBMP - it means that the entire RBMP has to be adjusted at some point, while the same RBMP was reported to the EC and cannot be changed at this or any other moment in the future until the plan expires.

At the same time, the same natural **$Q_{95\%}$** for the small Yadenitsa HPP is defined to be only **35 l/sec**, according to the Water Permit for the SHPP, issued by EARBD. Only **35** liters per second natural flow determined for a spot 11 /eleven/ kilometers and 14 /fourteen/ tributaries below the natural **$Q_{95\%} = 80$ l/sec** released under the new dam - whose lie is bigger now? It also seems that no one cares about the lies of the rest because they do not even read them... However, the "competent" authorities should have read them like we did, but they also didn't pay attention pitifully...

IMPORTANT:

At the same time the hydro morphological pressure map for the Natura 2000 Yadenitsa Habitats Directive site included in the SEA and AA reports for the East Aegean RBMP 2016-2021 does not display a single of the Yadenitsa Channel water catchments as if they don't exist, thus representing another error and a huge one. The RBMP 2016-2021 itself does not display these catchments either. During the public consultation for the SEA and AA reports we notified the EARBD and MOEW staff about the error and they didn't pay attention. That's how the error became lie, to justify the site's destruction in the first place. It was done deliberately by the state authorities.

The same problems are available in all the 2016-2021 RBMPs in Bulgaria - the water catchments belonging to NEK are not displayed on the hydro morphological pressure maps for many other Natura 2000 sites. There are hundreds and hundreds of these water catchments that do not release a drop of water and they are not

taken into account and their cumulative effect on the Natura 2000 sites' conservation objectives, together with other existing or future small HPPs, was not assessed in the new RBMPs' SEA and AA reports at all!

And still another lie available in the Yadenitsa dam case - in the AA report for the small Yadenitsa HPP it is declared that the "ecological" flow under the new dam will be **1.4 cubic meters per second**, not **80 l/sec!**

Proof:

http://new.riewpz.org/upload/ documents/os_20110606.pdf

The link contains the AA report for the Yadenitsa SHPP - read carefully the lines in the middle of page 22, please, to see who is lying best.

All these lies were deliberately swallowed or even done by the "competent" MOEW authorities, right one after the other, for the only sake of the new dam to become eligible!

3. Assessment of the project's seismic safety

The new dam is situated on a rock formation that is torn apart by several geological faults, the nearest to the new dam wall of which is the famous Yadenitsa fault - it is about **30 /thirty/ meters wide**. And the region is designated with the highest seismic hazard in Bulgaria, in the contact zone between two mountains.

The future tunnel crosses **10 /ten/** faults between the old Chaira dam and the new Yadenitsa dam. For detailed information check **Document No3** please. It displays a longitudinal section of the tunnel together with the geological profile:

http://dams.reki.bg/uploads/Docs/Files/Yadenitsa_Annex_6.pdf

It is written in the EIA report that the big fault is passing by the wall of the dam in the zone of the water energy absorber.

There are special bans set in the applicable Bulgarian Seismic Design Code on dams built in areas that are torn apart by faults - **articles 171 and 172** of the code. Here they are:

art.171 *Hydrotechnical facilities upholding water in seismic areas are situated in areas distant from tectonic faults that may cause relative displacements of rock massifs.*

art.172 *The main facilities of hydro-groups /dam walls, hydroelectric power stations, spillways etc./ are situated on rocky massifs within which the occurrence of displacements from the presence of faults is out of the question.*

Source <http://www.lex.bg/bg/laws/ldoc/2135775752>

See articles 171 and 172. The Bulgarian Seismic Design Code is mandatory to follow, because there is no EUROCODE for dams, which is a pity, explained only by the influence and power of the EU hydro companies - they don't like mandatory regulations at all.

The above BG regulations are applicable to the normal dams and the new Yadenitsa dam is far from normal.

The effective water volume will be **9.2 million cubic meters**. The dead volume of the water is **4.3 million cubic meters** and the volume of the new rockfill wall is **2.5 million cubic meters**. It means that some 20 million tons new gravity load will be installed on the unstable geological base in the footprint of the dam. And some 9.2 million tons of the effective volume will be pulsating in every 20 - 22.5 hours cycle, following the pumping and the turbine mode of the Chaira PSHP.

In the described conditions the new dam can cause fault movements and can generate earthquakes itself! And the slightest movement in any of the faults can tear apart the cladding of the tunnel!

These conditions gave the late Chaira PSHP leading designer - Manol Timov the reason to disagree with the new dam construction at the beginning of the century. They are also the reason for a survey on the dispersal of a catastrophic wave, caused by an accident breakdown of the wall, included in the project, as well as for an option for the tunnel to be closed and sealed near the old Chaira dam in order for this dam to be used alone again. It is a Russian roulette the designers are aware of!

But the Yadenitsa River Gorge is very narrow and the riverbed is blocked by bushes, trees and other vegetation, due to the reduced for decades river flow, and there are the Golemo Belovo village and the city of Belovo waiting for that catastrophic wave to come along, together with a few small cottages' area right under the new dam wall also waiting for the wave!

And the EIA experts declared several times in the report that the Yadenitsa fault is reinforced? Do hydro technicians in Bulgaria know something that the rest of the world does not, or do they lie again? And the "competent" MOEW is buying all of that...

The seismic risk is huge. It is much bigger than the risk for the tunnel in the Kresna Gorge, which was rejected for the same seismic risk. The reason for the bigger risk is the added loading on unstable base in the case of the Yadenitsa dam, and the pulsations of the load.

Considering human safety, property and wellbeing in the houses, villages and cities along the river below the new dam, the applicable BG legal framework prohibits the dam construction under these conditions. Even the ICOLD guides recommend relocation of a dam in a case like this!

4. Conclusion

There are too many infringements of the BG legal framework and of the relevant EU directives in the case of the Yadenitsa dam project. As for the EIA/AA reports, we've never seen as big a fraud as this one in our experience so far, and we have seen a lot. We have seen too much so far, thus having every reason to believe that in Bulgaria all EIA/AA procedures are corrupt, but the present assessment procedure is the champion of Fraud.

EARBD and MOEW obviously worked too hard to make it possible and they will not easily back off. Then we will sue them in a court of law, but everybody here knows what's happening when the Bulgarian legal system is involved. And there is too much money coming from the EU to be split between the actors at all levels...

And it is a Project of National Importance we are talking about here and it is also ranked a Project of Common Interest /PCI/ by the European Commission after all.

To our knowledge some EU funding has been spent already through the Innovation and Networks Executive Agency /INEA/ of the EU - for the project and for the EIA/AA reports we are discussing here. We figure the agency didn't check the project's sustainability as thorough as they are supposed to. To help them reconsider, we have to point out that many years ago NEK tried to involve **the Japanese Bank for International Cooperation (JBIC)** in the funding of the project. After the project's due diligence the Japs didn't buy the idea and ran away.

Yet again there is another thing we didn't say a word about so far, which may also help DG Environment and INEA reconsider the idea for the EU funding in the future:

The ratio - effective volume of the dam, to the volume of the dam wall, is $9.2 / 2.5 = 3.7$

The ratio - effective volume of the dam, to the dead volume of the dam, is $9.2 / 4.3 = 2.1$

Besides the seismic risk and the infringements of the environmental legal framework, these numbers are so small, that in terms of any economical effect the new dam can be defined to be the most stupid dam on Earth. But why should we care about effectiveness or safety - there is some money to be split between the actors and that's what matters the most.

In Bulgaria we have the most stupid fish pass on Earth - at the Hladilnika HPP - it was presented in our original Complaint. In the end of 2015 it was also shown by Mr. Ulrich Eichelman from Riverwatch at a conference in the European Parliament /EP/, called **"How green is Hydropower?"**

We are positive - if at the EP a conference is ever held under the title - **How Stupid a Dam Can Be?** - be sure our Yadenitsa dam here will be the No1 again - far, far away in front of the runner-up and every other candidate!

And finally - large pumped storage systems may become old news very soon in terms of economical effectiveness, because the Tesla batteries storage method is now heavily marching in...

D. 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:
- **Directive 2000/60/EC** of the European Parliament and of the Council establishing a framework for Community action in the field of water policy
- **Council Directive 92/43/EEC of 21 May 1992** on the conservation of natural habitats and of wild fauna and flora

Some of the principles underpinning Union law and the Directives were cited above.

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

The entire Investment Plan will be co-financed by the INEA of the EU and NEK. To our knowledge - the Project and the false EIA/AA reports are paid by the Agency as well.

III. LIST OF DOCUMENTS / EVIDENCE

Document 1 - The future Yadenitsa dam full story and description

http://dams.reki.bg/uploads/Docs/Files/BELMEKEN_CHAIRA_YADENITSA_STUDY_DRAFT4.pdf

Document 2 - our full Objection against the EIA/AA reports lodged with MOEW
http://dams.reki.bg/uploads/Docs/Files/OBJECTION_YADENITSA_draft4.pdf

Document 3 - longitudinal section of the tunnel and geological profile
http://dams.reki.bg/uploads/Docs/Files/Yadenitsa_Annex_6.pdf

IV. APPEALS/LEGAL ACTIONS/ OTHER ACTIONS

All the actions we have taken insofar are described in the previous complaints. On June 19th 2017 we lodged a full Objection with MOEW /see **document No2**, please/, which MOEW will disregard. Document No2 contains all the necessary evidence to prove our statements in this Appendix, as well as too many other infringements of the legal framework we are not disclosing here due to the lack of time and space. **Anyone who's interested - check the full Objection, please.**

We have tried to contact EU Institutions to request help on similar issues many times already. On June 30th 2015 we lodged the initial Complaint - DG Environment case file ID number CHAP(2015)02363. On January 6th 2016 we lodged the Appendix 1 to the original Complaint, which was accepted under the same ID number. On June 20th and on October 3rd 2016 we lodged the Appendix 2 and 3 respectively. On January 14th 2017 we lodged the Appendix No4. We received no feedback for the last three documents, but hope that they are accepted under the same ID number.

An answer to the above complaints just came recently, therefore we hope that this document will be considered as an integral part of the previous complaints.

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

Actually, we have sent copies of the previous complaints to MOEW, so they are pretty well aware of our actions. Having nothing to hide, we will send a copy of this document too.

VI. AIM OF THE COMPLAINT

Ladies and gentlemen,

In the original Complaint the aim was thoroughly described. We will not repeat that once again, only with the following exception:

Natura 2000 means nothing in Bulgaria never mind the EU money that were spent for it. It is quite clear now that the MOEW is not taking any measures to protect the Habitats and Birds directive sites but, on the contrary - such sites destruction has been done already with the explicit permission of MOEW - we've

proven the fact in our previous complaints. The same will inevitably happen to the Natura 2000 sites in the impact area of the future Yadenitsa dam - the *Yadenitsa BG 0001386* Habitats directive site and the *Rila Bufer* Habitats and Birds directive site.

The same goes for the objectives of the WFD - non deterioration of the status..., or achieving good status..., or whatever..., because these things are not getting any better in Bulgaria, they are only getting worse, river after river, constantly, deliberately, carelessly.

All the numerous water catchments belonging to NEK, located in several big Natura 2000 Habitats Directive sites /*Zapadna Stara Planina i Predbalkan, Rodopi Zapadni, Rila a.o.*/ weren't even shown on the hydro morphological pressure maps of the Natura 2000 sites in the AA reports for the 2016-2021 RBMP, neither was their cumulative effect together with other existing or future HPP taken into consideration! And the number of these catchments is huge - more than 220 that we know of and they do not release a single drop of water! All these new RBMPs, together with the SEA and AA reports for the plans are one big fraud, with the Yadenitsa case being the champion of Fraud!

As for the meaning of the words Environmental Impact Assessment or Appropriate Assessment in Bulgaria, we have shown so many lies here, just to give an explanation why these words are dirty around here now, fooling no one amongst the future victims of the fraud. **Therefore the EIA/AA reports for the Yadenitsa project must be denied authorization and the project must be stopped for good. At the very least it shouldn't be co-financed by the EU INEA by any means!**

Moreover - considering the seismic risk in the Yadenitsa dam case, it is a Russian roulette with five shots in the barrel and a single empty slot.

If anyone has any doubt - show that geological profile in Document No3 to any expert in the field of seismic safety and geo tectonics and listen to the guy. **Just do not ask Bulgarian authorities or experts, because they've already split the cash!**

We are warning DG Environment and INEA - such dams, with the overall 20 million tons of loading on unstable geological base and the pulsating water quantity of 9.2 million cubic meters, are dangerous in terms of the seismic safety and they shouldn't be allowed on rock formations torn apart by faults 30 meter wide. They really should not be.

We are also warning DG Environment - the Yadenitsa River will be killed within and beyond the boundaries of the Natura 2000 Yadenitsa site and in the Rila Bufer site as well. The entire river will be killed!

We have already shown DG Environment another case like this - the Sveta Petka SHPP, which is on the Kriva Reka river next to the Yadenitsa Gorge to the West - see **fact No1** in the Original Complaint. The Kriva Reka River is in exactly the same situation - caught in the Belmeken dam for the Belmeken-Sestrimo-Chaira Hydropower Group, with a small HPP on the E-flow of the cascade. And it's passing through the Rila National Park and it is dead.

In our contacts with DG Environment we learned our lessons, namely that things are done in a precautionary manner, requiring some time for our complaints to be studied and be dealt with.

However, the final decision for the Yadenitsa dam we are discussing here, will be taken by MOEW very soon. We therefore hope that all our previous complaints will be put aside for a while - like in the Trun mine case, so that DG Environment can deal with this

particular one, because it really is urgent. If the plan receives authorization and the construction of the dam begins, then it will be late.

Have no doubt about it - If the new Yadenitsa dam is done, together with the SHPP on the E-flow at the other side of the Yadenitsa Habitats Directive site, we will inform DG Environment and especially INEA about it, when damage comes along. If and when it happens, we will inevitably have to inform some other parties and the media as well.

In our previous complaint appendix we warned DG Environment about the Trun gold mine and its possible adverse impact on the groundwater body in the municipality of Trun here. It already turned out that we were right for this one - the drinking groundwater sources of several villages in the Trun municipality have recently proven by a survey of the Water supply operator to be radioactive - due only to the drilling during the geological survey for the gold mine in those cracked uranium rocks. But we will lodge an additional Appendix for the case, as well as for several other cases of drinking water sources' pollution and radioactive contamination, that managed to emerge through the media in the last three months. And about some other cases that do not manage to emerge as well. They all are due to MOEW's willingness to disregard the WFD restrictions concerning drinking water sources and groundwater bodies' protection, only to meet the interests of the mining and/or the hydropower companies...

Thank you all for your kind understanding and cooperation.

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

Place, date and signature of complainant/representative:

Sofia, Bulgaria
19.06.2017

Representative for this complaint:

/dipl.eng. Dimitar Koumanov/
Member of the board

