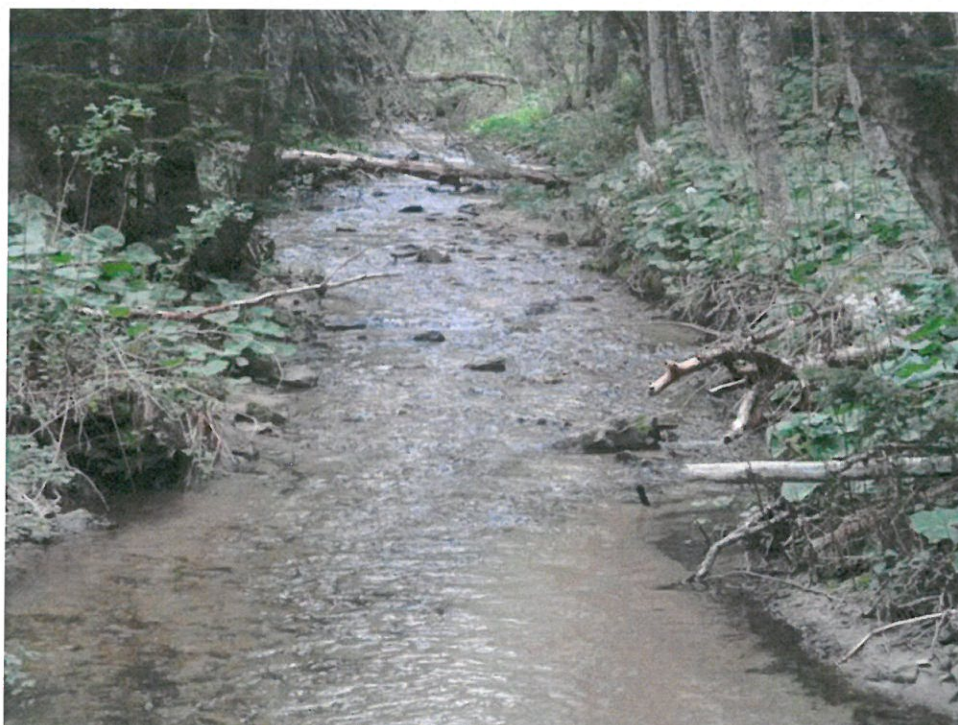


“Balkanka” Association, Sofia, Bulgaria
“Nature has all the time in the world, we do not”.

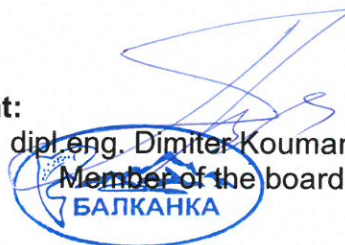
COMPLAINT
TO
THE COMMISSION OF THE EUROPEAN COMMUNITIES
CONCERNING FAILURE TO COMPLY WITH COMMUNITY LAW

APPENDIX 6



Representative for this complaint:

dipl. eng. Dimiter Koumanov,
Member of the board



Sofia, Bulgaria
30.10.2017

INTRODUCTION

Regarding the Complaint to the Commission of the European Communities, lodged by Balkanka Association, Sofia, Bulgaria on **30.06.2015**, followed by **5 /five/** consecutive appendixes - No1 to No5 - that were initially joined together in DG Environment case file ID number **CHAP(2015)02363** and then transferred to **EU Pilot application under reference EUP(2017)9183**, the following document contains additional information concerning some of the cases included in the previous appendixes - The Yadenitsa dam case, the killing of the Struma River and the Natura 2000 Habitats Directive site **Zemen BG0001012** below the Pchelina dam, the destruction of the Botunya River and the Natura 2000 Habitats Directive site **Bilernitsite BG0000593** below the Luna HPP and some other equally important new cases of river destruction. The following document holds additional evidence that has emerged on the surface in these previous cases, proving once again that the Ministry of Environment and Waters /MOEW/ in Bulgaria exists only on paper in the payroll lists supported by the BG taxpayers and does nothing to protect nature as it is supposed to.

Especially for the Yadenitsa dam case new substantial evidence was supplemented by the **Institute of Geophysics at the Bulgarian Academy of Science /BAS/** in a statement supporting our objections based on the lack of seismic safety for the risky dam. Therefore we are sending this document to the EU *Innovation and Network Executive Agency /INEA/* again, for the reason that the Agency has already spent or is going to in the nearest future /see Grant agreement INEA/CEF/ENER/M2014/008 please/ some European money, including ours, for the Project of the dam and for the Fraud called EIA/AA reports, not knowing that these reports are a fraud, possibly.

Yet there is a very important new finding of ours concerning a huge violation of the Bulgarian legal framework during the boom of HPP construction in the country. The riverbeds in Bulgaria are considered Public State Property according to the Water Act. To build anything on public state property, like the run-off-river HPPs or the water catchments of the diversion type HPPs, a special Permit issued by the Council of Ministers is required under the Bulgarian State Property Act. It turned out that only 2 /two/ out of some 140 /one hundred and forty/ HPPs built since 2000 on running rivers have such permit. Yes, the numbers are exact - 2 out of nearly 140! All the rest are constructed in breach of the legislation and the state authorities know pretty well about the fact and are doing nothing to resolve it. In this respect the state authorities' idleness and ignorance of the problem can be considered Unlawful State Aid, because everyone else in this country is following the requirements of the State Property Act, has won in a tender procedure to use the property and pays fee to the State when using the property, except for the HPP owners, with only 2 /two/ exceptions.

Therefore, we are sending this document to some European financial institutions, which have financed hydropower plants in BG already, being pretty sure that the banks will possibly be happy to learn that none of the two legal exceptions was financed with EU money and they have financed only the illegal ones. As for the Unlawful State Aid itself - this issue is in the competence of **EU DG Competition**, which is also included in the recipients' list with the hope that the **Unit State aids** will study the case. We may also send additional information to the Unit when our inquiry is completed.

But beforehand we are very happy to inform all recipients of this appendix that our Hydropower monitoring platform: <https://dams.reki.bg/Dams/Map> has finally been translated in English. It took us a lot of time and efforts, because we all do something else for a living besides fighting for the rivers, which we do only in our free time. Now everyone can see what is actually going on here hopefully.

For everyone who's interested - please note that the individual status for a visit at a given HPP water catchment holds a description that is still not translated. We apologize

for that, but hope that the pictures and the videos are clear enough and speak for themselves.

The uploaded data, including pictures & videos can be freely used by everyone for noncommercial purpose. Just claim the source, please.

For those who are not interested - they can follow the links only to the 4/four/ HPPs on the Davidkovska River in the Natura 2000 Habitats Directive site **Rodopi Sredni BG0001031** listed in the following link, just to see how a beautiful river was killed for the sake of small hydro and to observe the 4 /four/ most stupid fish passes on Planet Earth built up on a single river, right one after the other. Please enjoy the pictures by following the links displayed here:

<https://dams.reki.bg/Dams/Map?q=davidkovska&action=search>

And there is another brand new Galabovo sHPP on the same river just like the above, which has received the final Water Permit from the EARBD recently and its construction can start tomorrow in the same Natura 2000 site. Five HPPS on a small river right one after the other - so much for the Natura 2000 Network and the cumulative effects to be taken into consideration...

Acknowledgements

We dedicate the following document to the poor people of Bulgaria, paying those high feed-in tariffs hydropower is rewarded with as RES, for being illegally built without the required by the BG Law permits, free of charge and without any tender procedures on a Public State Property - the riverbeds in Bulgaria, with the only aim to kill those rivers, which are priceless National Treasure, only for the sake of a few dishonest HPP operators' "strategic" profit. The rivers here belong to every living creature today and in the future, not to MOEW or to the hydropower operators, to be killed so carelessly! Due to its devastating impact & miserable benefits, small Hydro should not be rewarded with any kind of subsidies, let alone when it is illegal! If there is anyone that still refuses to agree, then study the HPP monitoring Platform's full contents more carefully!

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ACRONYMS:

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
SPA	- State Property Act
EIA	- Environmental Impact Assessment
AA	- Appropriate Assessment
RBMP	- River Basin Management Plan
HPP	- Hydropower Plant
WWTS	- Wastewater Treatment Station
IP	- Investment Plan
BAS	- Bulgarian Academy of Sciences

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 bodies alleged by the complainant not to have complied with Community law:

The Bulgarian Ministry of Environment and Waters (MOEW) and the East Aegean River Basin Directorate (**EARBD**) with MOEW.

The Bulgarian Ministry of Regional Development and all its substructures, especially the National Construction Control Directorate.

II. DESCRIPTION OF THE SUSPECTED INFRINGEMENT OF UNION LAW

A. THE YADENITSA DAM CASE - New evidence

Somewhere at the end of July 2017 the new minister of Environment and Waters Neno Dimov released his decision on the approval of the EIA/AA reports without a due diligence on the problematic issues raised in our full objection on the case - just like we predicted in our previous complaint. For anyone who's not aware of the problem, the previous complaint on the Yadenitsa dam case lodged with DG Environment can be found here:

https://dams.reki.bg/uploads/Docs/Files/EU_COMPLAINT_ANNEX_5_DRAFT2.pdf

One of the major issues raised in the document is the lack of seismic safety for the dam, which violates special bans set in the relevant Bulgarian Seismic Design Code for such dams to be built in areas that are torn apart by several huge geological faults - the comments on the seismic safety start on page 13 of the above document. It is also one of the major problems included in the Objection Balkanka Association shared with the Ministry of Environment and Waters during the public consultation on the EIA/AA reports. Human safety in the villages and cities below the dam is the most important issue that has to be studied and proven in the EIA report due to the fact that humans are the most important part of the Environment. We also warned MOEW that they will be taking an incredible responsibility if they don't check whether our warnings hold water or they don't - just like we did warn DG Environment and INEA in the above document.

Being aware of Balkanka Association's high level of expertise in the field of seismic safety, MOEW obviously didn't buy the warnings nonetheless, but thankfully decided to ask the most competent institution in Bulgaria on the matter - the Institute of Geophysics, Geodesy and Geography /IGGG/ at the Bulgarian Academy of Sciences. And here is the answer of IGGG-BAS:

Document No1

https://dams.reki.bg/uploads/Docs/Files/STATEMENT_BAS_GEOPHISICS_YADENITSA.pdf

In the end it says: ***In this respect the comments in the Objections of Balkanka Association and WNA Balkani, concerning the seismic characteristics of the area are legitimate.***

Now we must stress the point on the fact that IGGG - BAS is not an interested party in the case - it is absolutely independent. We figure it's OK for MOEW not to believe us, because we may be ready to do anything to save the river, not that we can lie about seismic safety by any means. But to disbelieve the Bulgarian Academy of Sciences on such a vital issue - we do not have an explanation why MOEW did that. Because it is exactly what they did by the approval of the EIA/AA reports! Then why did MOEW ask BAS in the first place - only to disregard their statement in the end of the day?

Anyway, the above complaint of ours in the first link holds also warnings to DG Environment and to INEA that the future Yadenitsa dam is risky in terms of the seismic safety. We also insisted on an independent expertise to check our statements on the matter - see page 17 of the above Appendix No5 again please. Now we are bringing such an independent expert statement to the attention of DG Environment and of INEA, hoping that they would listen to the Institute of BAS. We are an interested party alright and much more interested are the experts of the National Electric Company and the designers of the dam, because they all are getting paid by NEK and pretty well paid they are. That is why they will keep calling everything is perfect.

But the Bulgarian Academy of Sciences is not an interested party! Therefore we hope that DG environment and INEA will listen to the guys, take the right decision in the end and stop the Yadenitsa dam before it is too late.

There is one more thing to share, that might be interesting to DG Environment and especially to EU INEA. About a week after the minister's decision for the approval of the EIA and AA reports was published, he released at 5 /five/ o'clock pm on Friday another

decision allowing the preliminary execution of his previous decision. This meant that the entire procedure can go on no matter if his previous decision is brought to the Supreme Administrative Court /SAC/, or not. At 5 /five/ o'clock pm on Friday with a three day deadline for objection in court - the respectful minister did that!

Of course we knew what he would do before the thought had crossed his honorable mind, managed to lodge an objection in SAC on time and SAC overruled the minister's decision for the preliminary execution... The same will happen with our objection on the essence of the EIA/AA reports *per se* - we have no doubt about it. Only then it might turn out that the European Union was going to finance not only a risky, but a totally illegal dam, breaching the Union's own regulations and directives - can anyone imagine that?

And there is still another major problem - the Yadenitsa dam project is short of an onerous building right issued by the Council of ministers to be built on Public State Property - the riverbed of the Yadenitsa River. The project holds the necessary rights for the forest fund around the river, but for the riverbed it doesn't and it should - read carefully the following section **B.**, please.

B. BG HYDROPOWER & THE STATE PROPERTY ACT

Now this is a new fact and it's huge. According to **art.11** of the Water Act the riverbeds in Bulgaria are considered Public State Property. To build anything, like a dam wall, the run-off-river HPPs or the water catchments of the diversion type HPPs on Public State Property, a special Decision issued by the Council of Ministers is required under the Bulgarian State Property Act. Until the year of 2010 under art.16 and art.16a of the same State Property Act the only possible way for someone to use public state property was the **concession**.

The problem had obviously crossed the mind of former minister of environment and waters Nona Karadjova in 2010. She informed the minister of regional development at the time for the problem.

Proof: See **Document No2** please:

https://dams.reki.bg/uploads/Docs/Files/Doc2_MOEW_LETTER_CONCESSIONS.pdf

And there is not a single line in the Bulgarian Concessions Act and the relevant Directive 2014/23/EU that has not been breached in the period until 2010. The public state property was taken by the HPP operators to use it forever, without a tender procedure and without a fee. Please note - the property was just taken - it was not given with a permit by the state, or concession contract with the state, or anything. Thus the second line of paragraph (2) /Directive 2014/23/EU/ was partially followed because there wasn't any *excessive amount of bureaucracy* created, there was none created whatsoever.

Minister Karadjova also pointed out that the operators do not hold any kind of document to prove the right to use state property, which means that the new run-off river HPPs and the water catchments of the diversion HPPs are illegal!

Ever since that moment every state official knew that the hydropower facilities built up so far are illegal and the State did nothing to protect its interest. On the contrary - the perpetrators keep receiving those high feed-in tariffs until now and many new Construction permits were issued and many old expiring Construction permits were extended, regardless of the fact that minister Karadjova insisted in the above letter that the practice must be terminated.

Then, all of a sudden, in the same 2010 the Energy Act was changed allowing construction of hydropower facilities on public state property with an onerous building right authorized by the Council of ministers without an auction or tender or any other kind of competition. But that didn't lead to any change at all - the issuance of new HPP Construction permits continues up to this day without a single difference, i.e. - without any permit for the construction on public state property and without a fee.

As an example we will take the **Energy Govedartsi HPP** case described on page 11 in Appendix No3. This HPP is short of a permit issued by the council of ministers for the

use of public state property and still received a brand new Construction permit issued by the Samokov municipality in October 2016 nevertheless. It was even short of an EIA/AA report, as well as of an actual Water Body exploitation permit and still received the Construction permit, regardless of the statement of Mr. Juergen Mueller /Head of commissioner Vella's cabinet/, shared with the BG National Radio, that an EIA is necessary:

<https://ureport.bg/132622/2016/10/08/politika/bulgaria/ek-iska-ekootsenka-za-vets-a-v-rila-bil-toy-i-na-valentin-zlatev>

Getting back to the illegal construction permits - there are only three exceptions according to an answer of the Council of Ministers Office, which we received under the Public Information Access Act.

Proof: See **Document No3** please

https://dams.reki.bg/uploads/Docs/Files/Doc3_Council_ministers_letter.pdf

The exceptions are the operational Kadievo HPP and Tsarevets HPP, as well as the future Tevani HPP. Only three in general and only two operational out of more than 140 are legal, let alone the future in the past Yadenitsa dam! We really hope that this information can be useful to the financial institutions operating with the EU taxpayers' money and to the management bodies of the EU Programmes that have financed several hydropower plants in our country thus far, or were going to finance the Yadenitsa dam.

On the other hand, only two operational HPPs are paying fees to the state for using the public state property, while the rest more than 140 pay absolutely nothing. And every other producer of electricity from RES pays fees under the same conditions. In this context we find that the basic EU principles on competition are also breached. Because the use of state resources displays selectivity in favor of the hydropower operators, leading to certain commercial advantages for the production of electricity only from hydropower, thus affecting competition in the worst possible way.

Therefore we hope that Unit State aids with EU DG Competition will pay attention to this problem.

And still another very important issue - minister Karadjova was right in that letter of hers /Document No2/ to warn the Ministry of Regional Development. However, she failed to warn her own inferior RIEWs and RBDs to follow the requirements of the Environmental Protection Act /EPA/ and the Water Act on the matter more strictly.

Acc. to § 1, subparagraph 20 of the Additional Provisions of the EPA - the investor must "*by virtue of a special law, regulation or administrative act, have the right to initiate or to apply for approval of an investment proposal*"

And acc. to art.60, paragraph 3, subparagraph 4. of the WA:

(3) Whereas the request is for a water abstraction permit from surface water bodies, to the application under paragraph 1, the following shall also be included:

.....
4. Documents certifying the consent of the owners of the property affected by the swamping and the construction of the facilities when the facilities are new;

And as we said - when the construction of water catchments in the riverbeds is concerned - the building right on public state property, as well as the consent of the owner of the property - the State, must be granted to the investor by the Council of ministers. And besides the two exceptions of legal HPP named above, the EIA/AA procedures for all the rest HP Investment Plans were carried out without the necessary documents to prove the building right or the consent of the owner of the riverbeds. Thus all the EIA/AA procedures and all RBD decisions on the water permits are also illegal, with only three exceptions.

This is applicable even to the Yadenitsa dam case, because in the Public site of the Yadenitsa project the named documents proving the rights or the consent of the State cannot be traced, neither is the small Yadenitsa HPP below the dam listed in the above Document No3. The project holds permit only for the forests surrounding the river, and there is nothing for the riverbed - neither building right, nor consent. This means that the entire Yadenitsa EIA/AA procedure and the Water permit by the EARBD are corrupt - we will get to know much more about it during the hearings in SAC.

We promise that each and every financial institution with the EU as well as each and every EU Programme, Agency etc. will receive notification, concerning the HPP Investment Plans it has financed in our country - directly or through other BG banks, together with a kind request to avoid the same misstep in the future, because it was illegal up to now and will continue to be. And who knows - the poorest people in the EU might have some questions to these institutions too. Just to have an idea of what a huge scandal is happening on the matter today - watch the following two TV broadcasts please https://nova.bg/news/view/2017/11/12/198360/illegal_HPPs_in_BG/
https://www.youtube.com/watch?time_continue=1176&v=wK6KXD0lqRY

In the end of this section we must remind DG Environment how many times we stated in our previous complaints that there is a total Anarchy going on here as far as water policy is concerned. We really hope that the TV broadcasts display part of the picture in its stunning beauty.

Note:

Except for the final section *VI - Aim of the complaint*, the following from sections now on are only in DG Environment field of interest. They do not concern financial institutions, unless there are intentions for future hydropower funding in our country. But then it's recommendable to start the study from the very beginning with our first complaint, to get a clear view on the entire hydropower picture in Bulgaria. That picture can also be very interesting to those who have financed any of the damn things so far.

C. The Struma River under the Pchelina HPP - New facts and evidence

The case was initially described in section B. on page 9 of the following document: https://dams.reki.bg/uploads/Docs/Files/EU_COMPLAINT_ANNEX_3_DRAFT4.pdf

It was brought to the attention of DG Environment on 03.10.2016. The new Pchelina HPP was discharging the toxic deposits, accumulated in the Pchelina dam during socialist times. One year later during another field visit of ours the situation is not getting better, it is only getting worse:

<https://dams.reki.bg/0492-dam/2017-09-29>

If you watch the videos, the blue color of the river is quite obvious, but pitifully the stench cannot be felt. And there are the villages of Lobosh, Jablyano and the city of Zemen breathing the thing and a few old people in the village of Lobosh stated that no state authority is paying attention, maybe because the owner of the HPP is a former deputy minister of the environment and waters. So much for the cleanness of the air DG Environment has opened an infringement procedure against Bulgaria for breaching the EU regulations. And those poor people will suffer the procedure penalties when they come, instead of the MOEW officials breathing the conditioned air in their pretty cabinets!

And the aquatic life in the river is destroyed, there is nowhere for the wild and the domestic animals do drink water from, the water is not suitable for irrigation purposes, for bathing... and fishing & hunting are also dead and the poor people will pay the price of the infringement procedure, rather than the state officials, and the HPP will keep working until then and afterwards?

And DG Environment is doing not a lot, nearly as little as possible, if anything at all. There is something very wrong then in the European Union as a whole and in the EU DG Environment in particular! Shame on all of you and all your kind for not coming here to see the dirty river, feel the stench and listen to the locals! It should be the MOEW officials suffering the penalties of the infringement procedure, not the people of Bulgaria!

Anyway, since the Struma River below the Pchelina dam is running through the Natura 2000 Habitats Directive site **Zemen BG0001012**, which was hosting priority habitat types and priority species once, and the Investment Plan /IP/ was approved without an Appropriate Assessment in the first place, and as far as MOEW did not assess the damage when we reported the pollution in the autumn of 2016, someone else had to do that - the Museum of Natural Sciences /MNS/ at the Bulgarian Academy of Sciences. The following Study is a scientific proof holding full description of the damage on the Natura 2000 site's conservation objectives:

Document No4:

<https://dams.reki.bg/uploads/Docs/Files/Pchelina-Struma%20FINAL.pdf>

There is a recommendation in the end that the HPP should cease operation - see the top lines on page 14 please.

That happened at the end of 2016 and we are at the end of 2017 now and the river is running in deeper shades of blue today and smells ten times worse!

However, it is the new minister of environment and waters intention to reduce the Natura 2000 sites' coverage in Bulgaria significantly - he declares that in every interview in every media, since he became in charge. And every week there is the news of another poisoned river in the media, and the state authorities are running afterwards just to declare another *unknown perpetrator*... With such a minister it is no wonder - the guy is striving to reduce the biodiversity in our country and he will manage to do that in the end. And next time when the Struma River is studied, it will show that he was right - there is nothing to protect there anymore!

At the end of this section we have to point out something very important concerning the **EU Pilot application under reference EUP(2017)9183** in advance. In the spring of 2017 a local fishermen organization - a branch of the *Central Fish Protecting Organization*, submitted another signal to MOEW concerning the killing of the Struma River, insisting on the HPP Pchelina operation to be terminated. They received an answer from MOEW that there is a Study carried out by MNS-BAS which proves that from now on everything will be OK with the operation of this HPP. That was a direct lie - read the top lines on page 14 of the same Study of MNS-BAS again, please. It says just the opposite - that the HPP should cease operation. It is not the first time we encounter direct lies shared by MOEW officials - they often lie to us in the answers to our weekly monitoring reports. That is why we worry about the information MOEW is going to submit to DG Environment under the Pilot procedure - being *economical with the truth* as only our MOEW can be. The ministry officials are not ashamed to lie to us while we are living two kilometers away from their air conditioned headquarters and we know what's happening with each and every river much better than they do, let alone how they can lie to someone in an air conditioned office more than 2000 /two thousand/ kilometers away, someone who refuses to come here and see for himself the dirty stinking truth, willing only to decide what's right and what is wrong by studying the papers of MOEW. We will, however, come to that again in the following section F.

D. The Botunya River killing in 2016 - new fact

The case was described in section A. on page 6 of the following document:

https://dams.reki.bg/uploads/Docs/Files/EU_COMPLAINT_ANNEX_3_DRAFT4.pdf

In brief - in September 2016 the Luna HPP discharged thousands cubic meters of toxic silt in the Botunya River, to kill the entire river life, as well as the Natura 2000

Habitats Directive site **Bilernitsite BG0000593** below the lake, and to leave the locals with a completely dead river, with all the negative impacts described above for the villages along the Struma River.

There is only one small new fact to be considered - in September 2016 the actual then minister - Mrs. Ivelina Vassileva, under the applauses of the locals, at the sight of the dead river full of silt, declared that it is the worst ecological catastrophe in modern times and promised that the Luna HPP will never work again. One year later, at a follow-up monitoring visit of ours to see what's going on, it turned out that the Luna HPP is proudly working and that Mrs. Vassileva has lied to the locals at the time, promising things she is not willing to fulfill. But, as we said, the lies of the MOEW officials are common practice, after all.

Here is the proof that the Luna HPP is working in October 2017:

<https://dams.reki.bg/0161-dam/2017-10-12>

And here is the eco catastrophe in September 2016:

<https://dams.reki.bg/0161-dam/2016-09-21>

E. The Vacha River killing in 2017 - new case

1. The Vacha river in Bulgaria is the river suffering the most devastating hydropower impact amongst all. Three big dams, several additional water catchments on the main river, a new small HPP near the confluence with the Maritsa river, numerous small intakes and dams for the big old Dospat-Vacha cascade from Socialist times and at least ten new small operational HPPs at all the tributaries and an unknown number of future HPPs that hold actual Water permits - that is the present status of the river today! The mere fact that this damned river still hosts some life in it is an inexplicable miracle of Nature. In its lower part right below the city of Krichim the river is running through the Natura 2000 Habitats Directive site **Reka Vacha - Trakya BG0000424** and most of its tributaries in the upper part of the main river are located within the boundaries of the Natura 2000 Habitats Directive site **Rodopi Zapadni BG0001030** and in the Birds Directive sites **Zapadni Rodopi BG0002063** and **Trigrad - Mursalitsa BG0002113** as well. We have many pictures of all kind of intakes that release no water in the tributaries, but that is not the issue here, because it shouldn't be a surprise to DG Environment any longer.

But two sections of the main river were also totally dried up this year with the explicit permission of MOEW.

The first one happened in the middle of July under the big new Zankov kamak dam. Just watch the videos uploaded here:

<https://dams.reki.bg/0497-dam/2017-07-15>

The reason is that the Zankov kamak dam is nearly as stupid as the future in the past Yadenitsa dam, only it is much more costly. Acc. to the official information it costs **1.0** billion BGN /nearly **500** million €/ at the very least, for only 80 MW installed capacity of the Zankov kamak HPP. And the water is leaking out of the dam because the poor thing was built in a carst region by the proud Bulgarian and Austrian hydro technicians. The area is as inappropriate for dam construction as the area of the Yadenitsa dam, only it is less risky in terms of the seismic safety. However, due to the leakage of the dam, the entire riverbed of the Gashnya river was poured with concrete and the dam still loses so much water, that the Zankov kamak HPP, costly as it is, is capable to work no more than 50 /fifty/ days per year. So it cannot return its maintenance costs, not to speak of any profit in the unknown future. That is why this year the owner of the dam - NEK, decided to keep searching for the holes the water is sneaking through and drained the dam down to the bottom. This was done with pauses - the river under the dam was either running wild like hell or didn't run at all. As a result - the entire ecosystem in the river below the dam was destroyed. We figure that acc. to the Water Act this must have happened in a way to

secure the E-flow which is a priority requirement for every HP operator, including the brutal criminals from NEK. But in Bulgaria the Law is not applied to NEK - we proved that in our previous complaints. And the killing of the river together with the drainage of the dam was allowed by MOEW without an EIA of course.

2. The second crime was committed in the lower part of the river below the third Krichim dam of the old Dospat-Vacha cascade. It was declared to be done for the cleaning of the riverbed within the city limits of the town of Krichim, but accidentally the same NEK did some maintenance and repairing of the old cascade equipment - it took them five days in the end of September 2017 when the river was totally dried up during the day.

Proof:

<https://www.facebook.com/forthenature.org/videos/1462063470498067/>

Then we are wondering - what will happen in Bulgaria if every riverbed is cleaned that way? And how about the objectives of the EU Water Framework Directive for preventing deterioration of the river status, or achieving good status, or potential..., or whatever these objectives are aiming at?

In 2004 we watched the cleaning of another river - the much bigger Maritsa River in the city limits of Plovdiv - it was done during low water and the river was still running the whole time! And the riverbed really needed to be cleaned, while in Krichim there was nothing in the river - watch the video again to see! But Bulgaria was not an EU member in 2004 with all those complicated and confusing EU Directives to follow.

Needless to say that the above video was taken at the border line of the Natura 2000 Habitats Directive site Reka Vacha - Trakya BG0000424 designated for the protection of the river ecosystem. And the river killing was done again with the explicit permission of MOEW!

Proof:

http://www5.moew.government.bg/?wpfb_dl=18536

Please note that the letter is addressed to the Director of NEK, who asked MOEW for a permission to kill the river, not to the mayor of the city of Krichim, who was supposed to clean the riverbed, but didn't ask for anything.

And needless to say that this permission of MOEW was issued without any kind of assessment of the devastating impact on the Natura 2000 sites' conservation objectives, set to safeguard the river ecosystem! These people have no hearts!

F. The EU Pilot application under reference **EUP(2017)9183**

Here we have to thank DG Environment for considering our complaints important enough to initiate a study of what is really going on, opening the Pilot procedure. The rivers in Bulgaria are in danger of not achieving the objectives of the EU WFD and things are not getting any better, they are getting worse. Every week we hear the news of another river poisoned or dried up and MOEW is doing nothing but to register the damage and to find the next unknown perpetrator. In many cases the perpetrator is the ministry itself by allowing river destruction like in the described cases above. We warned MOEW for the destruction of the Vacha River in advance and asked EARBD to check if there will be the E-flow running in the river. And they went to watch the river dried up to the bottom and informed us afterwards that everything is fine. It is also a common practice of MOEW to lie to us after every weekly report which we have sent.

We therefore are a bit worried about the answers of MOEW to DG Environment within the Pilot procedure. In September 2017 we asked MOEW under the Public Information Access Act to share with us the questions of DG Environment together with a proposal for us to help MOEW the answers to be more precise. For example - since no

one in MOEW or in the RBDs had any idea about the location of the hundreds of water catchments belonging to NEK - then how will they draw a correct map of the hydro morphological pressure in the country for hydropower, if such a map is required by DG Environment as it should be? In the new RBMPs 2016-2021 not a single of these water catchments is displayed, neither are they shown in the SEA and AA of these RBMPs, disregarding our objections on the matter.

MOEW denied access to the information about the questions of DG Environment and that is raising even more suspicions. Not that we are trying to imply that MOEW will dare to lie to DG Environment, but as we said before - they can be as *economical with the truth* as only they can be. If we take for example the Belmeken-Sestrimo-Chaira Hydropower Group, MOEW can show as a single point of water abstraction only the Belmeken dam and that will not be the whole truth by far. The truth is that there is a nearly full circle of three derivation channels collecting the water of all the rivers and streams in the Rila Mountain and the Rila National Park at the altitude of 1900-2100 meters above sea level to bring that water to the Belmeken dam. And for the cascade there are another two derivation channels at the altitude of 1300 meters. The overall number of water catchments is more than 100 /one hundred/ for the cascade in the heart of the Rila National Park, which is also a Natura 2000 site, not only one at the Belmeken dam.

The same goes for all the other old cascades from Socialist times - Dospat-Vacha, Arda, Petrohan, the Batak Hydropower Drive etc. The exact number of the the Petrohan cascade water catchments is 67/sixty seven/ as we finally managed to find out, located in the heart of the Natura 2000 Habitats Directive site Zapadna Stara Planina i Predbalkan.

Our cause is just, that is why we have our sources of information everywhere, with many people on our side, including inside NEK. Therefore we know that MOEW asked NEK to submit information about the exact locations of all the water catchments that belong to them and NEK refused to disclose the information. We therefore have our uncertainties and fear that MOEW authorities will not be able to submit to DG Environment the right answers on the issue, even if they wanted to. Thus the entire picture of the hydropower hydro morphological pressure in the country will be incomplete by far!

And some things cannot be written on paper anyway - for example the status of the Struma River below the Pchelina HPP with the stench around the riverbed, or the Botunya River, or Topolnitsa near the Dushantsi village and many many other. Such things are for someone to see and smell himself in order to believe.

That is why we will repeat again our invitation to DG Environment staff from the first complaint - to come here and see the dry truth themselves. Visiting Bulgaria they shouldn't only meet the state officials at some entertaining events to amuse themselves together, but they should come here for a visit to let us show them what is actually going on. Otherwise MOEW will prove on paper everything is perfect and they are very good at paperwork, we give them that, especially if DG Env. is willing to believe. If such a mission would come here, the ministry should never be informed because the perpetrators will be warned and we will have the strongest environmental protection in the world for a week or two during the visit.

And that will not be the first case our proud MOEW is trying to deceive the EU institutions. Let's just recall the Iliyana HPP case when the Rila Holly Cloister was about to receive a 2.5 /two and a half/ million € grant from the Kozloduy Decommissioning Fund and the Abbot of the monastery was waving a letter of MOEW that the entire procedure is perfect, which it wasn't - it was short of an Appropriate Assessment. Thankfully we managed to inform the EBRD decision makers on time and thankfully they cancelled the grant, but that is not the point. The point is - the ministry was lying then and can do it again anytime, for anything - especially under the reign of the Knight in Shining Armour - the new minister Mr. Neno Dimov, who is doing pretty well shining the sad remains of MOEW's image in front of DG Environment on cases like the Kaliakra infringement procedure. At least that's what he declares in the media and possibly those mutual amusements have reached their purpose in the end.

G. 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

- **Treaty on the Functioning of the European Union**

- **Article 107**
- (ex Article 87 TEC)
- 1. Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.
- **DIRECTIVE 2014/23/EU** of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts
- **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

H. 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 of the Yadenitsa dam will be co-financed by the EU INEA and NEK. To our knowledge - the Project and the false EIA/AA reports are going to be paid by the Agency as well. And the country is receiving money for the Natura 2000 network, which the new minister is swearing to reduce.

III. LIST OF DOCUMENTS / EVIDENCE

1. **Document No1** - Statement of IGGG-BAS on the seismic safety of the Yadenitsa dam
https://dams.reki.bg/uploads/Docs/Files/STATEMENT_BAS_GEOPHISICS_YADENITSA.pdf
2. **Document No2** - A letter of former minister of MOEW Nona Karadjova about the illegal construction of HPP on Public State Property.
https://dams.reki.bg/uploads/Docs/Files/Doc2_MOEW_LETTER_CONCESSIONS.pdf
3. **Document No3** - A letter of the Council of Minister's Office confirming that only 3 /three/ HPPs have the necessary permits.
https://dams.reki.bg/uploads/Docs/Files/Doc3_Council_ministers_letter.pdf
4. **Document No4** - A Report by the MNS-BAS on the Struma River destruction
<https://dams.reki.bg/uploads/Docs/Files/Pchelina-Struma%20FINAL.pdf>

IV. APPEALS/LEGAL ACTIONS/ OTHER ACTIONS

All the actions we have taken insofar are described in the previous complaints.

We have tried to contact EU Institutions to request help on the same issues six times already - one original complaint and five consecutive appendixes so far. We were kindly informed that all these documents are transferred to **EU Pilot application under reference EUP(2017)9183** and hope that this new appendix No6 will be transferred to the application under the same ID number too.

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 and the following appendixes the aim was thoroughly described. We shall not repeat that once again, only with the following exception:

In Bulgaria the objectives of the EU WFD will never be attained! Not until 2027, neither until 2227, nor any later in the third millennium. For many years now MOEW and all its structures are doing everything they can to destroy the rivers and they will do it in the end, despite the resistance of our kind of people and the local victims. If anyone does not believe us, the following link holds another confirmation - a letter of the Chamber of Engineers to the minister of environment and waters, the minister of agriculture and the minister of regional development:

https://dams.reki.bg/uploads/Docs/Files/KIIP_Letter.pdf

All the BG engineers working in the field of the investment projects design are members of the Chamber of Engineers, including all hydro technicians. And the letter is signed by two of the leading hydro technical engineers who deeply disapprove the present situation. Read the letter carefully, please, because many of the problems are pointed out to be significant enough as to require fast reaction from the state.

We would also like to kindly remind DG Environment that they received similar letter of support to our efforts from the National Museum of Natural Sciences at BAS after our first original Complaint, and in the first complaint there was another letter of support from the Faculty of Biology at the Sofia University

Therefore, after such support from such respected organizations and scientific institutes, we really hope that someone will believe at last - the EU WFD objectives will never be achieved unless there is a full 180 degrees reversal of the MOEWs attitude towards nature protection here. If nothing happens very soon, our rivers are condemned.

Before our EU membership we've had much stronger environmental protection - just take the Pirin National Park or the Kresna Gorge as an example, or Kaliakra. Since we

became an EU member with all those EU directives that contradict to one another, especially in the field of nature protection and RES development, nature protection here is going down, slowly, inexorably reaching the bottom. Just another example - you cannot develop small hydro without destroying river ecosystems and you cannot go for wind power without destroying windy biodiversity hot spots like Kaliakra. At least in Bulgaria you can't.

It is a paradox then after all - the HPP development was inspired by the EU in the first place, then the boom of it had come, uncontrolled as it was, and all of it became possible only for the reason that our traditions in nature protection were weakened by the EU directives to the unacceptable limits and beyond.

In the very end let's put on the shoes of the poor local people in villages like Jablyano, Lobosh, Botunya, Barzia, Sestrimo or every other village here whose river was deliberately killed for the sake of hydropower. Today there is no water for the animals, for irrigation, bathing, some of them have no access to drinking water... and so on - we will not repeat all the devastating impacts once again. But that is too big a price the local people had to pay. And they are also paying those high preferential prices hydropower is subsidized with - because it was supposed to lead to "favorable benefits" for the environment - which it obviously didn't, unless if HP operators here are not considered a new species, which they obviously are. Those poor people are also paying taxes to support the state officials who authorized the destruction of their rivers, paying taxes for the controlling officers supposed not to allow the same destruction... And also paying **obligations fee to the society** to the energy system for the balancing of that small hydropower which in Bulgaria produces most in spring time, when no one needs electricity for heating or for cooling, and will be paying for the Yadenitsa dam which is supposed to further balance the damn things in the future? And all our rivers were stolen from us with the help of different EU Programmes and financial institutions /often hidden behind the mask of "rural development" support/ for the same small hydro that produces less than 2% /two percent/ of the total electricity production? What rural development along a dead river do you guys from the EU dream of, please?

And in the end it turns out that the same small hydropower is totally illegal, like we proved the fact in section B.? And worst of all, in 2027, when the objectives of the EU WFD are not achieved, the people of Bulgaria with the people in those cursed villages included, together with the devoted to the rivers people like our kind who are striving to inform the European Commission of what is happening on time, will be the ones to pay the Price for not achieving..., or not preventing..., or whatever? Not the MOEW officials or the owners of the HPPs, or the inspirers of the whole thing from the EU?

Be sure of it - we've had enough of paying and will refuse to pay That Price, especially when we have warned DG Environment on time!

One happy day these EU "achievements" will be removed - that is a promise.

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:

Representative for this complaint:

Sofia, Bulgaria
30.10.2017

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

