

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

NOTIFICATION

Ref. No 02 / 2024
TO
THE EUROPEAN COMMISSION CONCERNING BREACH
OF THE EU DIRECTIVES IN BULGARIA



Photo credit BG NES

Representative for this complaint:



dipl.eng. Dimitar Koumanov,
Member of the board

Sofia, Bulgaria
17.03.2024

INTRODUCTION

Referring to the latest communication from DG ENV of the Commission Ref. ARES(2023) 8035636 - 24.11.2023, the information in this document is focused on the breach of the EU Floods Directive (2007/60/EC), the SEA Directive 2001/42/EC and the Habitats Directive 92/43/EEC, committed by the "competent" national authorities during the approval and the attempt to adopt and set into force the Flood Risk Management Plans 2024-2027 in Bulgaria including the SEA/AA procedures for the same plans.

Full description of the deficiencies and mishaps in the EIA and AA procedures for the new FRMPs can be found in our previous communication with DG ENV here:

https://dams.reki.bg/uploads/Docs/Files/EU_NOTIFICATION_2023_4%20DRAFT1.pdf

The main new issue which will be addressed here is the fact that in the very end of 2023 the new FRMPs 2024-2027 have been approved and enforced by the Council of Ministers while these FRMPs have not been carried out in coordination with, and have not been integrated into, the review of the River Basin Management Plans 2025-2027 provided for in Article 13(7) of Directive 2000/60/EC, simply because these new RBMPs do not exist. Obviously, this constitutes a Breach of the Floods directive.

Furthermore, allow us please to express our deepest appreciation for the efforts of the Commission to help Bulgaria and our environmental authorities in their constant endeavor to disregard the European **Water Framework Directive (WFD) 2000/60/EC** by referring Bulgaria to the EU court of Justice nearly on time:

https://ec.europa.eu/commission/presscorner/api/files/document/print/eN/ip_24_265/IP_24_265_EN.pdf

However, there is a little something we believe that DG ENV may possibly have missed in the whole picture of this particular infringement of the EU WFD, which we will try to clarify in the document below.

Of course, it should also be taken into consideration that the Total Mess described in this document has been composed with the financial support of the European Union itself, because the preparation of the new set of FRMPs and RBMPs was worth exactly 21 million EURO to the European and the Bulgarian taxpayers, the greatest part of which has come from the good old EU.

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 representing person.

5. Member State or public bodies alleged not to have complied with Community law:

The Bulgarian Ministry of Environment and Waters (MOEW) and all the River Basin Directorates (RBDs) with MOEW, together with the International Bank for Reconstruction and Development - part of the World Bank Group, with the strong support of DG ENV of the European Commission.

II. DESCRIPTION OF THE ONGOING INFRINGEMENT OF UNION LAW

1. The Breach of the EU Water Framework Directive (WFD) 2000/60/EC during the preparation of the new RBMPs 2025-2027.:

In brief, the Breach is based not only on the huge delay of our new RBMPs the Commission was so kind to refer Bulgaria to the EU court of Justice.

There is a much, much bigger Problem here and it's hidden behind the fact that we are in 2024 now, waiting for the happy day when the new RBMPs will be published for public consultation somewhere in the next decade. Yet, these plans will be out of date, even if they would be published tomorrow, because they will be based on the old and outdated Interim Review of the Significant Problems in Water Management /IRSPWM/ for the four River basins in Bulgaria. **These IRSPWMs were published for consultations in November 2021** and even then their quality was less than Zero. We were happy to inform DG ENV about the low quality of the Interim Reviews in the following document - see section 1. *River Basin Management Plans 2025-2027*:

https://dams.reki.bg/uploads/Docs/Files/EU_NOTIFICATION_2023_2%20DRAFT3.pdf

Two years and a half later, there is nothing else published to convince the stakeholders that our environmental authorities are working on the new RBMPs at all, apart from the promises of every next Minister of environment and waters since 2021 that the plans will be published in the next two months after the minister's inauguration.

In the mean time there are a lot of catastrophic events that happened to our surface and ground water bodies, to the drinking water sources etc. etc. which couldn't have been addressed in 2021. Just one example - in August 2022 the whole municipality of Svoge was left without a single drop of drinking water for several days due to the fact that the National Electric Company did not release the ecological flow under the water catchments for the Petrohan Cascade in the mountain above the drinking water sources for the municipality. In the same August 2022 at least 7-8 rivers were reported by the media to be poisoned and all the fish was killed...

So, the main point here is that even if the new RBMPs are published tomorrow, they will be based on Interim Reviews that have nothing to do with the actual status of the surface and ground water bodies at the time when the new Plans will finally be released, while the quality of the Reviews was worth nothing even at the time when they were published back in November 2021.

Another Breach of the EU WFD article 14, para 1a is the fact that a revised timetable and work programme for the production of the plans 2022-2027 was never published and currently the public has no idea when the next steps of the procedure will take place. Obviously the stakeholders like us are not able to prepare themselves and to plan their involvements in the unknown future at all. Thus the public is impeded and excluded from participation in the public consultations, because we have a lot of other things to do in life, apart from waiting for our environmental authorities to do their miserable job.

Another Breach of the EU WFD article 14, para 1b is the fact that the Interim Review for the RBMPs 2022-2027 was published in November 2021, only one month, rather than two years before the beginning of the period to which the plans would have referred back then...

Of course, another issue of big importance is that currently the time has come when the work on the preparation of the new Interim Reviews for the next set of RBMPs 2028-2033 should have started, and we don't even have the actual RBMPs 2022-2027 published for consultations, which means that the plans 2022-2027 can be ready and enforced by the end of 2024 at the earliest, having in mind that they will need to pass another round of mandatory SEA and AA procedures together with the public

consultations on these assessments. In this way even the next procedure for the RBMPs 2028-2033 is undermined and it is obvious that the next catastrophe is underway, because the Interim Reviews for the next RBMPs 2028-2023 will not be published on time for sure, since the River Basin Directorates will be occupied with the RBMPs 2022-2027 till the end of 2024 at the very least.

2. The Breach of the EU Floods Directive (2007/60/EC).

In the very end of December 2023 the Council of Ministers has approved the new FRMPs 2024-2027, regardless of the fact that the SEA and AA decisions of the minister of environment were appealed by us in the Supreme Administrative Court which means that these decisions were not set into force. Here is the proof that the new FRMPs were approved:

<https://sinor.bg/68670-pravitelstvoto-prie-planovete-za-upravlenie-na-riska-ot-navodneniya-v-chetiri-rajona-za-2022-2027-g>

Obviously this has happened in Breach of the Floods Directive article 9.2, which states that:

2.the development of the first flood risk management plans and their subsequent reviews as referred to in Articles 7 and 14 of this Directive shall be carried out in coordination with, and may be integrated into, the reviews of the river basin management plans provided for in Article 13(7) of Directive 2000/60/EC;

In the light of the complete absence of the new RBMPs 2026-2027 it is obvious that the new FRMPs 2024-2027 were not coordinated with anything at all.

Which is worse is that the quality of the FRMPs themselves, as well as the quality of the SEA and AA reports, is extremely low as usual. Full description of the deficiencies and mishaps in the EIA and AA procedure for the new FRMPs can be found in our previous communication with DG ENV here:

https://dams.reki.bg/uploads/Docs/Files/EU_NOTIFICATION_2023_4%20DRAFT1.pdf

However, the issue that matters most is that our new and miserable FRMPs 2024-2027 will have to be applied together with the old and out of date RBMPs 2016-2021 for an unknown period of time /two years at the very least/..., which leads to an unimaginable Mess in water management our environmental authorities are so famous of all over Europe. Just one example - there are measures in the old RBMPs 2016-2021 and in the new FRMPs 2024-2027 that contradict to one another, and which one of them will be applied at the moment, nobody knows.

In the old RBMPs 2016-2021 there is a measure setting total ban on riverside forests logging to protect the river banks for all possible reasons, the same ban is available in article 143 of the Water Act and in article 65 of the Ordinance for forests logging, while in the new FRMPs 2024-2027 this ban is referred to the riverside forests logging Only in Natura 2000 Habitats Directive sites. But riverside forests are all the same everywhere and they are equally valuable in terms of biodiversity value, riverbank protection and flood risk prevention, usually hosting priority habitat types, therefore they deserve equal protection, whether they fall within the boundaries of Natura 2000 sites, or not.

Of course, in normal EU member states a plan can never overrule the law, but Bulgaria is anything but normal when water protection and flood risk prevention is concerned, and this particular measure, like many others in the FRMPs, is meaningless to say the least. But it works in favor of the politically connected companies and individuals striving to cut the forests and to take away the river sediments for free, pretending they are cleaning the riverbeds, that is why this measure was included in the FRMPs the way it sounds, regardless of our objections on the matter. For the same reason all the useful

measures proposed by the stakeholders during the public consultations on the FRMPs 2024-2027 were rejected.

Another example of the Mess is that there will be new categorization of the water bodies in the new RBMPs 2026-2027 but the new FRMPs 2024-2027 will be applied together with the old RBMPs, with the previous categorization, which is really impossible.

In the end of this section it should be noted that **flood risk management is an integral part of integrated river basin management**. The Floods Directive is therefore closely coordinated with the Water Framework Directive especially as regards coordinating flood risk management plans, river basin management plans, and public participation.

That is why we can only wonder why the Commission has referred Bulgaria to the EU court of Justice only for the huge delay in the preparation of the new RBMPs? To our view, by adopting the new FRMPs in breach of all possible legal requirements, without any coordination with the future RBMPs, causing the subsequent Mess to have the new FRMPs applied together with the old RBMPs, as they contradict to one another, Bulgaria should have been referred to the EU court of Justice for breach of the Floods Directive in the first place!!!

3. CONCLUSION.

The Total Mess described in this document has been composed with the financial support of the European Union itself, because the preparation of the new set of FRMPs and the new RBMPs was worth exactly 21 million EURO to the European and the Bulgarian taxpayers, the greatest part of which has come from the good old EU, while the Commission didn't check what's happening at all.

The result so far is unacceptable therefore we hope that our supplements will support the Commission in winning the case against Bulgaria, because the huge delay in the preparation of the RBMPs 2027-2027 is not the biggest problem. The biggest Problem is that when the Interim Review is false, it will lead to management plans worth nothing at all.

Apparently, the issues with the false FRMPs must also be addressed by the Commission in the court case against Bulgaria by joining them to the case for the delay of the RBMPs. After all, we are sure that when the new RBMPs are published, the court case against Bulgaria will be closed and all other problems described here will be swept under the carpet to the relief of both the Commission and the Bulgarian authorities. Thus in Bulgaria we will have to stay with the most corrupt River Basin and Flood Risk Management Plans one can imagine! If this happens, we can start worrying for the potential "quality" of the next set of plans 2028-2033...

In the light of the mishap with the false RBMPs together with the false FRMPs as well, we also strongly urge the Commission to take all necessary steps forcing Bulgaria to return the money taken from the EU! One mandatory step for the Commission is to inform the European Prosecutor's Office on the waste of European money. In this way the Commission will spare us the efforts to do the same in case of unavoidable necessity.

4. 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 on the problems described here.

FINAL NOTE:

This is not an official complaint, but only a notification by request of DG ENV representatives, expressed at the meeting, held in Sofia on 04.10.2023. We expect no answers from any of the EU institutions, unless they take some actions leading to a positive result and only then we will be happy to hear about it.

No new worthless numbers, CHAPs, EUPs and so forth, and do not bother to answer in advance. We've had enough of that!

Our next communication with the Commission will once again be focused on the **Fast Danube** project, this time in the light of another, even more sustainable Danube River project - the Nikopol-Turnu Magurele Hydropower Unit - for the financing of which Bulgaria and Romania have recently applied through the INEA Connecting Europe Facility, and which has the potential to undermine the Fast Danube project completely. We have our fruitful experience to be sure it would be no problem for the Commission and the Commission will be happy to finance at the same time two separate projects that contradict to one another to the extent that each of them is making the other senseless, so stay tuned to hear from us some very interesting considerations on the matter!

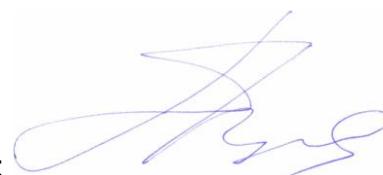
Thank you all for your kind understanding and cooperation.

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

Place, date and signature of representative:

Sofia, Bulgaria
17.03.2024

Representative for this notification:



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