

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

## NOTIFICATION

Ref. No1 / 2023

TO

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



**Representative for this complaint:**



dipl.eng. Dimiter Koumanov,  
Member of the board

Sofia, Bulgaria  
04.02.2023

## INTRODUCTION

In the end of June 2015 Balkanka Association has lodged with DG ENV of the European Commission the first horizontal Complaint concerning failure to comply with Community law, namely the EU SEA, EIA and AA Directives and the EU WFD, caused by the wild tsunami of new small hydropower plants /HPPs/ in Bulgaria, which has led to a devastating impact on our rivers. From there on we continued to submit numerous supplements to the original complaint only to find that the overpraised European complaint mechanism is actually worth nothing. Later on we were kindly informed that our original Complaint registered under Ref No CHAP(2015)2563 has been transferred to EUP(2017)9183 and then it was closed, but the alleged breaches of Union Law were taken up by a new, structural investigation (ref. EUP(2020)9721), whatever this means.

Eight years later there is absolutely no result from our efforts whatsoever. A large number of polite answers on behalf of DG ENV, full of good intentions and minor actions promised and/or undertaken, but our rivers still stay gunpowder dry during low water periods, the fish passes are still the most stupid ones on planet Earth, a new wave of small HPPs is threatening the Natura 2000 Habitats Directive Sites at the moment, cumulative effects are still a pair of unknown words, we still don't have the *Ordinance on the fish passes design, maintenance and monitoring*, neither do we have the *Methodology on the Residual Flow* to be discharged under all kinds of intakes in our rivers, the ecocatastrophe in Bosilegrad, Serbia keeps growing, the pollution of our surface and ground water bodies is reaching new horizons..., and so on.

In August 2022 the crimes, committed by our authorities and inspired by the lame reactions of DG ENV, have reached the highest peak possible - when 12 000 people in the municipality of Svoge have stayed without a single drop of drinking water for several weeks, because the National Electric Company refused to release any water under one of the derivation channels for the Petrohan Cascade, thus leaving the springs of the Iskretska River completely dry without the natural water sources in the Balkan mountain above them, but we will inform DG ENV on this case in our following communication.

Based on this positive experience, we decided that there is absolutely no sense in complaining anymore, because our complaints lodged with DG ENV have proven only to be a huge waste of time. From now on we will only send notification letters to keep DG ENV informed of what is going on, without any expectations at all. We do not expect any kind of the usual, ineffective actions to justify DG ENV staff expenses and allowances neither do we want to receive any correspondence, unless there is some positive Result from whatever DG ENV has done or will be doing! We would only hear about the positive results and nothing else! Do something, get a result and then you tell us - we did so and so and the result is such and such - that's what we expect to hear from now on!

Further to our new approach, the notifications will be predominantly based on the development of old problems, fully described in our previous complaints, but we will also share some news based on new devastating impacts, developments and problems, such as the extremely poor quality of our new RBMPs and FRMPs for example.

Unlike our previous horizontal complaints bringing many different cases to the attention of DG ENV in a single complaint, from now on we will deal with only one problem at a time.

Now, if DG ENV happens to find that we are not following some not working /from our point of view/ instruction or administrative guideline in our future contacts, there should be no panic at all - we do not expect anything but positive news and our notification letters may be freely thrown in DG ENV's Trash without hesitation or any further ado.

**To start with, in the letter bellow we have chosen the latest developments in case of the famous Yadenitsa dam**, but first of all - here is the mandatory contact data:

## **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](mailto:dkoumanov@abv.bg)

**4. Correspondence from the Commission can be sent to Balkanka Association - only good news and results, remember.**

## **5. Member State or public bodies alleged 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,

## **II. DESCRIPTION OF THE INFRINGEMENT OF UNION LAW**

### **THE YADENITSA DAM CASE - latest development**

Much to the potential surprise or, rather, the expectations of DG ENV, this famous project has recently received the final Green Light from all our "competent" state authorities involved.

The East Aegean River Basin Directorate has issued the final Water Permit in the late autumn of 2022 and on 20 January 2023 the Ministry of Regional Development has taken the final step in the administrative procedure by issuing the final Construction Permit.

Here is the link to the announcement for the Permit on the official web site of the ministry: <https://www.mrrb.bg/static/media/ups/tiny/%D0%A3%D0%9F%20%D0%98%D0%B7%D1%80-2023/RS-3.pdf>

For this particular project we have sent a number of complaints and consecutive supplements to DG ENV. At our meeting in June 2022 in Sofia we were kindly informed by the representing team that there is a negative position of DG ENV, the project has been withdrawn from the PCI list, and EU financing is cancelled for the moment due to the drawbacks in the AA procedure. However, we were denied access to any written document on the matter, issued by any of the EU institutions involved, but the same facts were officially confirmed by the ministers of energy and of environment in their answers to official MP questions in the Parliament in the end of 2022 when it was too late for us to use this information officially.

**Should we've had on time any of these papers we were denied access to by DG ENV**, we would have easily blocked the Construction Permit, but we were told that the EC does not have such practice - to share its papers with local stakeholders.

Well, since the EC doesn't have such practice, we will now have a totally illegal and risky brand new dam under construction, financed from the national budget! With the official Construction Permit in hand, the National Electric Company /NEC/ can start the works tomorrow, regardless of the violations of the Habitats and Birds Directives committed during the project's totally false AA procedure DG ENV is pretty well aware of!

We figure this is the Result of all the DG ENV efforts on the case so far - the total ignoring of the EU environmental directives in an EU member state. Too weak a consolation if any is that there is some sort of an infringement procedure underway, partially based on this case according to the official statements of both ministers in the Parliament mentioned above.

From our point of view - if we didn't take any action at all, this devastating project would have stayed in the PCI list and would have been financed with EU money, which doesn't hurt that much in the poorest EU member state. Moreover, there wouldn't have been an infringement procedure, of course, and everyone would have lived happily ever after, at least until the first seismic event in the area concerned takes place...

Now the Yadenitsa project, environmentally harmful and risky in terms of the seismic safety as it is, will be financed with money, taken out of the pockets of the poorest population in Europe and the same population will pay the price of the infringement procedure, while the devastating impact of this stupid dam is the other price that we will have to pay? And this is happening due to our complaints and to the lame reaction of DG ENV! And we will end up with a broken PSHPP not with one, but two reservoirs for it?

Then - is there any logic in complaining, or in the sheer existence of DG ENV itself, can someone tell us, please! And is there any meaningful explanation for the existence of the EU Directives as well, or they are used by the EC only as a bat to collect fines from the perpetrators, when they allow themselves to disregard the environmental directives so easily? In the good old EU everybody can break every possible law and then can get away with it paying the penalties with taxpayer's money - is that what this Union is all about?

Or is there any logic in the blind financing of the Chaira PSHPP renovation in the most corrupt EU Member state without a proper due diligence, which has led to the total collapse of the most powerful PSHPP in Eastern Europe, because the money for rehabilitation were split in various corruption schemes? The collapse of the Chaira PSHPP costs us roughly 15 million Euro losses per month and the replacement of the turbines in the next decade at the earliest will cost us one billion Euro to the satisfaction of the EC.

Or what about the Struma motorway inside the Kresna Gorge? Are we to tell you that this motorway will never be completed, because of the lame reactions of DG ENV again? Our state authorities are constantly cheating on this lot of the motorway, but this is another story, too long to tell here.

### **Conclusion:**

The infringements of the EU Directives in Bulgaria will keep growing until the EU itself keeps financing the Corruption in our country. Now the turn of the Recovery and Resilience Plan has come to be revised with vastly weakened climate goals and the EC will be OK with that again for sure.

Until the EU keeps pouring money in any programme, plan or project, only to fuel the Corruption in our country, not only things will never change, they'll be getting worse and worse every next year and with every next government, while governments will be replaced here like handkerchiefs for an unknown period of time.

Of course, part of the money received under the Recovery and Resilience Plan will be redirected to finance the Yadenitsa dam and another part will be used to cover the expenses arising from the infringement procedure when they come. Can anyone expect different results, doing the same mistake over and over again? Ask Mr. Einstein about that!

Once the financing of any EU plan or programme, including the Recovery Plan, is cancelled, in no more than three months Bulgaria will turn into the greatest law abiding EU Member state! Until then, our national authorities will keep making fun of both the EU administration and the EU directives.

Finally, what happened to the good intentions of financing only EU Member states where the principle for the Rule of Law is followed and enforced? Nothing as usual. Nobody in our country can understand how is it possible that a new dam announced illegal by the European Commission is underway and the same commission keeps steaming up the grand Corruption in our country with European taxpayers' money.

### **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**

- **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, or may it receive such funding in future?**

Part of the project's preparation of the Yadenitsa dam was co-financed by the EU INEA and NEC. To our knowledge - the Project and the false EIA/AA reports were also paid by the Agency as well, and the country is receiving lots of money for the Natura 2000 network, of course.

**III. LIST OF DOCUMENTS / EVIDENCE**

The link to the official announcement of the Yadenitsa dam fresh Construction Permit has been shared above.

**IV. APPEALS/LEGAL ACTIONS/ OTHER ACTIONS**

**We have tried to contact EU Institutions to request help on the same issues many times already - one original complaint and numerous consecutive appendixes so far. As described above, the result so far is less than zero.**

**This is not a complaint and we do not believe that SOLVIT is better placed to deal with this problem at all.**

**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 on the problems described here.

**FINAL NOTE:**

**This is not an official complaint, but only a notification.** 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 numbers, CHAPs, EUPs and so forth, and do not bother to answer in advance, please.

Our next communication will be focused on the extremely poor quality of our nearly new Flood Risk Management Plans 2024 - 2026, published recently for public consultation.

**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:**

Representative for this notification:



/dipl.eng. Dimiter Koumanov/