

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

NOTIFICATION

Ref. No 04 / 2023
TO
THE EUROPEAN COMMISSION CONCERNING BREACH
OF THE EU DIRECTIVES IN BULGARIA



Photo credit BG NES

Representative for this complaint:

dipl.eng. Dimiter Koumanov,
Member of the board

Sofia, Bulgaria

29.12.2023

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 2025-2027 in Bulgaria including the SEA/AA procedures for the same plans.

In our previous communication with DG ENV /our Ref. 02/2023 - 28.04.2023/ we were happy to inform the Commission of the extremely poor quality of our "new" River Basin Management Plans/RBMPs/ 2027-2027 and our new Flood Risk Management Plans /FRMP/ 2025-2027 /the years are not mistaken/, because a huge amount of European funding was wasted for the delayed preparation of these plans, while the result so far is less than Zero.

Luckily, we were informed by DG ENV that our case was closed and the Result has inevitably come - the approval of the SEA/AA reports on the FRMPs was announced on 01.12.2023 /Friday/ by the "competent" minister of environment and water on the web page of the ministry. Of course, at Five o'clock pm the same Friday the minister published another decision for the Preliminary Enforcement of his Decision on the approval of the reports, which means that the SEA/AA decisions were going to be set into force directly the same day of the announcement, no matter if they are appealed in the Supreme Administrative Court by the stakeholders like us. At Five o'clock pm on Friday with only three days for the stakeholders to appeal the decision for the Preliminary Enforcement in court - our proud minister was so arrogant to do that.

The main Reason for the Preliminary Enforcement declared by the minister was that there is an ongoing Infringement procedure by the Commission for the huge delay of the FRMPs and, much to our surprise, an agreement has been reached with DG ENV that if the FRMPs are approved and set into force till the end of 2023, the Infringement procedure will be closed...

However, regardless of any possible agreement between DG ENV and our ministry, the Infringement procedure is not only based on the delay of the FRMPs but on the much bigger delay of the RBMPs, which are at the earliest stage of the Interim Review published for the moment so far.

Should the FRMPs have been enforced at the current stage of the RBMPs' preparation, this will lead to a direct breach of the Floods Directive (2007/60/EC). At the same time, the quality of the FRMPs' SEA and AA reports is so poor, that a breach of the relevant directives has also been committed and we will prove these facts in the document below.

In the end of this introduction we must underline that none of the above would have happened, if the fruitful cooperation between our "competent" ministry and the "competent" DG ENV of the Commission was just a little bit less fruitful than it is, having in mind that some 21 million Euro have been wasted for the forthcoming Failure, the size of which will become clear in the following document. Here we can only promise that neither the FRMPs, nor the RBMPs in Bulgaria will be enforced till the end of 2027 when the timeline of their application will expire.

By the way, we believe that at the beginning of 2024 the starting time for the preparation of the next round of Plans 2028-2033 will come, while we are somewhere in the middle of nowhere with the preparation of the current Plans and they will never be adopted. This means that we will not see the next set of Plans till the end of the century

The only reason is the low quality, giving us every reason to appeal in court the Plans and their assessments, regardless of the cooperation of DG ENV in the fraud. Actually, as we already warned, we prefer the old Plans 2016-2021 to keep being applied because all the measures in the old plans, that we proposed to be included in the new plans, were rejected by our ministry, inspired by the cooperation and support of DG ENV. And we are sure that the measures in the old plans are providing for a much better water bodies and flood protection than the new ones - it is just as simple as that!

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. Breach of the SEA Directive

In Bulgaria the logging of riverside forestation and the extraction of river sediments, masked behind riverbed "cleaning" to improve flood prevention, has turned into national sport. Once stolen, the sediments like sand and gravel are used for free in the construction industry for road embankments, concrete and mortar production etc. - everywhere where sand and/or gravel are needed. The money are split between the actors - the private company hired by the district governor to perform the theft and the organized crime group formed by the governor himself and the directors of the regional RBD and of the Regional Inspectorate of Environment and Waters /RIEW/. Of course, there has to be a little something now and then for the minister of environment himself, otherwise his inferior local authorities will be replaced. Full description of the problem can be found in our previous Notification - our Ref. No 03/2023 - 08.11.2023 in the following link:

https://dams.reki.bg/uploads/Docs/Files/EU_NOTIFICATION_2023_3%20DRAFT2.pdf

While we and, obviously - our competent authorities - were kindly informed that this is not a problem to DG ENV, currently a large section of Maritsa River, running through the Districts of Pazardjik, Plovdiv and Stara Zagora has been given to politically connected companies to proceed with the same theft of river sediments. Regardless of our objections, the issue was not addressed in the SEA report for the new FRMP at all and the cumulative effects together with the past thefts of Maritsa sediments, which are ongoing for decades, were not even mentioned in the SEA Report for the East Aegean FRMP. The same is applicable to the SEA Reports for the FRMPs in the other river basins.

We believe that not taking these cumulative effects into consideration constitutes breach of the SEA Directive article 5 in relation with Annex I of the Directive.

2. Breach of the Habitats Directive

2.1. The case of disregarding any cumulative effects on the Maritsa River described above must also be addressed in the light of the fact that the entire river falls within the boundaries of the Natura 2000 Habitats Directive Site *Reka Maritsa BG0000578*, hosting priority habitats and priority species along the entire river course in Bulgaria.

2.2. In all the AA reports, for all the new FRMPs in all the river basins, the words "*conservation objectives*" and "*conservation status*" cannot be found anywhere. Therefore the quality of these reports is less than Zero. Just as an example - a lot of the Bulgarian rivers in Natura 2000 happen to host *Unio crassus* and *Austropotamobius torrentium*, listed in Annex II of the Directive and the

excavation of sediments has not only destroyed their habitats, but the species themselves were excavated all along and currently are living somewhere in the embankments of the motorways financed with EU money... By the way those embankments were paid by the good old EU as if they are made of crushed stone backfill, rather than with stolen from the rivers, non sorted sediments and simple silt. Apart from the Maritsa River, some other cases were described in a previous communication of ours with the Commission with the same Zero result as always. He is just one example out of many for the Vit River in the Danube River Basin: [https://dams.reki.bg/uploads/Docs/Files/EU COMPLAINT MOVE ENV REGIO DRA FT1.pdf](https://dams.reki.bg/uploads/Docs/Files/EU_COMPLAINT_MOVE_ENV_REGIO_DRA_FT1.pdf)

Therefore it's obvious that the AA "experts" didn't even know whether the habitats and species are still present in the Natura 2000 sites for which they were assessing the implications of the new FRMPs on their conservation objectives.

3. Breach of the Floods Directive

The new FRMPs 2025-2027 in Bulgaria were prepared in a situation where the new RBMPs are in the middle of nowhere - as of today they are not even published for public consultation. Moreover, should the new FRMPs 2025-2027 have been enforced in the end of 2023, they must have been applied together with the old RBMPs 2016-2021 which are still applicable till the new RBMPs are ready, according a decision of the Parliament taken at the beginning of 2022.

At the same time, in the only published so far document for the new RBMPs 2027-2027 - the Interim Review of the Significant Problems in Water Management - it is stated that a new categorization of the waters will take place, together with new modifications of the water bodies etc. etc., but no one has seen any of these modifications. Currently they are not ready and applicable to anything at all.

And there are measures in the new FRMPs that contradict to other measures in the old but still applicable RBMPs and these plans were bound to be applied together at the same time...?

Can anyone imagine what an unimaginable Mess in river basin and flood management was underway? And this was done by our national authorities in complicity with DG ENV of the European Commission, which has approved the whole thing according to our minister, or at least did Nothing to avoid this crazy situation, according to us. Less than Nothing, regardless of our numerous warnings so far! For only 21 million Euro what more can we expect?

We believe that by not coordinating the new FRMPs 2022-2027 with the new RBMPs 2022-2027 and by attempting to adopt and set into force the new FRMPs while the old RBMPs 2016-2021 are still applicable for an unknown period of time in the future /two years at the very least/, the Bulgarian authorities, inspired by the lame reaction of the Commission, have breached the Floods Directive article 9.

Anyway, while DG ENV has played the major role in the Mess by disregarding all our warnings in the last three years, luckily there is no need to panic at all, because we managed to appeal the Decisions of the "competent" minister on the approval of the SEA/AA reports in the Supreme Administrative Court on time and we managed to appeal on time the same bad guy's decisions for the Preliminary Enforcement of his SEA/AA decisions.

And when the SEA/AA procedures are not finalized, the FRMPs 2025-2027 themselves cannot be approved and enforced by a decision of the Council of Ministers and thus the Mess will be avoided. It seems that we did the job DG ENV was supposed to do, without the modest salaries received from the Commission of course, but still it was a pleasure.

And none of this would have happened if only our proposed beautiful measures were included in the new FRMPs and if the new RBMPs were prepared of time, together with the preparation of the new FRMPs...

4. What happens next in the future?

When we win the cases against the FRMPs' SEA/AA decisions of the minister in the Supreme Administrative Court, this will mean that the procedures will have to start over again from scratch. And this will mean that the new FRMPs 2025-2027 will not be enforced till the end of 2027, but it will also mean that the next round of strategic planning will never start. The Good news is that the current FRMPs and RBMPs 2016-2021 will be applicable forever, because they are much better than the new plans.

And what about the new RBMPs 2027-2027?

Well, the quality of these plans is expected to be even worse than the quality of the FRMPs. The bomb was planted and is ticking ever since the publication of the Interim Review of the Significant Problems in water management in 2021 where none of the real and present problems was identified, regardless of our objections. The idea was - "No problems - No measures necessary to address the problems"... and we have warned DG ENV about this problem long time ago.

If our proposed measures happen not to be included in these plans too, we will be obliged to do the same thing we did with the FRMPs, and the new RBMPs will never be completed. Not till the end of this century for sure.

One possible result is that all the new projects requiring exemptions under article 4.5 of the WFD to achieve less stringent environmental objectives for a given water body will not be able to be included in the new RBMPs as required by article 4.5.d) of the WFD and, therefore, all these projects will be blocked for good. Having in mind some of them, like the *Fast Danube* project for example, which is stupid enough to wake up all the landsides in the Bulgarian section of the Danube River, this is actually going to be Good News, rather than bad, but the *Fast Danube* project will be a matter of a future communication of ours with the Commission.

Anyway, did the organized group between DG ENV in accomplice with our national authorities really believe that we will keep watching our rivers being killed one after the other by small hydropower plants, illegal logging of riverside forestation, theft of sediments, pollution caused by the mining industry etc. etc. and we will not do anything in return? Did you really believe that?

We figure all of you don't have the slightest idea what we are capable of, so you can keep living happily and nonchalantly until the day, when all of you are going to be asked the Question - Why were 21 million Euro, taken from the European taxpayers money, spent for Nothing? It is just about the right time for all of you to start looking for the answer to this Question!

5. Conclusion and recommendations:

We will keep repeating this over and over again - there is only one possible conclusion - in Bulgaria the protection of the environment with all its components in general, and the surface and the groundwater bodies in particular, is completely compromised and the relevant environmental EU Directives are completely disregarded only to the profit of those in power and their politically connected, friendly businessmen. This is happening due to the lame reactions of the European Commission to the countless signals we have sent so far, which

has inspired the infringements to an unacceptable level. A huge amount of EU money was wasted for the preparation of the national strategic plans - an enormous pile of useless paper!

And the good old EU keeps pouring money in the bottomless barrel of the Grand Corruption in our country nonetheless...

As European taxpayers, we find this situation unacceptable! Therefore we will never give up on insisting that the money for the OP Environment must be blocked, instead of wasting them so easily for less than nothing. The previous RBMPs and FRMPs were adopted and enforced nearly on time, due to the threat that the money for the entire OP Environment will be blocked, and therefore the quality was far better too. Stop wasting our money!

6. 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 in Sofia, held 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 DG ENV will be focused on the huge loss of drinking water sources in our country, or on the poor RBMPs when they become public somewhere in the next decade. Or maybe - on the **Fast Danube** project, which has the potential to be the undisputed Champion of Fraud aiming only to wake up all the sleeping landslides in the Bulgarian section of the Danube River for the sake of splitting new hundreds of millions EU money between the same well known actors, which the good old EU will be happy to share the taxpayers' money with, as usual.

Our next communication with EPPO will be focused on the waste of European money for the nonworking WWTS in the country DG ENV is pretty well aware of, and we will keep all parties involved in the loop for the outcome.

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/
Member of the board

Sofia, Bulgaria
29.12.2023