



**REPUBLIC OF BULGARIA  
MINISTRY OF ENVIRONMENT AND WATER**

**Ref.: Communication to the Aarhus Convention Compliance Committee concerning compliance by Bulgaria with the Convention in connection with the award of injunctive relief during the review of environmental permits (Ref. ACCC/C/2012/76)**

Министерство на околната среда и водите

**Sofia, August 2013**

Изх. № ..... 99-00-218

**Dear Mrs. Smagadi,**

София ..... 22.08.2013 г.

Following your letter from 09 July 2013 relevant to the Communication to the Aarhus Convention Compliance Committee concerning compliance by Bulgaria with the Convention in connection with the award of injunctive relief during the review of environmental permits (Ref. ACCC/C/2012/76) and having regard to paragraph 23 of the Annex to Decision I/7 of the Meeting of the Parties, we send you enclosed (Annex I) a written statement on question posed by the Compliance Committee after the discussion on the Communication at the forty-first meeting of the Compliance Committee (Geneva, 25-28 June 2013).

We hope for a fruitful collaboration with the Compliance Committee concerning the Communication Ref. ACCC/C/2012/76 and we express our willingness to do all efforts for that. Please do not hesitate to contact us if any questions arise or if further information is needed.

*Yours sincerely,*

  
**Iskra Mihaylova**

**Minister of  
Environment and  
Water**

**Aphrodite Smagadi  
Secretary to the Aarhus  
Convention Compliance Committee  
Palais des Nations, Room 348  
CH-1211 Geneva 10  
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## ANNEX I

### STATEMENT

*on question posed by the Aarhus Convention Compliance Committee in relation to Communication (Reg. No. ACCC/C/2012/76) concerning compliance by Bulgaria with the Convention in connection with the award of injunctive relief during the procedures for review of decisions on environmental impact assessment (EIA), strategic environmental assessment (SEA) and assessment of compatibility with the subject and objectives for conservation of the protected areas of Natura 2000 (AC)*

#### Question:

To substantiate its allegations, the communicant provided the Committee with copies of 30 court decisions which may entail consistent practice and systemic issue of compliance. Could you comment on the apparent practice that seems to support communicant's allegations? Would you be able to provide the Committee with significant number of examples that show that the practice followed is actually different?

#### Reply:

As it has already been specified in the Statement of the Ministry of Environment and Water concerning Communication (Reg. No. ACCC/C/2012/76) an **injunctive relief on the implementation of decisions under EIA, SEA and AC** (since these are administrative acts), can be imposed following the procedure of the Code of Administrative Procedure (CAP) – **the administrative acts are not implemented prior to the expiry of the term for their contesting**, and in the event of a submitted complaint or protest – until the resolution of the dispute by the relevant authority, as the contesting suspends the implementation of the administrative act.

At the same time however, **Article 60 (1) of CAP provides an option for inclusion in the administrative act of a regulation for its preliminary implementation**, when the latter is necessitated in order to **ensure the life and health of citizens**, in order to ensure protection of **especially important state or public interest**, if there is a threat that the implementation of the **act may be frustrated or seriously hampered**, or if the delayed implementation thereof may entail **significant or hardly repairable harm**, or following to a request by any of the parties – **for protection of an especially important interest of the latter**. In the latter case the administrative authority requires a **relevant guarantee**.

The prerequisites contained in the provision are specified alternatively, and the presence of any of the prerequisites listed comprehensively in Article 60 (1) of CAP is to be motivated as regards the factual and legal grounds for issuance of the order and supported by evidence in view of providing a possibility to the interested parties to apply their right of defense in the event of appealing the order as per Article 60 (4) of CAP.

The legislation and court practice require an assessment by the competent authority as to whether the project/programme for which a permit is issued following EIA, SEA or AC will have an irreversible impact on environment.

The issuance of permits for EIA/SEA/AC is a part of a procedure requiring both detailed information about the investment proposal/ programme and detailed research in respect of the impacts on environment. In this meaning, the issues concerning any impacts on the environment are reviewed and analyzed on the part of the administrative authority. In addition, the course of the procedure also involves public participation which is an important measure exactly against the existence of an even minimal threat of impact on environment, including on the quality of life and health conditions in a given region.

**On the grounds of the performed analysis of the EIA/SEA/AC decisions of competent authorities and decisions of courts of justice on their appeal, enclosed by the communicant to the Communication, the Ministry of Environment and Water reached the conclusion that in these decisions the competent authorities and courts of justice have allowed preliminary implementation in a completely reasoned manner and to the best interest of society and the protection of environment – the authority and the court of justice takes into account the results of an independent EIA/SEA/AC procedure (providing an opportunity for public participation), which are directly expressed in the reasons and conditions of the decision and compares same to the public and state interests as well as to the interests of all stakeholders. In any of the cases the balance between private and public interest has been correctly taken into consideration, as well as the balance between the various public and state interests – prevention of the infliction of harms on the environment, public health, encouragement of investments and employment, increase of budget revenue, development of tourism, transport, etc.**

**In support of these statements, we set forth the following arguments:**

**1. In each one of the enclosed by the communicant decisions based on EIA/ assessment of the necessity for EIA performance (with included results from AC as well) it is established that the impacts of the investment proposals on environment will be insignificant.** The authority provides its reasons on the grounds of a detailed description of the investment proposal, characteristics of the proposed construction activities and technologies, sensitivity of the environment, ecosystem's assimilation ability, characteristics of the potential impacts, public interest –opinions, objections and statements submitted from citizens, companies and organizations. **The risk of an even minimal harming of the environment is prevented by way of prescribed measures and conditions for implementation.**

**More specifically, the reasons of the competent authority for rendering some of the decisions based on EIA, enclosed to the appeal, which clearly illustrate the applied practices, are presented in brief in the enclosed Table 1.**

**2. In each one of the decisions based on EIA, enclosed to the Communication, without any exception, the competent authority has included a condition for preliminary implementation based on the arguments in support of important public and state interests, fully in compliance with Article 60 (1) of CAP.** Since the independent EIA experts have established in the EIA report (wherein the results from the public discussions are also reflected), that **the investment proposal will not exert significant impact on environment, the competent authority, taking into account also the opinions and statements submitted from representatives of the public, and under the condition that all the requirements for conducting of the EIA procedure have been observed, has**

**correctly taken into consideration the balance between the public interests by permitting the preliminary implementation of the EIA decision.**

**It has reasonably assessed that the harms from any delay in the performance of the EIA decision, in cases of appeal, respectively a delay in time of the implementation of the investment proposal (for instance, unrealized benefits for the society related to revenue from concession charges, taxes, social security payments, creation of employment in areas with high unemployment rate, public works, attraction of direct foreign investments, absorption of EU funds, development of sectors, such as tourism, sports, transport, etc.), which are apparent, real and measurable, cannot be admitted on the grounds of a hypothetical possibility that the EIA experts have not taken into account all potential significant harmful impacts of the investment proposal on environment. Because if we were to admit after all, the hypothesis that representatives of the public or other authorities have identified such omissions and justifiably appeal the decision based on EIA, the admitted preliminary implementation will not lead to any harms for the society related to the infliction of harms on the environment – the preliminary implementation does not mean commencement of construction activities, but only provides an opportunity to the investor to proceed with the other necessary administrative procedures, which precede the issuance of the acts under the Spatial Development Act which form a condition for permission of construction. Furthermore, as it has been explained in detail in the statement of the Ministry of Environment and Water on the appeal, the representatives of the public can simultaneously appeal both the decision based on EIA itself and its preliminary implementation in separate procedures.**

The protection of especially important state or public interests included in the provision of Article 60 (1) of CAP, is one of the specified therein prerequisites for admission of an order on preliminary implementation. When such is admitted by the administrative authority or by the court of justice, in the decisions based on EIA/SEA/AC the impact on environment can be assessed by specifying the reasons thereto in the request by the party and their inclusion in the assumption of Article 60 (1) of CAP for protection of an especially important state or public interest.

In the cases where in the order on admission of preliminary implementation of an administrative act the impact on environment is not justified by way of its inclusion in the assumption for protection of especially important state or public interests in accordance with Article 60 (1) of CAP and the administrative deed itself is appealed, the court may consider the issues related to the environment within the main lawsuit, in accordance with the pieces of evidence enclosed to the case file.

**The enclosed Table 2 presents the private and public interests which the competent authority has taken into account in the argumentation of the preliminary implementation of the five decisions based on EIA, presented in Table 1.**

**3. The performed analysis of the court decisions enclosed by the communicant to the Communication provides us grounds to state that the courts admit in their decisions preliminary implementation of EIA decisions solely and only where:**

- the competent authority has set forth reasons prima facie for protection of important public and state interests,**
- there are no available pieces of evidence as to the occurrence of any material irreversible harms to the environment ensuing from the preliminary**

**implementation, which are to affect the public interest of providing a healthy environment and conservation of natural resources.**

For instance, in **Ruling No. 10617 dated 16.09.2010 of the Supreme Administrative Court (SAC)** in relation to the appeal of **Decision No. 31-IIP/2010** on assessing the necessity of performance of EIA of investment proposal ***Replacement of two existing tow-lifts with a four-chair lift in the ski zone with centre the town of Bansko.*** The court rules that „the preliminary implementation of the decision has been admitted mostly for the sake of the public interest” and that “the balance between the public and private interest has been properly taken into account” since it has been considered that the full-fledged use of the ski facilities will contribute to the creation of **improved conditions for recreation and sports and to increasing the international prestige of the ski resort, and the impacts on environment will be insignificant.** The appellant has not set forth any pieces of evidence for the occurrence of harmful impacts on environment as a result of the implementation of the decision based on EIA. The appellant has pointed out **considerations concerning only illegal conduct of the contracting authority of the investment proposal and these are irrelevant to the lawfulness of the decision rendered by the administrative authority** which assesses the impact of the investment intention on environment, and not the possibility of illegal conduct of individual subjects. In the event of nonperformance or violation of the conditions embedded in the decision, the responsible institutions, controlling authorities, economic subjects, etc., are subject to administrative penal and civil liability which are subject of other court proceedings which do not refer to administrative proceedings for issuance of administrative deeds.

**Analogical is also the course of reasoning and argumentation in:**

- **Ruling No. 10143 dated 23.07.2010 and Ruling No. 11956 dated 15.10.2010 of SAC** in relation to the appeal of **Decision No. 33-IIP/2010** on assessing the necessity of performance of EIA in respect of investment proposal ***Replacement of existing chair lift in the ski zone with centre the town of Bansko;***
- **Ruling No. 697 dated 13.01.2012 and Ruling No. 6590 dated 10.05.2012 of SAC** in relation to the appeal of Decision based on EIA No. 18-8, 11/2011 in respect of investment proposal ***Extraction and processing of gold-containing ores in the section Ada Tepe of Khan Kroum deposit in the town of Kroumovgrad”;***
- **Ruling No. 2959 dated 29.02.2012** in relation to the appeal of Decision based on EIA No. 21-9/2011 in respect of investment proposal ***Construction of National repository for disposal of short-lived low and medium radioactive waste.***

**In each one of these cases the Court has rejected the appeals against the preliminary implementation of decisions based on EIA on the grounds of the prevailing public and state interest in the implementation of the investment proposals, given the fact that the possible occurrence of any harms for the environment has not been proved.**

In the enclosed by the communicant **Rulings rendered by SAC on the cases of appealing decisions based on EIA as regards investment proposals for construction of wind parks (under administrative cases 1776/2012, 1083/2012, 1079/2012)** the Court assesses that “**the investment proposal is of public significance, which however must not take prevalence over depositing of a guarantee** which is to serve for repairing any possible harms of the persons or facts affected by the preliminary implementation (specification: in each of the cases the administrative authority has determined a monetary guarantee). **The reasons for**

rendering the decision refer not only to the last of the assumptions listed under Article 60 (1) of CAP – to the interest of the company – contracting authority.”

We present examples of the most contemporary practice in procedures of issuing, appealing and reviewing EIA/SEA/AC decisions which fully confirm the aforementioned arguments under i. 1-3 in favour of the reasoned and complied with public interests and with protection of environment admission of preliminary implementation of the decisions, as follows:

- **Decision No. 2-IIP/2013 on assessing the necessity of EIA of investment proposal *Construction of road connection providing service and access to gas distribution station Kremikovtsi***– the competent authority has permitted preliminary implementation, by motivating its permission with the protection of **especially important state and public interests** related to the **construction of Hemus Motorway**, which forms part of European Transport Corridor No. IV and provision of **transport and communication unity between** the motorways Strouma, Lyulin and Trakia. **The expected impacts on environment are insignificant, temporary and of local nature** – the length of the route is only 563 m, it is located outside the boundaries of protected areas and zones, does not change the structure and functions of the landscape, etc. **There are no appeals and objections against the implementation of the investment proposal submitted by the affected public community.**
- **Decision No 255/13.09.2012 on admission of preliminary implementation of Decision No 2 - IIP/2012 as regards assessing the necessity of performance of EIA of investment proposal *Reconstruction and modernization of plant for pyrometallurgical production of anode copper***. The competent authority motivates its permission with the possibility to be **“infringed especially important state and public interests”**, which are the protection of natural resources, the provision of healthy environment, public health. In that regard, the **expected positive ecological effect of the implementation of the investment proposal, which finds expression in the reduction of the emissions of pollutants in ambient air from the plant** is presented in detail. Also protected is the **private economic interest of the contracting authority**, as an assessment has been made of the omitted profits from the delay in time of the reconstruction and modernization of the plant, **a monetary guarantee is determined in the amount of BGN 150,000. Not any significant potential negative impacts on environment are established. Not any verbal or written signals, appeals and objections have been submitted against the implementation of the investment proposal by the affected public community.**
- **Decision No 22/01.02.2013 on admission of preliminary implementation of Decision No 7-3/2012 based on EIA of investment proposal for *Extension of the industrial area of Asarel Medet AD, town of Panagyurishte***. The preliminary implementation is permitted **for the protection of public and state interests**, related to the optimal abstraction and rational use of mineral resources, efficiency, consistence and safety of the mining extraction activities, improvement in the management of mining waste, timely performance of the concession obligations on the part of the contracting authority, employment, provision of conditions of occupational health and safety, etc. **A monetary guarantee is also determined in the amount of BGN 150,000. The conclusion of the independent experts who have prepared the report on EIA is that no grounds exist on the base of which to state that in the construction and operation of the site are to be inflicted significant negative**

impacts on the flora and fauna, or any other impacts on the environment in the area provided that the measures and conditions under the decision based on EIA are complied with. During and after the public discussion, no objections from stakeholders have been submitted against the implementation of the investment proposal.

- **Ruling No. 9862 of SAC of 07.06.2012** in relation to the appeal of admitted preliminary implementation of decision based on EIA No. BA-13/2012 of investment proposal for construction of **Wind Park Tsentralna Dobroudzha consisting of 85 wind generators**. The court decided on confirming the effect of the order on preliminary implementation by assessing that it is motivated on the grounds of both the state interest from the performance thereof on national level of the commitments of Bulgarian state to reach certain levels of production of energy from renewable energy sources, and the private property interest of the contracting authority. It is stated that a common criterion for the prerequisites under Article 60 (1) of CAP is the possibility for occurrence of significant harms or such that are difficult to repair due to a delay in the implementation, to which there cannot be opposed any such or more significant harms resulting from the admission thereof. Since the administrative deeds on protection of the environment are precautionary, there shall be assessed the possible damages on nature from the preliminary implementation of the decision based on EIA which is not yet effective, and these from the lack of immediate implementation thereof. In comparing the harms from the implementation and from the non-implementation of the decision based on EIA, the Court finds that the delay in the implementation will entail significant harms and the pieces of evidence to the contrary submitted by the private appellant are not incorporated. Absolutely analogical is the justification of the Court in: **Ruling No.8337 of SAC dated 12.06.2012** in relation to the admitted preliminary implementation of decision based on EIA No. BA-8/2012 of investment proposal for construction of **Wind Park General Toshevo** consisting of 150 wind generators; **Ruling No. 8885 of SAC dated 20.06.2012** in relation to the appealing of the admitted preliminary implementation of the decision based on EIA No. BA-7/2012 of investment proposal for construction of wind park with an aggregate power capacity of 190 MW on the territory of the municipalities of Shabla and General Toshevo, consisting of 95 wind generators.
- **Ruling No. 10198 of SAC dated 07.11.2012** in relation to the admission of preliminary implementation of Decision based on EIA No. 6-2 of the investment proposal: *reconstruction and modernization of plant for recycling waste lead and acid accumulator batteries to lead and lead alloys, town of Dolna Banya*. The Court, by comparing the harms which are to occur upon approval or upon non-approval of the preliminary implementation, accepts that it is admissible, given the following circumstances: in the decision based on EIA it is specified that it is not expected upon implementation of the investment proposal to occur any negative impacts on the environment and human health, and also no pieces of evidence indicating the contrary have been submitted; there is a presence of significant public interest from the recycling of a greater amount of hazardous waste, which poses a threat to the environment and public health; there is an economic interest from the improvement of the efficiency and safety of production stated on the part of the contracting authority.

In conclusion, the Ministry of Environment and Water considers that the Communication is unfounded. In applying the modern practice of preliminary implementation of EIA/SEA/AC it was not allowed occurrence of adverse effects on the environment and environmental damage. We find that Bulgaria, in compliance with Art. 9, paragraph 4 of the Aarhus Convention, guarantees and ensures all the rights of the public for legal protection in relation to the imposition of injunctive relief in proceedings under review (appeal) of the EIA/SEA/AC decisions, through adequate and effective means, taking into account that:

- The competent authority includes a regulation for preliminary implementation in its EIA/SEA/AC decision (which is a prerequisite for repealing of the injunctive relief) with reasonable justification for the impossibility of occurrence of damage to the environment, based on: the results of an independent EIA/SEA/AC procedure and the submitted under this procedure opinions, views and suggestions of the public; the required measures and conditions to be met by the investor during the implementation of the project; deposited monetary guarantee where this is required under Art. 60, para. 1 of APC. It should be borne in mind that within the procedures for public participation carried out, no motivated arguments for potential significant adverse environmental impacts resulting from the implementation of the project were submitted.
- The inclusion of a regulation for preliminary implementation in the decisions issued by the competent authority is not established uniform practice and is allowed rather exceptionally, in order to be protected important public and governmental interests, which is visible from the following data: in the period 2009-2013 a total of 93 EIA decisions are decreed, and only 11 of them include a regulation for preliminary implementation; in the period 2011-2013 a total of 53 SEA decisions are decreed, and only 3 of them include a regulation for preliminary implementation.
- The courts follow the right, guaranteed by the legislation, to be appealed the admission of the preliminary implementation of the decision within three days of its announcement regardless the decision itself has been challenged or not (Art. 60, para. 4 APC) in which injunction relief remains in force, and also the right to be requested suspension of the preliminary implementation at any time prior to its coming into effect, if it could cause to the appellant significant or difficult to repair damage in the event that it was not used the first opportunity (Art. 166, para . 2 APC).
- The courts allow pre-execution of decisions only if no evidence of the occurrence of adverse effects on the environment were provided and if motives in protection of important public and state interests are presented by the competent authorities.

## APPENDIX

**Table 1 Short presentation of the grounds for issuance and the conditions for implementation of 5 decisions based on EIA, enclosed to the appeal**

Investment proposal (IP)	Number of the decision	Impacts on environment	Public participation	Conditions and measures for implementation
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	based on EIA			
1. Replacement of existing chair-lift in the ski-zone with centre the town of Bansko.	Decision No. 33-IP/2010 on assessing the necessity of performance of EIA (Appendix 2 to the Appeal)	It is not expected to be destroyed and harmed any natural habitats nor any change in the number and structure of the protected species populations. No permanent disturbance of species is expected. No adverse impact is expected on the hydrological and hydro-geological conditions in the area. The implementation of IP does not presuppose any organized release of harmful emissions in the ambient air. The type of the landscape will not be altered <u>since the route is existing.</u>	There are no opinions, objections and statements submitted by citizens, companies and organizations.	Not to be admitted any pollution of the protected areas' zones, respectively the National Park, with construction waste. Not to be admitted any felling of more than 82 trees for extension of the already existing cutting, as well as the <u>utilization of new terrains outside the existing infrastructure</u> , necessary for the transportation or installation of the facilities.
2. Replacement of two existing tow-lifts with a four-chair lift in the ski-zone with centre the town of Bansko	Decision No. 31-IP/2010 r. on assessing the necessity of performance of EIA (Appendix 3 to the appeal)	It is expected to be affected to an insignificant degree 3 natural habitats, respectively 0,0002 %, 0,006 % and 0,003 % of their representation in the protected area. The replacement of the two tow-lifts with one lift will lead to reduction of the area occupied by the facilities, which conditions the reduction of the direct and indirect negative impacts on the protected areas. In this meaning, no negative cumulative impact is expected.	There are no opinions, objections and statements submitted by citizens, companies and organizations.	Storage and replanting of turf, combined mechanized and manual works, use of helicopter, project for reclamation of the former routes, etc.
3. Extraction and processing of gold-containing ores in the section Ada Tepe of the Khan Kroum deposit, town of Kroumovgrad	Decision based on EIA No.18-8, 11/2011 r. (Appendix 9 to the appeal)	The conclusion of the EIA experts is that IP is admissible and can be approved since the impact of the emitted pollutants may be classified as permanent, recoverable, with a local territorial scope, without cumulative effect under the adopted national and European regulatory requirements and does not presuppose any significant negative impacts on human life, the components and factors of the environment. IP will not exert a significant negative impact on protected area Eastern Rhodopes. There will be affected only 0,04 % of the area of the Eastern Rhodopes and there will be destroyed insignificant parts of two natural habitats – respectively, 0,014 % and 0,005 % of their area. There will affected 0,093 % and 0,19% of two populations.	Objections are submitted against the implementation of IP related to pollution of water in the area and endangering biological diversity, which however do not contain any specific reasons related to lawfulness.	Measures are envisaged in order to prevent or reduce significant harmful impacts on environment, as well as a plan for implementation of these measures. The more significant among these are: construction of treatment facility for chemical treatment of wastewater up to the grade of drinking water; storage of hazardous chemical substances; assessments and plans for prevention of failures with hazardous chemical substances and other ecological damages; plan; treatment of construction and hazardous waste; project for reclamation upon decommissioning of the facilities, etc.
4. Construction of national repository for disposal of short-lived low- and medium-radioactive waste	Decision based on EIA No. 21-9/2011 (Appendix 12 to the appeal)	The conclusion of the EIA experts is that no negative impact is required on the components of the environment and human health on the territory of the site, in its proximity and on the territory of the Republic of Romania, since the	In the course of the public discussion procedure there have been submitted a multitude of	The more significant measures include: restriction of the emissions of powder-form substances; control system for early detection of possible radiation leaks; landscape project;

		territorial scope of the impact is within the limits of the IP site and its immediate vicinity; no construction of new water abstraction facilities is envisaged for water supply of the repository; there is no risk of polluting groundwater bodies and water abstraction facilities with wastewater from the repository; there is not to be any significant migration of any radioactive substances.	written statements both against the IP implementation and in support thereof.	regeneration of forested areas; taking into account seismic impacts; prohibition on the discharge of meteoric water from the repository.
5. Wind Park <i>General Toshevo</i> , consisting of 150 wind generators	Decision based on EIA No. BA-8/2012	The conclusion of the EIA experts is that IP will exert a general insignificant impact on the components of environment provided that the prescribed measures are applied, since the emissions of harmful substances in the ambient air will be absolutely insignificant; it is not expected to occur any impact on surface water and groundwater within the territory of the planned wind park; there have not been identified any rare species endangered by extinction and protected plant species; the operation of the wind park will have an insignificant impact on bats and other mammal species; no noise emissions above the norms are envisaged; there are no valuable landscapes in the area, etc.	During the public access and public discussions procedures no information has been received that is different from the one contained in the EIA Report. The Bulgarian Ornithological Society has presented a statement to which the contracting authority has provided a reasoned reply by which same has been accounted as untenable.	The more significant measures include: separate storage of construction waste and the divided humus layer; there shall not be used any construction mechanization during the breeding period of the birds and other species of animals; measures for restricting dust emission; reclamation of affected areas; monitoring of ornitho-fauna and bats; disconnection of wind generators on risky days for bird migration and in all events of threat of clash between birds and wind generators.

**Table 2 Brief presentation of the grounds for admission of preliminary implementation of 5 decisions based on EIA, enclosed to the appeal**

Investment proposal (IP)	Number of the decision based on EIA	State and public interest	Private interest	Guarantee
1. Replacement of existing chair lift in the ski zone with centre the town of Bansko	Decision No. 33-IIP/2010 on assessing the necessity of performance 3a of EIA (Appendix 2 to the appeal)	The replacement of the facility in 2010 is necessitated by the preparation for hosting Skiing World Cup event.	The possibility for replacement of the facility is too restricted in time due to the following: <ul style="list-style-type: none"> <li>▪ The high altitude and the severe meteorological conditions in the higher part of the mountain;</li> <li>▪ In the event that the new facility is not installed in the same year in which the previous one has been installed, this will</li> </ul>	None has been required.

			make the replacement considerably more expensive due to the expenses on storage and security.	
2. Replacement of two existing tow-lifts with a four-chair lift in the ski-zone with centre the town of Bansko	Decision No. 31-IIP/2010 on assessing the necessity of performance of EIA (Appendix 3 to the appeal)	The replacement of the facility in 2010 is necessitated by the preparation for hosting Skiing World Cup event.	The possibility for replacement of the facility is too restricted in time due to the following: <ul style="list-style-type: none"> <li>▪ The high altitude and the severe meteorological conditions in the higher part of the mountain;</li> <li>▪ In the event that the new facility is not installed in the same year in which the previous one has been installed, this will make the replacement considerably more expensive due to the expenses on storage and security.</li> </ul>	None has been required.
3. Extraction and processing of gold-containing ores in the section Ada Tepe of the deposit Khan Kroum, town of Kroumovgrad	Decision based on EIA No. 18-8, 11/2011 (Appendix 9 to the Appeal)	<p>The receiving of concession payments is postponed on the part of the state and the municipality of Kroumovgrad, since the concession is to enter into force after the issuance of positive decision based on EIA.</p> <p>Increase of foreign investments, which will give a strong impetus to the development of local economy.</p> <p>Creation of job positions in an area with a very high rate of unemployment – 300 during the construction phase and 230 during the phase of operation.</p> <p>Delayed revenue to the state from taxes and social security payments.</p>	<p>The concessionaire is not able to exercise its rights and obligations under the concession which leads to losses for the latter.</p> <p>The instability on the market of metals, mining equipment and technologies.</p>	Depositing by the investor of a monetary guarantee in the amount of BGN 100,000. The guarantee will be released after the entry into force of the decision based on EIA.
4. Construction of national repository for disposal of short-lived low- and medium-radioactive waste	Decision based on EIA No.21-9/2011 (Appendix 12 to the appeal)	<p>Site of national significance as per the Spatial Development Act.</p> <p>The repository is assigned the highest priority under the Strategy for spent nuclear fuel and radioactive waste and must be commissioned before year 2015.</p> <p>Safe and permanent isolation of radioactive waste from the environment and people.</p>	Not applicable.	Not applicable.

		The commissioning of the repository before 2015 is a condition for performance of the activities on decommissioning of Units 1-4 of Kozloduy NPP as to which Bulgaria has made a commitment to the European commission.		
5. Wind Park <i>General Toshevo</i> , consisting of 150 wind generators	Decision based on EIA No. BA-8/2012 (Appendix 19 to the appeal)	<p>Fulfillment of national commitments assumed to the EU and under the Kyoto Protocol in respect of prevention and mitigation of climate changes.</p> <p>Energy independence of the country.</p> <p>Acceleration of the proceeds from revenue to the municipal budget.</p>	<p>In the event of a possible conducting of court control for lawfulness, by taking into account the usual practice in the development of controlling and checking proceedings and the regulatory set terms for the relevant procedures related to such proceedings, it would practically frustrate or considerably hamper the implementation of the decision based on EIA due to the existence of the imperative provision of Article 99 (8) of the Environment Protection Act, which determines a 5-year term for commencement of the investment proposal's implementation. Within the administrative procedures related to such controlling and checking proceedings are included: conclusion of agreement on connection to the power distribution grid; change of the assigned designation of lands; modification of Detailed regulation plan; issuance of construction permit.</p> <p>The preliminary implementation would not affect the rights of the person who has a legal interest protected and guaranteed by the law to a degree greater than the admissible, given the fact that by the preliminary implementation will only be assured the continuation of the</p>	Depositing by the investor of a monetary guarantee in the amount of BGN 20,000.

			subsequent regulation procedures, as none of them will be finalized within the preliminary implementation.	
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