



TO

Mrs Fiona Marshall  
Secretary to the Århus Convention Compliance Committee  
United Nations Economic Commission for Europe  
Environment and Human Settlement Division  
Room 332, Palais des Nations  
CH-1211 Geneva 10  
Switzerland

**Re: Second progress report on the implementation of Decision VI/8d on Convention compliance by Bulgaria referring to communications ACCC/C/2011/58 and ACCC/C/2012/76**

Dear Mrs Marshall,

With regard to the second progress report, provided by Bulgaria on 30.09.2019, concerning the implementation of Decision VI/8d on Convention compliance by Bulgaria referring to communications ACCC/C/2011/58 and ACCC/C/2012/76 we would like to make the following statements:

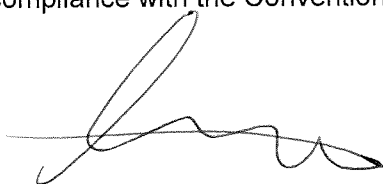
1. The progress report shows that the government has taken any steps to implement Decision VI/8d. It includes only arguments which have been already provided by Bulgaria and which have been addressed by the Communicant numerous times.
2. We have provided plenty of evidence that the lack of access to justice to the final acts for the adoption of spatial plans and building permits under the Spatial Planning Act when these acts are adopted without prior SEA/EIA procedure or when the conditions of the SEA/EIA decisions are not respected generates regular practice of adoption of plans and building permits in violation of the environmental legislation. Such illegal practices are namely discouraging foreign investments in Bulgaria rather than favoring them.

**Balkani Wildlife Society**

Reg 5150/1992 in SCC, BULSTAT 831467860  
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3. In regard to the above, we remind that the proposals of NGOs for amendment of the Spatial Planning Act aimed at implementation of the requirements of decision V/9d have not been respected up till now. Nevertheless, the NGOs submitted another statement<sup>1</sup> within the ongoing public consultation of the amendment project of the SPA, proposed by the Parliament on 25.09.2019<sup>2</sup>. The statement of Za Zemiata NGO proposed that environmental NGOs should be allowed to challenge construction and exploitation permits concerning Annex I projects which contravene provisions of the national law relating to the environment (par. 9 (3) of the Convention).
4. Further, the report shows that no progress was made on the recommendations made by the Committee during the intersessional period with respect to its findings on communication ACCC/C/2012/76, concerning appeals under article 60, paragraph 4, of the Administrative Procedure Code of orders for preliminary enforcement. While the Government repeats its arguments that “the Bulgarian legislation creates all prerequisites for the independence of the court in establishing the relevant facts”, the court practice of implementing article 60, paragraph 4 of the Administrative Procedure Code, as provided by us previously, clearly shows the opposite. The court systematically does not balance the interests and does not make objective assessment of the risk of environmental damage in the light of all the facts and arguments significant to the case, taking into account the particularly important public interest in the protection of the environment and the need for precaution with respect to preventing environmental harm.
5. With regard to the above, we consider that further appropriate measures are needed to bring about full compliance with the Convention.

Yours faithfully,



Andrey Kovatchev,  
Member of the Managing Board of Balkani Wildlife Society

Date: 29.10.2019

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<sup>1</sup> <http://strategy.bg/FileHandler.ashx?fileId=18975>

<sup>2</sup> <http://strategy.bg/PublicConsultations/View.aspx?lang=bg-BG&Id=4676&success=1#addcomment>