



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: Decision V/9d on Convention compliance by Bulgaria referring to communication ACCC/C/2010/58**

Dear Mrs Marshall,

We would like to provide you with our comments on the progress report provided by the Government of Bulgaria concerning the implementation of Decision V/9d on Convention compliance by Bulgaria referring to communication ACCC/C/2010/58.

We consider that the current progress report in no way addresses Decision V/9d. The administrative procedures adopted by Bulgaria for *improvement of the investment policy* in Bulgaria provide no public rights to access to justice with respect to spatial planning. *Improving the administrative control* by expanding the functions and powers of the supervisory authorities and the publicity are absolutely not able to replace the access to justice. As we have proved numerous times in the main communication and the following letters, the administrative control is not able to guarantee the legality of the administrative acts under the Spatial Planning Act due to the lack of legal mechanisms for public control over the acts and omissions of the authorities performing administrative control. Hereby, we would like to provide you with another two pieces of administrative practice proving clearly and unequivocally this thesis:

1. A complaint of the NGO "Civil control – protection of animals" against the illegality of the order of the Municipal council for amendment of the general spatial plan of Plovdiv town was lodged before the district governor. Even if the regional governor is empowered by Art. 127 (6) of the SPA to refer back or bring to court orders for adoption of general spatial plans if considered illegal (see p.2 of the progress report of Bulgaria of

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Reg 5150/1992 in SCC, BULSTAT 831467860  
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05.01.2015), in this case it claimed in a letter (App. 1) that “any acts of the municipal councils can be appealed before the governor and the governor is not allowed to judge the legality of these acts”. In the same time, the regional governor in an arrogant manner recommends the NGO to appeal the act of the Municipal council before the court despite the fact that the same Art. 127 of SPA allows no one else but only the governor to appeal orders for adoption of general spatial plans!

2. Another complaint of the NGO “Civil control – protection of animals” against the illegality of the order of the Municipal council for amendment of the general spatial plan of Plovdiv town was lodged before the Ministry of environment and waters (MOEW). Even if MOEW is empowered by Art. 158 of EPA and Art. 122 of BA to apply Compulsory Administrative Measures (COM) for suspending the implementation of illegal spatial plans and investment projects on the initiative of the public concerned (see p.3 of the progress report of Bulgaria of 05.01.2015), in this case the MOEW uses manipulative arguments for not applying the COM. In particular, in a letter (App. 2) it claims that the COM is not applicable since the decision of the first instance court to cancel the SEA screening decision No. 3-ПВ-ЕО/2014 of RIEW Plovdiv concerning the GSP of Plovdiv town has been appealed before a second instance court. However, the MOEW conceals the fact that according to Art. 166 of the APC the appeal of the administrative act before any court stops its execution. I.e. decision No. 3-ПВ-ЕО/2014 of RIEW Plovdiv has never entered into force what means the GSP was adopted without valid SEA screening decision in violation of Art. 82 (4) of EPA.

It is worth to note that both answers of the competent authorities (i.e. app. 1 and 2) are not subject to any administrative or judicial review. This means that these authorities feel free to use any illegal arguments and even manipulations in order to reject the complaints of NGOs against illegal acts under SPA by knowing that the general public is not able to appeal their answers.

With regard to the above, we consider that further appropriate measures are needed to bring about full compliance with the Convention in accordance with paragraph 37 of Decision I/7.

Yours faithfully,



Alexander Dountchev,

On behalf of the Balkani Wildlife Society

Date: 16.11.2016