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AND NATURAL HABITATS

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Report

**on the implementation
of the Bern Convention
in Bulgaria**

*Document prepared by
Ms Clare Shine*

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FOREWORD

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GLOSSARY AND ABBREVIATIONS

Convention	Convention on the Conservation of European Wildlife and Habitats (Bern, 1979)
BDA	Biological Diversity Act 2002 as amended
birds Directive	Council Directive 79/409/EEC on the conservation of wild birds
EIA	Environmental impact assessment
EPA	Environmental Protection Act 2002 as amended
EU	European Union
habitats Directive	Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora
IAS	Invasive alien species
MAFS	Ministry of Agriculture and Food Supply
MOEW	Ministry of Environment and Water
MOEW 2005	Report on the National Biodiversity Conservation Plan for 1999-2004 & National Biodiversity Conservation Plan for 2005-2010 (Sofia 2005)
MRDPW	Ministry of Regional Development and Public Works
Network	National Ecological Network
NNPS	National Nature Protection Service
PAA	Protected Areas Act 1998 as amended
RIEW	Regional Inspectorate for Environment and Waters
SEA	Strategic environmental assessment (referred to as “ecological assessment” in some translated texts)
SFA	State Forestry Agency

AUTHOR’S NOTE

This report was prepared through a desk study of legislation, strategies, ministerial reports and available literature and through a series of interviews conducted in Sofia from 16-18 July 2008.

1. CONTEXT FOR NATURE CONSERVATION IN BULGARIA

1.1 Physical context and threats to biodiversity

Bulgaria has a population of 7.64 million (mid-2007) and covers 111,002 km². It is bordered by Romania to the north (border formed by the Danube), Serbia and the Former Yugoslav Republic of Macedonia to the west, Greece and Turkey to the south and the Black Sea to the east. Its territory includes parts of four biogeographic areas (alpine, Black Sea, continental, and steppe).

Bulgaria is one of the five most biodiverse countries in Europe with examples of almost all main types of habitats and biotopes known in the continent. 33% of its territory is forested and it has more virgin forest (257,000 ha) than any European country except Sweden and Finland. Species diversity is also exceptionally high (see Table 1).

Table 1: Species diversity in Bulgaria (MOEW 2005)

Taxonomic group	Species	Taxonomic group	Species
Fungi	4,900	Acaric	1 583
Lichens	933	Mollusca	445
Algae	3 063	Amphibians	17
Bryophytes	705	Reptiles	36
Vascular plants	3,900	Fishes	218
Invertebrates (Protozoa)	1,606	Birds	421
Insects	20,900	Mammals	100
Arachnida	1 090	Bats	33

Within this total, Bulgaria has high levels of endemism (eg 5% flora, 8.8% non-insect and 4.3% insect species). Detailed information is available in publications of the Bulgarian Academy of Sciences (The Flora of Bulgaria, The Fauna of Bulgaria, Red Data Books).

Recent years have been marked by rapid growth (over 6% per year in 2004-2007) and intensive policy and legal changes linked to Bulgaria's accession to the European Union (EU) on 1 January 2007.

Manufacturing, agriculture, forestry and tourism are key economic sectors. Environmental threats include pollution, overexploitation of natural resources, invasive species and, in particular, construction and infrastructure projects that destroy or fragment natural habitats (eg construction of transport corridors such as highways, gas mains and the deepening and modification of the Danube; intensive coastal development) (MOEW 2005).

1.2 Policy and legal framework

Bulgaria ratified the Bern Convention on 31 January 1991 and it entered into force on 1 May that year. Any international instrument ratified by the constitutionally established procedure, promulgated and entered into force, must be considered part of the country's domestic legislation and supersede any domestic legislation stipulating otherwise (Art. 5(4), Constitution of July 1991).

The Constitution provides that the Republic of Bulgaria shall ensure the protection and reproduction of the environment, the conservation of living nature in all its variety, and the sensible utilisation of the country's natural and other resources (Art.15).

A strategic framework for biodiversity has been in place for ten years (National Biodiversity Conservation Strategy 1998). The first action plan for its implementation (1999-2003) has now been replaced by the National Biodiversity Conservation Action Plan 2005-2010. Together with the National Environmental Strategy and Action Plan (first adopted in 2001, renewed for 2005-2014), these instruments form the overarching policy framework for Bulgaria's implementation of the Bern Convention.

Biodiversity considerations are also incorporated, to a greater or lesser extent, into other sectoral policy documents such as the National Forest Policy and Strategy for Sustainable Development of the

Forest Sector in Bulgaria (2003-2013), the National Strategic Plan for Fisheries and Aquaculture (2007-2013) and the National Strategy for Rural Development (2007-2013).

Environmental legislation has undergone massive revision and incremental adjustment in recent years, mainly to deliver the *acquis communautaire*. The framework instrument is the Environmental Protection Act 2002 (EPA, last amended 2008), which mandates integration of state environmental policy into sector policies for transport, power generation, construction, agriculture, tourism, industry and education (art.9) and establishes a National Environmental Protection Fund.

The most relevant laws for implementation of the Bern Convention (see Annex for full references) are the:

- Biological Diversity Act 2002 (last amended 2007). This ensures harmonisation with EU nature protection legislation and provides for a national monitoring system, database and geographic informational system for recording and exchanging biodiversity data¹;
- Protected Areas Act 1998 (last amended 2008);
- Medicinal Plants Act 2000 (last amended 2008);
- Forestry Act 1997 (last amended 2007);
- Hunting and Game Protection Act 2000 (last amended 2008); and
- Fisheries and Aquaculture Act 2001 (last amended 2006).

Other significant legislation includes the Water Act, the Black Sea Coast Act (not available in translation) and the Genetically Modified Organisms Act.

1.3 Institutional framework

The **Ministry of Environment and Waters** (MOEW) was set up in 1997 and has broad responsibility for developing and implementing national policy across all environmental sectors, covering terrestrial, freshwater and marine ecosystems and including pollution control, management of natural and mineral resources and environmental impact assessment.

Within MOEW, the **National Nature Protection Service (NNPS)**² is the specialised department responsible for the management, control and protection of biodiversity, protected areas and natural ecosystems. It handles implementation of Bern Convention provisions as well as Bulgaria's other international and regional obligations for biodiversity conservation. NNPS comprises three departments: Protected areas, Biodiversity and Natura 2000. It is supported by an advisory body, the National Council on Biological Diversity.

MOEW comprises the following regional authorities:

- sixteen Regional Inspectorates for Environment and Waters (RIEW), each of which contains a Protected Areas and Biodiversity Unit. RIEW functions include overseeing the implementation of and compliance with environmental legislation, helping municipalities to prepare local environmental policies, informing the public about the state of the environment and issuing decisions on EIAs for sites and activities of regional importance;
- three national park directorates established in 1999 (see 2.1 below);
- four river basin directorates, based at Blagoevgrad, Varna, Plovdiv and Pleven, which have lead responsibility for implementing the EU Water Framework Directive and whose mandate extends to coastal waters.

The Executive Environmental Agency, Bulgaria's reference centre for the European Environment Agency, is an administrative body within the MOEW framework. It manages the National

¹ Art 115.10, introduced by SG 88/05.

² <http://chm.moew.government.bg/nnps/indexE.cfm>.

Environmental Monitoring System which carries out environmental analysis, compiles environmental information and publishes an annual bulletin on the state of the environment.

Bulgaria's Biodiversity Clearing House Mechanism was set up in 2003. The main source of scientific input is the Bulgarian Academy of Science which comprises around 68 institutions, nearly half of which are involved in research connected with the environment and/or biodiversity conservation (eg management plans, species action plans, monitoring).

The **Ministry of Agriculture and Food Supply (MAFS)**³ has a specialised management unit for conservation and sustainable use of biodiversity. Relevant functions include integration of biodiversity considerations into rural development programmes supported by EU funds, protection of water resources from agricultural contamination, and management of fisheries and aquaculture. Operational fisheries matters are handled by the Executive Agency for Fisheries and Aquaculture which answers direct to MAFS. MOEW and MAFS are jointly mandated to preserve biodiversity of fish resources (Art. 9(1), Fisheries and Aquaculture Act).

In 2007, responsibility for forestry management and protection (but not for regulatory control) was transferred from MAFS to the new **State Forestry Agency** which reports directly to Cabinet. This reorganisation has made it easier for MOEW to have direct contact on forest biodiversity issues. The SFA Agency is responsible for all forests, including in protected areas except those under exclusive State ownership, and has 16 Regional Forestry Directorates.

Other key ministries include the **Ministry of Regional Development and Public Works (MRDPW)** which implements national policy on territorial planning and infrastructure, including in the coastal zone; the **Ministry of Transport**; and the **Ministry of Economy and Energy**. The **State Tourism Agency**, formerly part of this Ministry, now reports directly to the Council of Ministers.

Bulgaria does not have a dedicated marine ministry. Relevant functions are divided between MOEW (marine protected areas and Natura 2000 sites, focal point for marine environmental fora such as the Black Sea Environmental Commission), the Ministry of Transport (shipping, ports) and MAFS (fisheries). Coastal RIEW have responsibility for marine environmental enforcement but not for fisheries-related activities or vessels⁴.

As regards vertical administration, the municipality is the basic unit of local government. Each municipality is mandated under the EPA to prepare a local environment action plan in coordination with the RIEW. The need to strengthen training of municipal personnel in nature protection legislation, protected areas and protected zones management, and EU compensatory funds is recognised (MOEW 2005).

14 Civil society and environmental awareness

A small number of non-government organisations (NGOs) play a prominent role in implementing the National Biodiversity Conservation Action Plan (research, proposals for new protected areas, development of management and species action plans, restoration and maintenance activities) although they have less experience in the field of marine conservation. For example, Bulgarian NGOs were responsible for preparing the first set of proposals for sites for possible inclusion in the Natura 2000 network. MOEW 2005 notes that conservation NGOs 'are among the most active and efficient ... in the country'.

The Biological Diversity Act (BDA) authorises MOEW to adopt regulations to allow NGOs and other organisations and entities to organise environmental protection activities in protected zones and with regard to protected species (Article 119(3), introduced in 2005).

Under the Constitution, citizens and legal persons are free to contest any administrative act that affects them, unless expressly listed to the contrary (Art. 120(2)). Some NGOs, such as the Bulgarian Society for the Protection of Birds and Balkani Wildlife, already have a well-established track record

³ http://www.mzgar.government.bg/mz_eng/default.asp.

⁴ Source: National Report of Bulgaria to the Third Meeting of the Contracting Parties, ACCOBAMS (12 September 2007).

in using Bern Convention provisions to bring case files and contribute to on-the-spot appraisals (eg Project to build a motorway through the Kresna Gorge; Wind farms in Balchik and Kaliakra: see 4.4 below). These and other NGOs, including the Bulgarian National Parks Association and WWF, have also made active use of judicial review procedures to challenge development decisions affecting protected areas and proposed Natura 2000 sites on the coast and in the mountains (see 4.2 below).

The National Environmental Protection Fund provides financing for some NGO-led environmental projects. Nearly 200 municipal environmental conservation funds are involved in funding at regional levels, but funding constraints are generally recognised as severe (MOEW 2005).

Public awareness and support for conservation and sustainable use of biodiversity is considered insufficient, partly because the media and business circles also have low levels of awareness and information and partly due to inexperience in the management and dissemination of biodiversity-related information (MOEW 2005).

2. CONSERVATION OF NATURAL AREAS AND HABITATS

2.1 Protected areas

The bedrock of Bulgaria's area-based conservation system is the Protected Areas Act 1998 (amended most recently in 2008) which provides for the designation of areas to preserve biodiversity and natural processes within ecosystems as well as typical or remarkable geographic sites and landscapes. Total protected area coverage has risen from 106,386 ha in 1975 to 545,724 ha (about 5% of Bulgaria's land area) in 2005.

The Act defines the objective, legal regime and use of six categories of protected areas, aligned with IUCN categories (see Table 2). Protected area classification and associated boundary mapping was reviewed and modernised between 1998-2000 following land reprivatisation.

Table 2: Overview of protected areas in Bulgaria (2005 figures from NNPS)

Category	Objectives and relevant provisions	Ownership	Number	% of PA coverage	IUCN category
Reserves	Strict protection, no human activity except for authorised scientific and educational aims (articles 16-17 PAA)	State only	55	14%	I
National parks	High protection, limited human activity (articles 18-22 PAA)	State only	3	28%	II
Natural monuments	Protection of natural features, activity allowed (articles 23-25 PAA)	Mixed	346	4%	III
Maintained reserves	Conservation activities allowed (articles 26-28 PAA)	State only	35	1%	IV
Nature parks	Sustainable interaction of humans and nature (articles 29-32 PAA)	Mixed	10	45%	V
Protected sites	Habitat protection and sustainable use of natural products (articles 33-34 PAA)	Mixed	419	8%	VI

MOEW is responsible, through its National Park directorates and RIEWs, for the management, maintenance and wardening of State-owned protected areas and internationally-designated sites and for management planning and control of activities in other categories of protected areas. Bulgaria currently has ten Ramsar Sites and 2 natural World Heritage sites (Pirin National Park, Srebarna Nature Reserve). Seventeen reserves and managed reserves are designated as biosphere reserves under the UNESCO Man and Biosphere Programme but their management does not systematically conform to the standards of the modern biosphere reserve concept (MOEW 2005).

The new State Forestry Agency oversees conservation and management of forests in protected areas except national parks and reserves. From 2008, it is required to establish nature park directorates to implement forestry management plans for these areas (Art 52.2 PAA).

Nearly all protected areas also have the status of protected zones (sites designated pursuant to the habitats and birds Directives for inclusion in the National Ecological Network: see 2.2 below). In the event of inconsistency, the stricter provisions applicable to protected areas designated under the PAA take precedence over other laws (Art.13.1). MOEW's written consent is required for construction, modification or change of use of sites, even where an EIA is not required (Art.13.2). Procedures for protected area designation and possible boundary modification by MOEW are laid down by articles 35-45 of the Act and, for enforcement and penalties, in articles 78-85.

Management planning requirements and timelines are laid down by regulations⁵, although it should be noted that MOEW faces capacity constraints in developing and enforcing management plans for such a high number of protected areas:

- national and natural parks: plans to be developed within three years, adopted at the Council of Ministers by the Minister of Environment and Waters upon the advice of the Supreme Expert Ecological Council;
- reserves and maintained reserves: plans within two years of declaration. Plans for reserves, natural monuments and protected sites are approved by MOEW in coordination with MAFS, MRDPW, SFA and concerned municipalities;
- internationally-designated sites and protected areas of European significance for biodiversity conservation should be prioritised when developing management plans;
- preparation of management plans may be assigned to other state bodies, municipalities, owners, NGOs upon written agreement from MOEW;
- all plans are subject to prior public consultation and must be updated every ten years;
- an online searchable database for management plans has been established.⁶

➤ National Parks

National parks may be declared in territories where there are no populated areas and settlements. Management objectives are to maintain biological and ecological diversity, protect nature, provide possibilities for development of scientific, educational and recreational activities and support development of ecological tourism and lifestyles.

Zoning may include: reserves and managed reserves; tourism zones; tourist shelters and huts, administrative centres and sport installations; and other zones consistent with the rules applicable to the park. All other construction is prohibited, except for water installations and repair of buildings, roads and sports installations. Other prohibitions include introduction of species not native to the region, goat grazing, most hunting and angling and various other activities (articles 18-21 PAA).

The three National Parks (Rila, Pirin, Central Balkans) include the highest mountain ranges and most spectacular scenery in Bulgaria. Each has its own National Park Directorate, supported by park offices, which is responsible for management planning, zoning and enforcement. About 200 staff, including wardens, are employed in these Directorates and a further 70 work in the Protected Areas department in Sofia.

The biggest issue currently surrounding national parks is the expansion of skiing resorts on their borders and of associated sporting infrastructure inside the parks (discussed further in the context of tourism, see 0). There are several ongoing high profile cases including:

- the alleged illegal construction of a road, a lift, and three ski tracks at the Panichishte mountain resort, Rila National Park. MOEW's position is essentially that construction relates to a longstanding concession predating the creation of the Park and that no new consents have been given except for repair and modernisation. NGOs tabled a petition to the European Commission and other EU institutions on the case in May 2008 and are concerned that future large-scale ski

⁵ Article 55 et seq. PAA, Regulations on the Development of Management Plans for Protected Areas (2000)

⁶ <http://chm.moew.government.bg/pt/indexsearchen.cfmome>.

resort construction is planned under the master plan for Panichishte-Ezerata-Kabul (municipality of Sapareva Banya), including construction within the national park. NGO concerns also relate to the alleged lack of effective response by the competent authorities or imposition of meaningful sanctions upon the developers concerned;

- the construction of ski facilities without MOEW approval above Bansko ski resort within Pirin National Park (UNESCO world heritage site). This is recognised as having negatively impacted the site: fines were imposed on the developer but the constructions were not removed.

➤ **Nature parks**

MOEW has prioritised the creation of new nature parks, protected sites and natural monuments because, unlike national parks and reserves, this does not necessitate a change of land ownership. The SFA also plays a key role in management and zoning of forests within nature parks (see 4.3).

In 2008, a new nature park covering 11,000 hectares was created as well as 12 protected sites. The possible creation of one or more nature parks in the Rhodope mountains is also under discussion and would confer a higher level of protection on this coveted area than that available for Natura 2000 sites.

Major controversy has surrounded **Strandzha Nature Park**, Bulgaria's largest protected area, which was established in 1995 on the Black Sea coast. It contains a mix of forest and agricultural land, small coastal settlements, some proposed Natura 2000 sites and the Silkosia nature reserve. Although the Park's management plan has been under development for several years, it was never formally adopted⁷ which led to a legal vacuum with far-reaching consequences:

- one of the municipalities with territory within the Nature Park authorised construction of a tourist complex on the basis of its municipal development plan, including on land designated for future Natura 2000 sites;
- construction began in 2005 and continued, despite a 'stop order' issued by MOEW in February 2006, until the Supreme Court upheld that order in November the same year;
- on 29 June 2007, Strandzha's protected area status was removed by decision of the Supreme Administrative Court, following an application from the local municipality and the developer which alleged that there had been a procedural flaw in the original designation order⁸;
- the decision sparked widespread protest and led to an emergency Parliamentary amendment to the PAA, with retrospective effect, specifying that all designation orders for protected areas issued before a certain date should not be subject to an application for judicial review.

This Parliamentary intervention is clearly an important signal that statutory frameworks for area-based protection should not be lightly set aside on procedural grounds and also reflects increased public awareness of certain threats to Bulgaria's biodiversity and landscapes. However, earlier the same year, the 1980 designation order for Kamchiiski Pyasatsi Protected Area was declared invalid and the coastal site has now been developed.

2.2 The National Ecological Network

Broader habitat and species conservation in Bulgaria is now delivered through the National Ecological Network (the Network) which constitutes Bulgaria's contribution to EU Natura 2000 and will increase the percentage of land subject to some kind of protective management from 5% to as much as 33-34%.

The governing legislation is the Biological Diversity Act 2002, which closely follows the provisions of relevant EU legislation, to be read in conjunction with the Protected Areas Act (see 2.1) and the EPA 2002.

⁷ This delay has itself been the subject of a court ruling in proceedings brought by NGOs.

⁸ They argued that the agricultural land designation in the original cadastral plan did not correspond to the new cadastral system.

Article 3 BDA provides that the Network is made up of:

- ‘protected zones’ (sites designated in accordance with the EU habitats and birds Directives: designation does not affect site ownership);
- protected areas that do not have the status of ‘protected zones’;
- priority sites for inclusion are CORINE and Ramsar sites and Important Bird Areas.

In Bulgaria, as in several EU countries, the process of selecting candidate sites for Natura 2000 is controversial and administratively demanding. A positive development was the establishment of a dedicated Natura 2000 department within NNPS in 2007 to streamline delivery but this only has eleven staff.

The scientific selection process began in 2003 (review of information on species and habitats, determination of boundaries of biogeographical districts, introduction of a spatial register, resolution of inconsistencies with the Restituted Property Map). NNPS faced significant difficulties in securing agreement on the types, location and extent of Annex 1 habitats present in Bulgaria, partly due to the lack of an assessment manual compatible with the Natura 2000 manual for the country’s habitat types. The lack of adequate accurate information at that time meant that the list of habitat types annexed to the Biodiversity Act 2002 may have been drawn up prematurely.

Other constraints included the lack of a national cadastre and information system, inadequate capacity in concerned public administrations and low transparency regarding procedures for preventive measures to preserve future Natura 2000 sites (MOEW 2005). The ‘grey area’ surrounding the application of protection measures to areas proposed for designation on the basis of scientific criteria has led to many of the more controversial planning disputes mentioned in this report (see also 4.1-2 below).

The first set of proposed Sites of Community Importance were prepared on behalf of MOEW by NGOs⁹, supported by information campaigns and media coverage. These proposals, mostly supported by the National Council on Biological Diversity, were significantly reduced by the national government. The list submitted to the Commission on 15 February 2007 covered around 20% of the country’s land area but excluded *inter alia* some prime sites for tourism development along the Black Sea coast and in mountain areas. MOEW subsequently commissioned a review of all proposed site boundaries by the Bulgarian Academy of Science which modified certain sites and added new ones. The revised list (November 2007) increased total proposed coverage to around 33.8% of national territory, though still excluding certain contested areas (eg the buffer zone in the Rila mountains).

At EU level, relevant annexes have been amended to incorporate new typical and endangered species and habitats for Bulgaria and Romania and two new biogeographic regions (the Black Sea and the Steppic Regions) have been added to the existing seven under the habitats Directive¹⁰.

Bulgaria’s current proposals are subject to ongoing evaluation to determine whether they sufficiently cover relevant habitats and species. As of 20 June 2008:

- 114 Special Protection Areas (birds Directive), totalling 23,217 km² (20.4% terrestrial surface (these may overlap with SCIs), were scheduled for final designation by December 2008;
- the European Commission had opened an infringement procedure against Bulgaria because of insufficient designation of 6 sites as SPAs under the Bird Directive, one of which is the Kaliakra Important Bird Area (see 4.4 below);

⁹ With the support of the Danish-funded DANCEE Project "*Conservation of Species and Habitats in Bulgaria: EU-Approximation*" which assisted NNPS in identifying potential sites, collecting ecological information and establishing a National NATURA 2000 GIS/Database containing data on potential sites in Standard NATURA 2000 Data Forms as well as spatial information.

¹⁰ Directive 2006/105/EC of 20 November 2006 adapting Directives 73/239/EEC, 74/557/EEC and 2002/83/EC in the field of environment, by reason of the accession of Bulgaria and Romania.

- 228 Sites of Community importance were listed covering 33,430 km² (29.6% of terrestrial surface), including 14 sites with a marine component totalling 592 km²;
- the designation process for Bulgaria (excluding marine areas) was assessed at around 95% complete¹¹;
- the EU has called for a significant increase in forest habitat types; better coverage of habitats for rare plants and invertebrates; and more extensive coverage of fish habitats along the Danube in collaboration with neighbouring States¹².

If the above components are finally endorsed at EU level, this will give Bulgaria one of the highest percentages of Natura 2000 cover in the EU. This is a hugely ambitious undertaking and the timeframe involved to date is considerably shorter than that taken by many more developed EU countries. The sheer size and diversity of component sites will significantly increase the need for political will, human and technical resources and funding to deliver quality management plans and systematically ensure appropriate assessment of relevant plans and projects.

Consultation procedures have already placed a considerable burden on NNPS and associated staff. As elsewhere in the EU, opposition is mainly linked to possible land use restrictions and the low levels of compensation available through the Bulgarian Rural Development Programme. The biggest challenge facing the Network is the need for effective steps to prevent the conversion of natural land (often agricultural) to higher-value alternative uses, particularly tourism.

A small number of proposed Natura 2000 sites are mixed coastal/marine or marine (eg Kaliakra, Kokatrace) and Bulgaria's Oceanic Institute is working with Romania to create a marine transboundary protected area. However, institutional responsibilities for the coastal and marine environment are not well coordinated and there is no adapted legal/administrative regime for this area category.

2.3 Transboundary cooperation

No formal transboundary protected areas have been established in Bulgaria. However, several cooperative projects are in place with neighbouring countries, mainly focused on forest ecosystems, development of a 'Green Belt' along the border with Macedonia, wetland ecosystems along the Danube river and joint management of certain fish species (*Huso huso*, *Acipenser stellatus* and *Acipenser gueldenstaedti*).

The Stability Pact for East European countries mandates transboundary cooperation, of which some examples are given below.

The **Danube Regional Project**, implemented in five riparian countries (Bosnia and Herzegovina, Croatia, Bulgaria, Romania and Serbia) in cooperation with River Basin Directorates, local authorities, business and NGOs, supports improved access to information. In Bulgaria, recommendations have been accepted to improve the MOEW internal manual "How to provide environmental information". Training was provided to MOEW, RIEW and National Parks Directorate staff on implementation of the Aarhus Convention and national access to information legislation¹³.

The **West Stara Planina project (Bulgaria-Serbia)**, begun in 2002, has generated institutional cooperation between eleven border municipalities within the framework of the Council of Europe. The Development Strategy for Euroregion Stara Planina 2008-2012 (adopted 23 December 2007) supports actions for the Stara Planina biodiversity hotspot under Priority 1.4 (Environment), including:

¹¹ Statistics provided by European Topic Centre on Biological Diversity, Paris (http://ec.europa.eu/environment/nature/natura2000/barometer/index_en.htm#newstat).

¹² EU Biogeographic Seminar for Bulgaria and Romania (9-12 June 2008).

¹³ Component 3.4 - Enhancing Access to Information and Public Participation in Environmental Decision Making (source: Regional Environmental Center for Central and Eastern Europe: <http://www.rec.org/REC/Introduction/CountryOffices/Bulgaria.html>, accessed on 24 July 2008).

- registration and protection of ancient trees with high aesthetic, nature protection and genetic potential;
- mapping of species/habitats to help develop an appropriate management plan;
- designation of a future transboundary Biosphere Reserve: the proposed West Balkan Nature Park will include 160,000 hectares within Bulgaria;
- setting up a transboundary website with information on protected areas and sites;
- cooperation to assess the state of invasive alien species (IAS), reduce their abundance and promote joint awareness raising of IAS threats to native species of Stara Planina; and
- possible reintroduction of extinct species and species with low population density (i.e. vultures, chamois, lynx) and actions to preserve the genetic fund of local wild species.

Bulgaria-Greece cooperation was initiated in 2007 through the PHARE CBC programme. MRDPW has implemented nature protection and sustainable development actions through the identification/establishment of four eco-networks on both sides of the border¹⁴ to enhance transboundary cooperation for biodiversity and landscape protection. The programme provides for the development of a transboundary Regional Sustainable Development Programme for the next 10 years, including a joint monitoring programme and information system.

3. CONSERVATION OF SPECIES

3.1 Protected plant and animal species

The Biological Diversity Act lays down detailed provisions for protection of plants, animals and fungi in their natural environment that broadly correspond to the requirements of the Bern Convention and relevant EU legislation. MOEW has financed updated species assessments in line with IUCN Red List criteria and now has improved access to biodiversity information to guide species decision-making.

Habitats of species listed in Annex 2 must be conserved through the National Ecological Network (see 2.2). This annex currently includes four bryophytes, eight invertebrates, 102 vascular plants and 218 vertebrates.

Strictly protected plant and animal species are listed in Annex 3: the list is longer than the equivalent annexes under the Bern Convention and includes 594 vascular plants and 427 vertebrates. Extensive prohibitions on all deliberate taking, destruction, collecting, picking, disturbance, habitat damage, trade, transport, possession, and display etc. are laid down by Articles 38-39 for protected animal species and by Article 40 for protected plants.

Amendments introduced in 2007 require MOEW to draft a national list of endangered bird species, identify their critical migratory, wintering and nesting sites, compile a database on the condition of migratory populations based on ring marking and identify environmentally friendly methods to prevent damage caused by birds (art. 47a).

Appendix 4 lists wild species whose exploitation in the wild must be regulated. The current list includes 30 plants, five invertebrates, 24 birds and 30 other animal species. Their management regime may include area- or time-specific prohibitions on taking, regulation of taking methods and trade controls (art. 41.2). Specific controls on hunting and other forms of disturbance during breeding and migration seasons, and protection for nests and eggs, apply to birds listed in this annex (art. 41.3). Annex 5 lists prohibited methods of catching and killing specimens listed in Annex 4.

¹⁴ The four centres on the Bulgarian side are Haskovo, Smolyan, Blagoevgrad and Kardzhali. In Greece the project covers two regional administrative units and seven district administrative units: Eastern Macedonian-Thracian Region with Evros, Kavala, Xanthi, Rodopi and Drama districts and Central Macedonian Region with Thessaloniki and Seres districts.

Regulatory regimes for fish, aquatic and game species listed in Annex 4 must be approved by joint order of MOEW and the SFA (art. 42.2) and for all other listed species, by MOEW alone. Prior consultation is required with concerned administrative bodies, user groups and affected regions or municipalities (art. 43).

The Act mandates general protection measures for non-listed bird species that occur in the wild in Bulgaria to maintain their population in a favourable state, including taking, disturbance and trade-related measures (arts. 45-47). A prohibition on the use of lead shot in hunting over wetlands entered into force on 1 June 2008¹⁵.

The derogation regime from these requirements is laid down by Articles 48-51 which broadly correspond to the provisions of Article 9 of the Convention. Bulgaria entered a reservation for the wolf upon accession.

Species action plans must be prepared for plants and animal species that are internationally threatened, in an unfavourable status in all or part of Bulgaria or are impacted by IAS (art. 52). Plans should be prioritised for Annex 2 priority species, Annex 3 protected species, species whose exploitation is regulated under Annex 4 and species that may be reintroduced in the wild (art. 53). They must conform to Article 54 and implementing regulations adopted in 2003¹⁶ and may be prepared by MOEW, SFA or NGOs in coordination with the above bodies. Adoption is subject to prior approval by the National Council for Biological Diversity.

As of September 2008, several action plans had been adopted. Action plans for birds currently being implemented cover *Aquila heliaca*, *Phalacrocorax pygmeus*, *Pelicanus crispus*, *Anser erithopis*, *Anthia nyroca* and others. Plans adopted or under development for other animals cover the bear, marbled polecat, *Felis silvestris*, wolf, certain bats, tortoises and the sturgeon in the Danube River and the Black Sea. Action plans for plants include the endemic Rhodopean Lily (*Lilium rhodopaeum*, and Rhodopean tulip (*Tulipa rhodopea*). NGOs play an important role in development and implementation of species action plans.

Certain plans are particularly controversial. For the bear, for example, there is pressure to open an annual taking quota (MOEW paid out compensation for damage to bees in 2007) and the Bern Convention's Large Carnivore Initiative for Europe has been involved in discussions in this context (see also 3.3).

The BDA also establishes a protection regime for individual venerable or unique trees inside or outside populated areas. Activities leading to termination, harming or deterioration of the physiological status of protected trees are prohibited. Affected landowners may apply to MOEW for financial support to maintain or restore protected trees (Articles 109-113).

Lastly, the BDA sets out detailed controls on international and domestic trade (CITES implementation) and for *ex situ* conservation but these are not further discussed here.

3.2 Medicinal plants

About 750 species of Bulgarian flora are used as medicinal herbs, over a third of which are economically valuable, and significant quantities (around 15.5 thousand tons) are exported annually (MOEW 2005).

The **Medicinal Plants Act 2000** (amended 2008) requires that medical plants in their natural habitats shall be preserved from damage to ensure their sustainable use as part of the basic plant genetic fund with present or future value, as well as their biodiversity. Protection measures include maintenance and preservation of ecosystems and natural habitats containing such plants as well as maintenance and restoration of viable populations of the species (Article 5). Stricter measures, including harvesting prohibitions or quotas, must be taken by annual MOEW orders for named species of wild growing plants where their biodiversity shows a tendency to decline (art. 10.1).

¹⁵ Transitional provision §72, introduced by SG 94/07.

¹⁶ Regulation of 1 August 2003 for the conditions and the order for developing of action plans for plant and animal species (SG 73/19 August 2003).

The Act directly regulates activities involving medicinal plants in protected areas (art. 15) and forests (art.16). Protection provisions for plants listed in the annex take precedence over other legislation (art.14). Fees for harvesting plants under permit are paid to the National Forest Fund where plants are harvested from lands and waters in state forests and to the Environmental Protection Fund for plants harvested in national parks (art. 25). Fee structures for these and other harvestable natural resources are set out in the EPA (art. 54).

3.3 Hunting and game management

The **Hunting and Game Protection Act 2000** (amended in 2008) provides for game to be managed on the basis of 'hunting economic regions on the population principle' to preserve the genetic fund and species diversity, sustainably develop game stocks and preserve the ecological balance in the natural environment (arts. 2-3).

The SFA is responsible for organising hunting areas (regardless of land ownership), managing the hunting economy and protecting and managing game, assisted by the advisory Hunting Council. Licences are issued by the Bulgarian Union for Hunters and Anglers.

Hunting economic regions may not include nature reserves. In other protected areas, game management must be implemented in accordance with the relevant management plan (art. 7.3). In practice, hunting is often not allowed in some parts of protected areas, which has given rise to some conflicts, but it is permitted in 'protected zones' (ie other Natura 2000 sites). Article 65 lists hunting means and methods that are prohibited. Game protection measures must be jointly implemented by SFA and MOEW (arts. 66-70). Trade in game products and compensation for damage inflicted by game species are covered by Chapters 5 and 6 of the Act.

Hunting is permitted for mammals and birds listed in Annex 1, mammals and birds introduced into Bulgaria for economic hunting purposes and wild dogs and cats in hunting regions. Annex 1 currently includes ten big game species, including wolf, eleven small game species, including invasive species such as *Ondatra zibethica* and *Myocastor coypus*, and 29 birds. Two of the large game species (*Felis silvestris* Schreb. and *Rupicapra Rupicapra* L.) are listed in Bern Convention Appendix II and protected under the Biological Diversity Act, which specifies that their hunting may only be authorised under a derogation granted in accordance with that Act.

In July 2008, members of Parliament tabled a proposed amendment to add 3 species listed in Bern Appendix II (bear, chamoix, wild cat) to the list of huntable species. This was rejected but reflects continued pressure in some sectors of society to increase hunting opportunities and to lengthen the hunting season.

3.4 Marine species

Bulgaria is party to the Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic Area (ACCOBAMS). The BDA provides for strict measures to reduce the taking of cetaceans and no derogations for taking were granted between 2005-2007¹⁷. Under the Act, a permit is required from MOEW for any scientific research involving temporary capture or adverse impact on the three species of cetacean occurring in the Black Sea. Experts from the Varna Fisheries Institute are contributing to an international cetacean research programme for the Black Sea.

The National Action Plan for Cetaceans is under preparation and will include measures to develop a cetacean stranding network, a national database, emergency measures and public awareness activities.

¹⁷ Source: National Report of Bulgaria to the Third Meeting of the Contracting Parties, ACCOBAMS (12 September 2007).

Work has begun to create a network of MPAs as part of the Natura 2000 network. Currently, there is no specific marine monitoring programme, although cetacean stranding data is compiled at the Fisheries Institute and by MOEW. Other constraints include the lack of equipment for marine enforcement activities by the coastal RIEW and overlapping competencies with the Executive Fisheries Agency.

3.5 Introduction of non-native species

The National Biodiversity Conservation Action Plan 2006-2010 identifies IAS as one of the main threats to national biodiversity, with aquatic ecosystems considered to be the most sensitive and endangered. Introduction of alien fish (eg *Oncorhynchus mykiss*, *Salvelinus fontinalis*) represent a threat to the native fish species, competing with and replacing the native Balkan trout (MOEW 2005).

Controlling the introduction of non-native and the reintroduction of native plant and animal species into the wild is a key objective of the BDA (art. 2.4). The introduction into the wild, import, breeding and raising of non-native animal and plant species may only be permitted where this is not detrimental to natural habitats or to native species of wild flora and fauna or to any populations thereof. Authorisation of such activities, on the basis of an elaborated programme, is subject to a positive scientific expert assessment commissioned by the competent authority and a favourable decision of the National Council of Biological Diversity. The competent authority is the Head of the SFA (tree, bush and game species) or MOEW (all other species) (art. 67). Conditions for the issue of permits by the respective authorities are laid down by regulations.¹⁸

The competent authority may also issue an order prohibiting the introduction of named non-native species that would threaten natural habitats or native species and/or the import, breeding and raising of non-native animal and plant species whose accidental introduction into the wild would threaten the existence of any native species of wild flora and fauna (Art.67). No such prohibitions have been issued to date.

The introduction of alien species and the repeated introduction of local species of fish and other aquatic organisms into inland, coastal and marine waters must be conducted in accordance with the BDA (art. 9.2, Fisheries and Aquaculture Act).

The introduction of plant and animal species not characteristic of the region is prohibited in national and nature parks, reserves and protected sites (arts. 21 and 31 PAA). Management plans for some protected areas provide for measures to control the spread of invasive plant species such as *Amorpha fruticosa*, *Fallopia japonica* etc. These kinds of measures are mainly implemented in sensitive territories along the Danube River and the Black Sea coast.

In 2007, MOEW funded an *Assessment of Invasive Species in Bulgarian Fauna, Flora and Mycota and measures to control their impact on native species and ecosystems*. This project provides the scientific data to prepare national lists of alien and invasive species of vascular plants, fungi and animals. The project included a public awareness component (preparation of brochures and posters concerning alien and invasive species). A key finding is the tripling of the number of introduced species in the Black Sea in the period 1990-2002 in comparison with the previous 10 years, mainly through shipping and ballast water but also through unintentional introductions linked to escapes from mariculture (around one third of the earlier acclimatised species). The study also noted the high level of threat posed by insects.

Multiple IAS research projects are ongoing, including projects focused on Zebra Mussel (*Dreissena polymorpha*) in Bulgarian river basins, invasive fish in the Lower and Middle Danube and investigation and control of species of the genus *Ambrosia* (Asteraceae) causing allergy in Bulgaria. A Scientific Conference on "Alien Arthropods in South East Europe – crossroad of three continents" was held in Sofia in September 2008.

¹⁸ Regulation No.14 on the conditions and order for issuance of permits for introduction of non-native or reintroduction of native tree, bush and game species and giving of the public opinion (SG 88/2005); Regulation No.4 on the conditions and order for issuance of permits for introduction of non-native or reintroduction of native animal and plant species into the wild (SG 65/2003).

MOEW is mandated to organise and manage activities for the removal of introduced alien species, including sub-species and varieties, which could threaten natural habitats or native species of wild flora and fauna (art.67a, BDA, introduced in 2007). Currently, most control measures are implemented for IAS with detrimental economic consequences (eg *Dreissena polymorpha*, *Rapana tomisiana*, *Cameraria ochridella* etc.) but the results from the 2007 assessment will determine future strategy and actions in this area.

A National IAS Strategy and Action Plan for the management of IAS affecting Bulgarian fauna, flora and mycota and the limitation of their impact on natural ecosystems is being developed, building on the Bern Convention's European Strategy on Invasive Alien Species (Genovesi and Shine, 2004). In July 2008, MOEW convened the first cross-sectoral meeting between key ministries and major scientific institutions. The first national workshop on IAS, with the support of the Bern Convention IAS Expert Group, will be held in October 2008 to contribute to preparation of the future Strategy.

4. MAINSTREAMING BIODIVERSITY ACROSS SECTORS

The duty to mainstream biodiversity across all sectors

Article 118 of the amended Biological Diversity Act provides that MAFS, MRDPW and other state bodies and their divisions, as well as the municipalities, in the sphere of their competence, shall:

1. carry out activities related to preservation of biological diversity; and
2. integrate the preservation of the biological diversity and the sustainable management of the biological resources in all plans, projects, programmes, policies and strategies in the respective sector, including ... activities ... in compliance with the priorities of this law and of the National Strategy and Action Plan for Biodiversity Conservation.

4.1 Environmental assessment and compliance

The Environmental Protection Act 2002 establishes a statutory framework for environmental impact assessment (EIA) and strategic environmental assessment (SEA), including transboundary impact assessment in accordance with the Espoo Convention. The Biological Diversity Act includes requirements for assessments to safeguard protected zones (Natura 2000 sites) in line with article 6.3 of the habitats Directive.

MOEW handles large-scale and inter-communal projects at national level, whilst the relevant RIEW handles all other projects. For MOEW-level decisions, an expert opinion is delivered by the Supreme Expert Ecological Council: for RIEW-level decisions, this role is carried out by the regional Expert Ecological Council. These cross-sectoral Councils include representatives of multiple MOEW departments, other key ministries and NGOs.

As the earlier part of this report and existing Bern Convention case files show¹⁹, significant difficulties have arisen with the application and quality of environmental assessment procedures for proposals in or affecting the sites in the National Ecological Network. Reasons identified include delay in implementing assessments due to inadequate quality of EIA reports; delayed notification of competent environmental authorities by the investors; some cases of ignorance of relevant regulations by the competent authorities involved with project endorsement/ratification; and the fact that concerned municipalities are frequently more interested in local development than in local environmental protection (MOEW 2005).

In multiple cases, EIA requirements have been sidestepped at municipal level by sale of public land for purposes not covered by the general spatial plan and/or by subdivision of projects into components too small to require individual EIA²⁰. Specific legal constraints include the lack of powers to secure review of past EIA decisions when new information becomes available; the lack of a clear requirement to consider cumulative impacts of separate projects; and the frequently close ties between

¹⁹ See eg T-PVS (2008)3 rev.

²⁰ eg windfarms under 5 MW, land developments under 1ha.

EIA experts and investor teams. These weaknesses are particularly serious because, in the absence of systematic SEA for relevant sectoral programmes, EIA is the main or only tool to mitigate negative impacts on biodiversity.

Implementing regulations under the EPA and BDA were updated in 2006²¹ to address procedural and substantive difficulties, including with regard to ‘appropriate assessments’ as required by Article 6.3 of the habitats Directive. These apply to projects covered by EPA (art. 81.1) and BDA (art. 31.2). The Regulations streamline procedures by requiring written notification of proposed projects to MOEW/RIEW at the same time as the relevant municipality and setting out a detailed timeline for determining whether an ‘appropriate assessment’ consistent with the habitats Directive is needed (for projects that are in Natura 2000 sites or could affect them). A specific section covers EIA in a transboundary context. The regulations also provide for control and monitoring pre- and post-construction.

MOEW is understood to be developing new regulations to better streamline EIA and SEA requirements but these were not available in translation when the report was prepared.

These regulatory changes are welcome developments but have not to date led to review of previous consents for activities known to have damaging effects on biodiversity (see eg 4.4 below).

The RIEWs’ capacity to scrutinise EIAs and oversee post-construction compliance (ie to detect infringements and illegal construction) is seriously limited in view of the sheer number of investment proposals. They have the power to attach conditions to any approvals but primary responsibility for monitoring and compliance rests with the municipality. There have been some examples of ‘stop orders’ being applied to unlawful developments which are encouraging but these are very recent.

Capacity-building in SEA techniques was conducted in October 2006 for representatives of MOEW, RIEWs, national and nature parks by the International Association for Impact Assessment. Guidelines for Environmental Authorities and SEA Experts on Integration of Biodiversity Protection Aspects in the Process of Strategic Environmental Assessment were published in Bulgaria in October 2006.

4.2 Territorial planning, tourism and the coast

MRPDW oversees the efficient use of land, energy and other resources as well as development at regional and municipal levels. The generic provisions of the Territorial Development Act provide for municipal development plans that are subject to SEA. RIEW personnel participate from an early stage in the development of planning documents and on individual permit applications. Additional environmental safeguards are provided by laws on water, pollution control, biodiversity, protected areas, and waste management, including in the coastal zone.

Despite this basis for integrating environmental considerations into planning decisions, intense local pressure for economic development - particularly in attractive areas with strong tourism potential - has mostly led to nature conservation being relegated behind other priorities. The construction of big tourist complexes and facilities on the Black Sea coast (especially to the south of Sozopol, Silistar, Irakly, etc.) and in the mountains (Pirin, Rila, Balkan mountains) particularly affects the most sensitive and difficult to restore habitats, such as sand dunes, alpine pastures and meadows, and forest communities. (MOEW 2005).

This problem is particularly acute along the Black Sea coast, where very high prices are paid for land available for development. Large-scale conversion of (often agricultural) land for tourism, golf courses and other infrastructure has led to cumulative and sometimes irreversible loss of natural habitat and landscape connectivity along parts of the coastline. The rapid development of mass tourism has occurred in the absence of any cross-sectoral strategic framework at the national level.

²¹ Ordinance for the conditions and the order for implementing environmental impact assessment (SG 25/18 March 2003, amended SG 3/10 January 2006);

The damage resulting from excessive municipal discretion in coastal planning is acknowledged within MOEW. In 2007, the Black Sea Coastal Act (not available in translation) was enacted to strengthen the basis for more integrated coastal development in accordance with environmental protection objectives. This mandates more centralised control and requires MRDPW to approve municipal development plans. However, this legislation is not yet fully implemented and in some areas, has come too late to prevent coastal urban sprawl and the degradation of landscape quality and amenity. Moreover, Bulgaria's coast remains highly prized with continuing proliferation of investment opportunities²², even if the legal basis for scrutiny of new plans and proposals has recently been strengthened.

As noted in 2.1, national parks and other natural areas in mountainous regions are under pressure from ski tourism development. There are currently three main resorts which have been steadily expanding and the possible development of a further 5-6 resorts is under consideration. Whilst some areas have national park protection status, this is not the case for other prime sites such as the Rhodope mountains. A robust National Strategy for Sustainable Tourism, aligned with the EPA, BDA and PAA, is urgently needed to reach cross-sectoral agreement on the scale, location and environmental mitigation for future resort development and minimise the risk of piecemeal development and encroachment on valuable natural areas. Given the likelihood that such resorts and associated infrastructure may affect Natura 2000 sites, the robust application of appropriate assessment procedures under the new regulations is imperative to protect the habitats and species for which they were proposed.

Ecotourism possibilities associated with Natura 2000 sites, notably around national and nature parks, the Danube corridor and Rhodopi mountains, are under active consideration by the State Agency for Tourism (formerly part of the Ministry for Economy and Energy). MOEW's National Biodiversity Action Plan sets out a series of actions for sustainable development of tourism.

4.3 Agriculture, forestry and fisheries

Environmental pressures in these sectors include agricultural intensification (mainly in the plains) and extensification in mountainous and semi-mountainous areas (decrease or suspension of traditional farming, leading to lost habitats and reduced biodiversity). Illegal logging, forest fires and improper restitution of the forests during 1992-2002 have led to widespread forest damage, with impacts on floodwoods particularly severe (MOEW 2005). In addition, the construction of new roads into formerly inaccessible mountain areas may impact on high-value natural forests and increase harvesting pressure.

In 2008, Bulgaria approved its National Strategy Plan for Rural Development (2007-2013) which builds on the EU Special Accession Programme for Agriculture and Rural Development (SAPARD) and the earlier National Agriculture and Rural Areas Development Plan (2000-2006). This policy and funding mechanism is considered particularly important because rural depopulation is a major issue in Bulgaria.

Through stakeholder working groups, measures to integrate biodiversity conservation into agricultural practices have been piloted and refined. Measures selected for the first year of application include mountain pasture conservation to be pioneered in the Pirin and Central Balkan mountains and measures for traditional orchards and will cover around 50,000 ha.

Agro-ecological measures for Natura 2000 sites are developed through cross-sectoral coordination between MAFS and MOEW, although this is hampered by ongoing revision of the land cadastral register. It is expected that the full range of payments for Natura 2000 sites should be operational by 2010. MAFS is trying to strengthen communication and feedback between the Rural Payments Agency, NPPS, the RIEW and National Park Directorates: a Memorandum of Cooperation may be developed for this purpose.

Within Bulgaria's forest sector, ownership is divided as follows: 76% State, 12% private, 11% municipal, 1% other. 14% of forests are situated in protected areas and 28% have protective and

²² See eg Special Report on Bulgaria, Financial Times, 8 July 2008 ('Coastal courses hoping to beat bar').

recreation functions²³. The forest sector has undergone major changes in recent years, with regulatory functions separated from management and production functions under the Forestry Act 1997. The legislation was revised in 2007 to create an independent State Forestry Agency, which oversees conservation and management of all forests, including in protected areas and Natura 2000 sites, except for national parks and reserves for which MOEW has sole responsibility.

Biodiversity-related obligations must be implemented through forest management plans (except for plots smaller than 2 ha) which should undergo appropriate assessment for Natura 2000 forest sites. For nature parks, these plans are developed by the SFA Directorate for each park: applicable regulations provide for zoning and public consultation and plans must be approved by the Supreme Executive Ecological Council before submission to the Council of Ministers.

Forestry conservation measures under the Rural Development Programme will come on stream at the earliest in 2009 and support private forest owners in Natura 2000 forests. However, these plots are relatively small and the major concentration of biodiversity is located in the large State forests. SFA is currently developing regulations and monitoring indicators for favourable conservation status for each type of forest habitat to provide a more objective basis for assessing consistency of forest management plans with the requirements of the Habitats Directive.

An Action Plan for the Preservation and Restoration of the Bulgarian Danube Isles Floodwoods has been adopted for the period 2003-2007.

The **National Fisheries and Aquaculture Plan 2007-2013** takes account of the ecological role of living marine resources. The objectives of the Fisheries and Aquaculture Act (2001, amended 2006) include the sustainable development of the fish resources, restoration and preservation of biological equilibrium and enrichment of the diversity of the fish resources in the water ecosystems and the application of the rules for responsible fishing, alongside development of economic and recreational fisheries and increased consumption of fish and fish products (art. 1.2). Responsibility for preserving biodiversity of fish resources is to be jointly shared by MOEW and MAFS (Art. 9(1)) and introductions of alien aquatic organisms into Bulgarian waters must be handled in accordance with the BDA (art.9.2, see 3.5 above).

4.4 Transport and energy infrastructure

Case files brought under the Bern Convention have focused on transport proposals (Kresna Gorge) and wind farm proposals. In the former case, the NGO intervention over several years has borne fruit with the NGO-backed route being accepted in 2008 at a higher cost.

With regard to wind farms, the Minister of Economy and Energy has not produced an SEA for the National Programme for Renewable Energy 2004-2013 despite a formal request from MOEW in 2004. Over this period, several large energy projects have been developed and approved along the Black Sea Coast. Possible impacts on migratory birds using the Via Pontica flyway (the most important in Europe) have triggered concern within the Bern Convention and the Agreement on the Conservation of African-Eurasian Migratory Waterbirds (AEWA).

Under the Bern Convention, two on-the-spot visits have been carried out to examine existing and proposed windfarms near the coastal sites of Balchik and Kaliakra respectively (September 2005, June 2007) and two recommendations addressed to the Bulgarian government have been adopted by the Standing Committee (Recommendation No. 117 (2005); Recommendation No. 130 (2007)). However, Birdlife International and its Bulgarian partner, BPSP reported in 2008 that “there is no evidence that the Bulgarian authorities are undertaking any actions to implement stronger planning procedures for wind farm developments – either at strategic or individual project level” and submitted a formal complaint to the European Commission in February 2008 “on the lack of proper protection of Kaliakra and damage being caused to the site by developments, particularly wind farms”. In June 2008, the European Commission opened an infringement procedure against Bulgaria because of insufficient designation of 6 sites as SPAs under the Bird Directive, one of which is the Kaliakra IBA. The Bern

²³ Source: Recent Development of the State Forest Sector in Bulgaria (Presentation by N. Vasilev, 9th Conference of European State Forestry Organizations, 9-12 June, 2008, Bialowieza, Poland).

Convention Secretariat has invited the Bulgarian government to report on this issue at the Standing Committee meeting in November 2008, focusing on the monitoring of the impacts of the wind farms on biodiversity.

5. CONCLUSIONS AND RECOMMENDATIONS

5.1 Progress and remaining constraints

Bulgaria has been through rapid social, economic, legal and institutional change and the demands on personnel working in the nature conservation sector to deliver and communicate such changes are considerable. The emerging legislative and regulatory framework, subject to some fine-tuning, is comprehensive and provides a solid basis for implementing the Bern Convention and associated biodiversity requirements under other instruments.

At the biodiversity policy level, the transition from general strategy to concrete action planning has been initiated (eg under the National Biodiversity Conservation Action Plan 2005-2010) and NNPS has delivered on several key commitments, especially for new legislation (eg on medicinal plants and genetically modified organisms). However, it would be interesting to explore options to broaden the range of partners involved in implementation and to assign responsibilities outside centralised ministries. In parallel, more strenuous efforts are needed to boost education and public awareness in order to strengthen understanding and backing for relevant government policies and legal requirements.

Mainstreaming of environment/biodiversity in other sectoral policies is mandated by legislation but is often inadequate in practice. Examples of positive progress include the establishment of a cross-sectoral Biodiversity Coordination Group to oversee delivery of the National Biodiversity Conservation Action Plan, and the ongoing and productive collaboration between MOEW, the State Forestry Agency and some departments of MAFS. The conversion of certain departments into independent agencies answering direct to the Council of Ministers (Forestry, Tourism, Fisheries and Aquaculture) is considered to facilitate intra-government coordination by removing one layer of bureaucracy.

Nevertheless, MOEW is still far too isolated in its efforts to ensure due consideration of nature and landscape protection in the face of competing economic pressures, including tourism development in outstanding coastal and mountain landscapes, large-scale energy development and expansion of hunting. Communication and coordination between MOEW and MRDPW tends to be minimalist, which may work against the smooth implementation of Natura 2000 and associated adjustments (eg to the cadastral plan). Coordination and integrated planning with the Ministry of Economy and Energy and with ministries with marine responsibilities is also underdeveloped.

At the institutional level, there is evidence of clearer allocation of roles and improved understanding of respective responsibilities for implementing EU legislation (eg creation of the dedicated Natura 2000 department and EU-consistent biodiversity data management systems within NNPS; integration of biodiversity measures into Bulgaria's Rural Development Programme). Remarkable progress has been made in recent years towards the establishment of the National Ecological Network and the updating of species inventories and assessments. NNPS and associated staff are qualified and highly committed and show considerable dedication in working to implement new norms and approaches in a relatively short period of time.

As noted in the report, however, area-based conservation in Bulgaria faces very serious challenges, many of which lie outside NNPS' remit. These include overlapping territorial and substantive responsibilities by municipalities, park bodies and ministries; municipal derogations from general spatial plans, without EIA, to rezone land from agricultural to commercial uses; lack of adequate or timely EIA; and the absence of strategic environmental assessment for key sectors with proven cumulative impacts on biodiversity, such as wind energy generation. The judicial and Parliamentary procedures surrounding the delisting and reinstatement of the Strandzha Nature Park in 2007-2008 demonstrate the potential fragility even of statutory protected areas where competing interests are at stake.

Human and technical resources have been increased but are still inadequate to fully implement the National Ecological Network, particularly especially at regional level (RIEWs, National Park Directorates, Water Basin Directorates). Constraints on manpower, transport and equipment undermine delivery of critical activities, including environmental assessments, development of protected area management plans and species action plans, monitoring and rigorous enforcement of existing legislation. Such constraints can contribute to a climate of legal uncertainty about what plans and rules apply in different areas, leading in extreme cases to a legal vacuum.

Tools available under the Bern Convention, in particular the case file system, have been proactively used by Bulgarian NGOs to raise awareness of potentially irreversible damage to key species and habitats in the Black Sea coast and high mountain ranges. This type of action plays a catalyst role to safeguard unique features of Bulgaria's biodiversity and deserves recognition within the administration for this purpose. However, it also has the inevitable effect of polarising some domestic stakeholders and in the longer term, is less conducive to building broader partnerships for conservation. NNPS staff have devoted considerable efforts to build and maintain partnerships with NGOs and there are several examples of practical collaboration and financial support.

Significant progress has been made on scientific collaboration and legislation on invasive alien species: the organisation of a National IAS Workshop to pave the way for a national strategy is a very welcome development.

Marine protected areas and Natura 2000 sites are in their relative infancy. There is no specific marine monitoring programme and the coastal RIEW face constraints on marine enforcement activities. Institutional responsibilities for the coastal and marine environment do not appear to be well coordinated and Bulgaria does not have a policy framework for integrated coastal and marine area management.

5.2 Recommendations

5.2.1 Take intensive actions to communicate the benefits of biodiversity conservation for future economic and social well-being, as part of broader environmental policy, within the administration, key stakeholder groups and the general public. Actively engage the private sector, business community and NGOs and stimulate specialist media coverage, including on progress achieved to date in Bulgaria.

5.2.2 Prioritise systematic integration of Bulgaria's biodiversity-related commitments in relevant sectoral policies and development plans, consistent with existing requirements of the Environmental Protection Act and Biological Diversity Act, by:

- (a) strengthening cross-sectoral communication and coordination between MOEW, MRDPW, MAFS, MEE, State Forestry and Tourism Agencies, other ministries and their regional divisions;
- (b) conducting strategic environmental assessments in all relevant sectors in concertation with MOEW to clarify the application of different legal norms and reduce reliance on individual EIAs to mitigate biodiversity impacts. Where necessary, this should include review of existing policies and consents shown to have serious high impacts on biodiversity (eg coastal wind energy developments);
- (c) improving technical guidance to and legal oversight of municipal planning and decision-making affecting sites within the National Ecological Network.

5.2.3 Complete the designation process for Natura 2000 sites, ensuring adequate protection for all proposed sites through rigorous environmental assessment procedures consistent with EU legislation that take account of cumulative impacts. Ensure their prompt transposition into territorial development legislation and the land cadastre and extend existing scientific programmes (eg through the State Forestry Agency) to develop objective criteria to facilitate development of future site management plans.

5.2.4 Enlarge protected area coverage to cover key components of the National Ecological Network, giving priority to potentially threatened coastal and mountain sites, transboundary areas and ecological

corridors and marine protected areas. Improve the application of the Protected Areas Act by accelerating the development of management plans to increase legal certainty amongst all concerned stakeholders and promote a more strategic and consensual approach to permitted development.

5.2.5 Continue and extend existing species-based policies, building on technical resources available through the Bern Convention to address controversial issues such as hunting of large carnivores. Prioritise development of the national Strategy on Invasive Alien Species and more concerted action to address marine species conservation and research.

5.2.6 Further increase capacity for effective implementation and enforcement of biodiversity-related legislation through training courses on regulations, management, environmental assessment procedures and financing for MOEW, MRDPW and MAFS personnel (national and regional levels) and relevant staff in municipalities. Improve access to transport and other technical equipment necessary for enforcement.

5.2.7 Build awareness amongst the judiciary of how existing environmental legislation and procedures should be used, in line with Bulgaria's international and EU commitments, to prevent unauthorised damage to natural ecosystems, habitats and species. Improve transparency of legal proceedings, access to justice (rights of appeal) and the use of meaningful sanctions to discourage unlawful development and other activities.

ANNEX: LIST OF MAIN NATIONAL LAWS AND REGULATIONS

Environmental Protection Act (SG 91/25 September 2002, amended most recently by SG 36/4 April 2008):

- Ordinance for the conditions and the order for implementing environmental impact assessment (SG 25/18 March 2003, amended SG 3/10 January 2006);
- Ordinance for the conditions and the order for implementing ecological assessment of plans and programmes (SG 57/2 July 2004, amended SG 3/10 January 2006);

Structural Regulations of the Ministry of Environment and Waters (SG 104/1 December 1999, amended most recently by SG 78/29 September 2007).

Structural Regulation of the Executive Agency for the Environment (SG 36/2 May 2000, amended most recently by SG 1/5 January 2007).

Biological Diversity Act (SG 77/9 August 2002, amended most recently by SG 94/16 November 2007):

- Regulation of 1 August 2003 for the conditions and the order for developing of action plans for plant and animal species (SG 73/19 August 2003);
- Regulation No.14 on the conditions and order for issuance of permits for introduction of non-native or reintroduction of native tree, bush and game species and giving of the public opinion (SG 88/2005);
- Regulation No.4 on the conditions and order for issuance of permits for introduction of non-native or reintroduction of native animal and plant species into the wild (SG 65/2003).

Protected Areas Act (SG 133/11 November 1998, amended most recently by SG 43/29 April 2008):

- Regulation on the development of Management Plans for Protected Areas (SG No 13/15 February 2000);
- Ordinance for the national park directorate's organization and activity (SG 68/18 August 2000);
- Ordinance for activities within protected areas that are exclusive state property (SG 68/18 August 2000);
- Tariff for the taxes to be paid for the allowed uses within the protected areas that are exclusive state property; (SG 46/6 June 2000);
- Tariff for the taxes to be paid for collection of medical plants from lands, forests and water objects that are exclusive state property (SG 46/6 June 2000).

Hunting and Game Protection Act 2000 (SG 78/26 September 2000, amended most recently by SG 43/29 April 2008):

- Regulations for implementation of the Hunting and Game Protection Act (SG 58/29 June 2001, amended most recently by SG 10/6 February 2004).

Medicinal Plants Act (SG 29/7 April 2000, amended most recently by SG 43/29 April 2008).

Forestry Act (SG 125/29 December 1997, amended most recently by SG 64/7 August 2007).

- Regulations for implementation of the Forests Act (SG 41/10 April 1998, amended most recently by SG 54/4 July 2006);
- Decision of the Council of Ministers on Establishment of the State Forestry Agency (SG 60/24 July 2007)

Fisheries and Aquaculture Act (SG 41/24 April 2001, amended most recently by SG 108/29 December 2006).