



July 2017

## Illegal damage and threat of destruction of Kresna Gorge, Bulgaria

### Summary of complaint to EU Commission

Kresna Gorge Natura 2000 site is a spectacular natural conservation haven in southwestern Bulgaria. The 16km-long, narrow Gorge is Bulgaria's richest biodiversity site – it is a habitat for 92 EU-protected species, such as land tortoises, Leopard and Fourlined snakes, 12 species of bat, golden eagles, and griffon vultures; a crucial narrow migratory corridor for bears, wolves and other species; and a hot-spot containing 35 specially protected EU habitats. Due to its status as a Natura 2000 site, special rules apply when projects are planned to take place in that area.

Kresna Gorge is threatened by the construction of the E79 Struma motorway, part of the Trans-European Corridor 4 linking Hamburg (Germany) with Sofia (Bulgaria) and Thessaloniki (Greece).

The subject of this legal complaint is **first**, decision No. 712/26.09.2011 of the Bulgarian Government to route transnational motorway traffic through the territory of Kresna Gorge (through the existing small road), contrary to legal conditions for the construction of the E79 Struma motorway. And **second**, a decision on 20 April 2017 by the Bulgarian Roads Agency to select a final design for the motorway half of which would pass down the length of the Gorge.

### 1. Decision No. 712/26.09.2011

In the first decision, the Bulgarian Government permitted and has completed construction of three motorway sections to the north and south of the Gorge, which has created a bottleneck of transit motorway traffic feeding into both ends of the Gorge along the existing road. This has contributed to an estimated 40% increase in transit traffic driving through the Gorge over the period 2003-2015, and caused a very significant deterioration of wildlife. Studies show that over the same period the population abundance of all protected bats in the Gorge has decreased by 92%, protected tortoises and snakes have decreased by 60% and all vertebrates declined by 84%. ***This violates Article 6(2) of the Habitats Directive, because the Government of Bulgaria has failed to:***

- ***avoid the deterioration of natural habitats and the habitats of species for which the site has been designated; and***
- ***avoid the disturbance of the species for which the site has been designated.***

Furthermore, this same decision disregards one measure of the legally binding 'appropriate assessment' that was carried out in 2008 to ensure the motorway does not damage EU protected

nature. The 2008 appropriate assessment is the only legal basis for carrying out the Struma Motorway project. It ruled that, to mitigate the impacts of the E79 motorway on Kresna Gorge, (i) transit motorway traffic must be routed outside of the Gorge, and (ii) the Kresna section (Lot 3) must be completed *before* other sections, in order to avoid an increase in traffic on the existing road and avoid serious adverse impacts on the integrity of Kresna Gorge. Decision No. 712/26.09.2011 violates this legally binding mitigation action, and in so doing ***breaches Article 6(3) of the Habitats Directive, because the Bulgarian Government has failed to take “light of the conclusions of the [appropriate] assessment of the implications for the site” and in so doing has adversely affected the integrity of the site.***

## **2. Decision by the Bulgarian Road Agency on 20 April 2017**

In the second decision, for the final motorway section, the Bulgarian Government has advanced design of construction for its preferred route, which would partially send motorway traffic through the Gorge (via a south-bound dual carriage-way on the existing road, whilst north-bound traffic would be outside to the east). This would very likely cause even worse deterioration of Kresna Gorge’s unique wildlife than the current unacceptable status quo, and according to the 2008 assessment, may lead to the full extinction of some wildlife populations in the Gorge. Whilst the decision of the Bulgarian Road Agency is not the very final decision, it does show strong steps to pre-empting the final decision on the chosen route. However in doing so, the selection of this preferred route: (i) pre-empts the results of a new ‘appropriate assessment’ (due to finalise this summer) for the Kresna Gorge section, without giving full or equal consideration of all alternatives including those fully outside the Gorge; (ii) has been taken on economic and technical grounds without regard to the impacts on Natura 2000; and (iii) seemingly contradicts the 2008 appropriate assessment, which ruled that all motorway traffic should be routed outside of the Gorge. It is therefore ***a prospective violation of Habitats Directive Article 6(3) because the decision fails to take “light of the conclusions of the [appropriate] assessment of the implications for the site” and it fails to ascertain that it will not adversely affect the integrity of the site.***

## **Urgent need for the Commission to intervene**

€756 million EUR of EU taxpayers money is allocated to be spent on the construction of E79 Struma motorway, and the European Commission and Bulgarian Government must ensure construction is completed by 2023 and in full compliance with EU nature laws. If either of these conditions are breached, the Bulgarian Government risks having to repay some or all of the grants to the European Commission.

Evidence shows that Kresna’s wildlife is already alarmingly deteriorating as a result of the failure to uphold previous environmental requirements for the road. As deadlines approach to complete the final Kresna section of the road and alleviate the ‘bottleneck’ that has been created; the Bulgarian Government is showing strong steps to moving forward construction of a route partially through the Gorge, that has already been ruled out for its disastrous impacts on EU protected habitats and wildlife. The threat of an irreversible biodiversity loss in the Natura 2000 site is therefore real, probable and imminent.

Therefore we ask the Commission to quickly intervene to halt the irreversible loss that is already being caused by routing motorway traffic through Kresna Gorge – and that would be worsened by turning it into a motorway; and to ensure the protection of Kresna Gorge in compliance with the Habitats Directive.