

To: Frans Timmermans

First Vice-President of the European Commission
Better Regulation, Interinstitutional Relations, the Rule of Law
and the Charter of Fundamental Rights

To : Jyrki Katainen

Vice-President of the European Commission
Jobs, Growth, Investment and Competitiveness

CC: Věra Jourová

EC Commissioner, DG Justice, Consumers and Gender Equality

CC: Karmenu Vella

EC Commissioner, DG Environment, Maritime Affairs and Fisheries

CC: *European Parliament*, Chairman of political groups:

Group of the European People's Party (Christian Democrats)

Group of the Progressive Alliance of Socialists and Democrats in the European Parliament

European Conservatives and Reformists Group

Group of the Alliance of Liberals and Democrats for Europe

Confederal Group of the European United Left – Nordic Green Left

Group of the Greens/European Free Alliance

Europe of Freedom and Direct Democracy Group

Europe of Nations and Freedom Group

CC: Aarhus Convention Secretariat

Date: 21 July 2017

Open letter from NGOs from “Save Kresna Gorge” coalition

DEAR VICE-PRESIDENTS OF THE EUROPEAN COMMISSION,

We call for your action on recent steps of the Bulgarian government and Parliament to restrict civil rights and subvert basic European values. This ‘legislative putsch’ will also enhance illicit

use of the European taxpayer money as it will eliminate citizen control over the legality and sustainability of the European funds in the country.

The newly tabled draft legislation by the Bulgarian right-wing populist government, if adopted, would provide for a drastic limitation of the rights of citizens and civil society organisations to judicial review on environmental matters, which will be unprecedented violation of the civic and environmental rights guaranteed by the article 11 (3) of the Directive 2011/92/EU as amended by 2014/52/EU, article 6 (3) of the Directive 92/43/EEC, as well as the article 3 (2) of the Aarhus Convention.

More specifically, the proposed legislative changes aim to:

- Increase administrative charges for legal appeal of Environmental Impact Assessments (EIA) and Appropriate Assessments (AA) for NATURA 2000 sites up to 900 times by making them proportional to the project's investment costs. The appeal procedure will become totally inaccessible to ordinary Bulgarian citizens, thus dramatically limiting access to justice on environmental matters envisaged by the Aarhus Convention.
- Create an accelerated (up to 6 months) one-instance only appeal procedure for EIAs for large-scale infrastructure projects of 'special national significance', which are arbitrarily defined as such by the government. This provision contradicts the logic of civil law that should enhance procedures for small scale cases and guarantee public control over cases with significant impacts on people livelihood and nature. Further on such measure would greatly limit the effectiveness and quality of judicial review, creating legal uncertainty due to administrative interference with the duration of the judicial process and with the independence of the judiciary.

Overall, we believe that the proposed legislation would have serious negative impact on legality and anti-corruption, which are leading principles for sound economic development.

It is of great concern that motivation for the proposed changes is rooted into ruling party's (GERB - Citizens for European Development of Bulgaria) pursuit to absorb EU funds for major infrastructure project without implementing European environmental legislation. Specific example is the Struma highway project connecting Sofia and Thessaloniki as part TEN-T corridor "East Med/Orient". The project will receive EUR 756 million of European taxpayer. This project is being implemented despite the serious breaches of art. 6 (3) of Directive 92/43/EEC and has already led to significant damage of the integrity of NATURA 2000 (infringement procedure complain CHAP(2017)02186 – BULGARIA).

Despite the numerous alerts and proposal by civil society organisations on measures addressing breaches of the EU law, the Bulgarian government failed in the last 4 years to made necessary administrative steps that will make the project compliant with national and EU legislation, thus putting at stake the eligibility of the Struma Motorway project for receiving EU grant.

In view of the above, we as European citizens, ask the Commission to act on:

- Preventing the proposed legislative proposal that would lead to systemic breaches of European legislation, legal uncertainty, further populist attacks against environmental protection and further deterioration of the corruption problems in Bulgaria;
- Making it clear to the Bulgarian government that the EC will demand respect of civil rights, compliance with EU law and adherence to European values for the EU funded projects as a guarantee for sound and effective use of European taxpayers' money;
- Demanding strengthening of quality of preparation of the EU funded projects and control of the civil society in order to prevent the corruption fuelled with the money of European citizens.

Respectfully,

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Supported by the “LET NATURE REMAIN IN BULGARIA” NGO coalition with 23 NGO and citizen group members: Association of Parks in Bulgaria, Bulgarian Association for Alternative Tourism, Bulgarian Society for Protection of Birds, Bulgarian Phytosociological Society – 2001, Bulgarian Federation of climbing and mountaineering, Bulgarian Federation of Speleology, Bulgarian "Biodiversity" Foundation, Greenpeace Bulgaria, WWF Danube-Carpathian Program in Bulgaria, Environmental Association "Za Zemiata" (For the Earth), Centre for Environmental Information and Education, Community center "Future Now", Association "Agrolink", Association "Bikearea, Association “The White Beach”, BALKANI Wildlife Society, “Borrowed Nature “Association, NGO "Green Balkans” Federation, "Wilderness Fund" Association, UNECO club to the Student Council of Sofia University"St. Kl. Ohridski", Sofia Citizen Association"Stastlivetza", “Save Irakli” citizen group, "Citizens for Rila" citizen group"