

## **Convention on the Conservation of European Wildlife and Natural Habitats (Bern, 1979)**

**Meeting of the Convention Bureau, September 8<sup>th</sup> 2006**  
*(revised version, October 2006)*

### **Notice concerning the File on the construction of the 'Via Baltica' Expressway in Poland**

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#### **1) Introduction and meeting agenda**

This short notice summarises our statements on the Via Baltica problem in Poland for the Bern Convention Bureau meeting of 8.09.06, as requested by the Secretariat of the Council of Europe.

At the occasion of our expertise for the European Diploma (Bialowieza) we were invited by letter of 26.06.06 to take part in a discussion on the state of progress of the Via Baltica project in the framework of the Bern Convention at a joint meeting of GDDKiA road engineers and representatives of the Ministry of the Environment. So we tried to understand how far the recommendations of the Standing Committee of the Bern Convention (meeting 2-5.12.2003) were being taken into account by the Polish authorities.

Our first expertise on Via Baltica took place on 14-15.10.2003 (see report 10.11.2003). In order to experience nature values of some sites that we could hardly visit in 2003 and to assess the feasibility of alternative route variants we could organise a private site visit during 19-21.08.2006 with Polish experts.

We followed the road from Warsaw through Lomza to Augustow (19.08), explored the Rospuda river valley (full day 20.08) and followed the route nr 8 from Augustow through Sztabin to Bialystok and Bialowieza on 21.08. We had a short stop on the bridge at Biebrza National Park and visited the "Krzemianka" Nature Reserve in the Knyszynski Primeval Forest Landscape Park (half day). During these field visits we exchanged views about biodiversity, ecological characteristics, nature values and threats with scientists of the Polish Academy of Science and the Universities of Warsaw and Bialystok, experts of Birdlife and other NGO's.

On 28.08 we participated at the important meeting at the GDDKiA road administration office in Warsaw with representatives of the Ministry of the Environment, organised to discuss the progress and status of the Strategic Environmental Assessment and the Environmental Impact Assessment, as requested for the Bern procedure.

#### **2) Nature values of protected areas threatened by the construction of Via Baltica, with special reference to the Rospuda valley (Augustow region)**

At the first appraisal in October 2003, we only have seen the surrounding forest area of the plateau at the end of the day (at route variant IV) and there were no further arrangements to get an overview or to explore the core areas of the open valley fens any more.

Thanks to our detailed field visit of 20.08.06 we could experience the overall situation of this part of the Augustow Forest protected landscape.

The exceptional value of the Rospuda ecosystem is in its completeness, with different sections of the river valley (upper, middle and lower with lakes) and their accompanying vegetation types. The patterns with both the longitudinal and transverse gradients are showing zonations with a great number of rare and critical plant species. These species and their vegetation types also indicate the temporal processes that have been responsible for the age-long development without major human disturbances.

The Rospuda is a unique and mainly open valley fen habitat with deep peat soils, mires, some rainwater fed bog vegetation and reedbeds along the river. In this open landscape a patchy structure of woods developed as a result of ecological succession; also some wooded mineral islands occur. The gradients mentioned are also reflecting the unique hydrogeological, physical and geomorphologic situation as a basin filled with deep organic layers.

The surrounding forests on the plateau are an integrated part of the Rospuda system and serve as a protective buffer for the environmental quality of the valley, including absence of noise and other disturbances. Thanks to the extend of the surface area of both valley and surrounding meadows and forests, the fauna of the Rospuda is representative and divers, with rare and endangered species that need large territories. The occurrence of several Mammal and Bird species have been inventoried by specialists.

The above mentioned characteristics result in a 'hot-spot of biodiversity' for this type of most vulnerable ecosystems. For these reasons, the designation of Rospuda under Natura 2000 (EU directives) is to be fully respected indeed. At the moment of Poland's entry in the EU, this requirement was already clear.

Further, the site meets the criteria for the Ramsar Convention (1971) as 'a wetland of international importance'. Finally, experts in peatland ecosystems have stated that the valley fen types of the Rospuda represent the most intact example west of the Ural mountains and serve as a reference site for fen conservation in Europe. See also in annex the resolution adopted at the end of the SER Conference in Greifswald, August 2006, where specialists from over the world visited Rospuda.

The entireness of landscape-ecological processes and pattern is an example of almost undisturbed systems that merit integrated maintenance and ecologically sound conservation actions indeed.

Cutting this unique area by a long bridge (whether 2 or 2x2 lanes) following the proposed 'route variant IV' (as already marked in the field for clearance of the forest corridor) would cause irreversible damage to the peat soils and the groundwater dependent vegetations. It would also create a migration barrier and constitute a permanent disturbance of the silence in the whole valley and subsequent loss of vertebrate fauna. Finally, a great loss will be the permanent disappearance of the peerless beauty and 'wilderness feeling' for people visiting the area (nature education, ecological training, ecotourism).

It is most unlikely that mitigating measures can effectively avoid irreversible long-term disturbance of the hydrological and ecosystem functions. For these reasons an alternative route avoiding the Rospuda valley downstream of Raczki (Chedorki) is to be considered.

### **3) Strategic Environmental Assessment and missing alternatives**

In the framework of the Bern-Convention, an on-the-spot appraisal was carried out in October 2003, followed by the discussion at the Standing Committee. It was recommended that before any decision was taken by the Government, a thorough SEA (strategic environmental assessment) was drawn up, followed by an EIA (ecological impact assessment), in order to avoid damaging the most valuable protected areas (mainly Rospuda, Biebrza and Knyszynski).

A great number (42) of alternative routes for Via Baltica has been investigated by the consultant group Scott & Wilson on demand of the GDDKiA (road administration) as part of the SEA. The analysis has not being done so deeply as the routes of ring roads for towns and villages. In the case of Rospuda, the Augustow bypass variant IV L was not a subject to SEA, but to separate EIA procedure and then was imposed to be the least damaging choice. This EIA procedure and the decisions based on it are the subject of the complaints of Polish NGOs to the court and the European Commission under the argument of no complaint with Polish and EU environmental legislation.

The SEA study was presented during the meeting on Monday morning 28.08.06 at the GDDKiA office (chair: dir. gen. Ludomir Szubert). List of participants: see Annex I. The SEA – although not yet finalised - mentions in many variants the possibility of the route from Suwalki by Raczki (next to Chodorki village) to the South-West rather than to Augustow and fully avoids the wetlands in Rospuda Valley core areas.

The valuable proposal of the route combining the bypass of both Suwalki and Augustow (and Natura 2000 site) has been worked out in great detail, with indication of all habitats under the EU directives and in comparison with the variants proposed by GDDKiA.  
See website [http://www.siskom.waw.pl/rospuda/Wariant\\_alt/](http://www.siskom.waw.pl/rospuda/Wariant_alt/)

We requested to receive a copy of the powerpoint presentations of GDDKiA Bialystok (by ir. Tadeus Topczewski, in Polish with insufficient translation) and by Waclaw Jastrzebski, Scott Wilson Ltd., in English), but did not get any reaction until today. In this stage an evaluation of the way in which the Bern recommendations are fulfilled is almost impossible.

There is a considerable confusion about the status of planned projects, some of them belonging to the Via Baltica, others being characterised as 'road ameliorations' only (but enlarging existing crossings through or along protected areas such as Natura 2000 as well). We are not informed about the exact technical characteristics of the planned road sections through the protected areas: 2 lanes and local secondary roads, as already existing in several sections, both for road nr. 61 (via Lomza) and road nr 8 (via Bialystok), or 2x2 lanes (planned bridges Rospuda and Biebrza?). This of course would influence the barrier effect of the new roads.

We also advice the Bern Convention Bureau to consider a joint action with the European Commission about the Natura 2000 SPA's and SAC's that are endangered all along the Via Baltica, especially the Rospuda valley. This is urgent indeed, as the route engineers hope to start clearing the forests for construction of the Augustow bypass (variant IV L) still this year.

Further we have been informed about the official complaint of Polish NGO's being send at the Commission in Brussels which seems to have some problems with official translations from Polish into English and which could cause a too long delay for legal acceptance and actions.

#### **4) Conclusions**

- There is well documented scientific evidence that the Rospuda valley fens are unique ecosystems for Europe and need to be maintained intact as Natura 2000 site.
- We have no sufficient indication that the requirements of the recommendations of the Bern Convention Standing Committee are actually implemented or will be fulfilled in November 2006.
- There is a need for ensuring by the Polish government that as soon as SEA is completed it's results (the best route) would be followed by the official decision on Via Baltica route. The other - unnecessary- upgrading road works on road no. 8 should be suspended.
- We did not get information on the existence of an EIA (or separate EIA's for different road sections); if so, a review is recommended.
- A complaint for damaging Natura 2000 sites, especially the Rospuda (Habitat Directive Art. 6) has been send to the European Commission, which could strengthen the Bern Convention position against the realisation of the Via Baltica following the actual (incomplete) plans and selected route variant IV L;
- The Polish Government cannot take decisions or consider construction permissions before SEA and EIA are publicly accepted; if necessary the availability of European funding for the Via Baltica in Poland is to be withdrawn. The already hasty acquired land near Rospuda in the variant IV L corridor can be justified as a functional buffer zone for the integrated protection of the valley (and could be completed with European support in case the valley remains untouched).

PS: In annexes III & V we quote some statements about the importance of the Rospuda as we have been collecting after returning from Poland

## **Annex I**

### **Participants during the Meeting at GDDKiA office, Warsaw, 28.08.06**

- GDDKiA staff:  
Ludomir Szubert (dir. gen.), Tomasz Zapasnik (env. div.), mrs Katarzyna Maranda (env. div.)
- GDDKiA (Bialystok division): Tadeusz Topczewski
- technical consultants of Scott Wilson Ltd: Waldemar Krylowicz, Wacław Jastrzebski
- dr. Zygmunt Krzeminski (Ministry of the Environment)
- dr. Jadwiga Sienkiewics (Institute)
- 2 NGO's representatives: Adam Bogdan and Robert Chwialkowski
- Council of Europe expert E. Kuijken, assisted by Mrs. C. Verscheure

(+ some illegible signatures)

## Annex II

### IPS (International Peat Society) and SER (Society for Ecological Restoration)

#### Resolution to Poland : RE: Rospuda Valley Mire and the proposed Via Baltica expressway

Thirty-one international peatland scientists visited the Rospuda Valley Mire within the context of a field study in August 2006, jointly organized by Society for Ecological Restoration International (SERI) and the International Peat Society (IPS). SERI is a non-profit organization associating approximately 2300 members – individuals and organizations, engaged in ecologically-sensitive repair of ecosystems. IPS is a non-profit organization with approximately 1400 members, dedicated to fostering the advancement, exchange and communication of scientific, technical and social knowledge and understanding for the wise use of peatlands and peat. Collectively, we have a comprehensive understanding of mires in Europe and the world.

It is our unanimous opinion that the Rospuda Valley Mire is one of the most pristine mires in Europe. However, this unique reference system is under immediate threat by the proposed construction of the Via Baltica expressway. Based on our experience, the Rospuda Valley Mire is a unique and pristine ecosystem for the following reasons:

1. It is an undisturbed, complete fen valley system which cannot be found elsewhere in Europe, having naturally evolved following the last glaciation.
2. The Rospuda Valley Mire is a self-sustaining ecosystem that will survive for generations without any management, whereas restoring and maintaining similar, degraded fen sites is extremely expensive and often impossible.
3. This system contains plant and animal species which are endangered at the European and global levels.
4. This is the last reference system\* for the restoration of this fen type in Europe.

Fens are among the most sensitive ecosystems, susceptible to degradation through any interference of their local and regional hydrological regime. There has already been large-scale and severe degradation of fen systems within Poland and throughout Europe. Given the fragile hydrological equilibrium, the road development would create irreversible damage to the fens of the Rospuda Valley. While mitigation measures may be effective in reducing the impact, they would not ensure preservation of the key functional aspects of this system.

We recognize the social and economic need for improved road infrastructure in this area. We support an alternative route passing near the village of Raczki, which is the least harmful for the environment and also much less costly. In view of the *Wise Use Guidelines*,\*\* this is the best option to prevent significant impacts and preserve the integrity of the Rospuda fens.

We suggest that the lands already purchased by the government in the Rospuda Valley be utilized to create a nature reserve that will protect the largest undisturbed fen valley system of Europe. This responsible initiative would preserve this unique natural heritage in Poland and comply with the current European conservation legislation.

\* For definition see SER web site: ([https://www.ser.org/content/ecological\\_restoration\\_primer.asp#6](https://www.ser.org/content/ecological_restoration_primer.asp#6))

\*\* Joosten, H., Clarke, D. 2002. *Wise Use of Mires and Peatlands. Background and Principles Including a Framework for Decision-making*. International Mire Conservation Group and International Peat Society, Saarijarvi.

October 2006

### **Annex III**

Warszawa 19.12.2005

#### **Comments to the Environmental Impact Report prepared in procedure to obtain environmental decision for Augustów by pass.**

(...) It should be emphasized that until now there has been no successful restoration of mezotrophic soligenous mire despite a lot of attempts made by ecologists all over the world. If such a restoration is possible at all, it will probably take hundreds of years to restore soligenous mire with typical sedge-moss fen vegetation. Destroying of such ecosystems is one of the most expensive interferences in nature. Estimation of costs should include as well very high costs of restoring groundwater supply of a degraded fen as a very long period of time until the whole ecosystem forms again.

**Ewa Jabłońska** – member of Save Wetlands Association,  
mire ecology and nature protection specialist

**Dr Wiktor Kotowski** (\*) – chairman of Save Wetlands Association,  
member of Society for Ecological Restoration International,  
peatlands restoration specialist

(\*) present address: University of Antwerp, Belgium

## **Annex IV**

### **FRAGMENTS OF OFFICIAL ANNEX TO REPORT COMMISSIONED BY THE INVESTOR (GDDKIA) in 2005 - ORNITHOLOGICAL SECTION**

#### **Original title of the report:**

**„ANEKS DO RAPORTU ODDZIAŁYWANIA NA ŚRODOWISKO Z TYTUŁU REALIZACJI INWESTYCJI OBWODNICA AUGUSTOWA NA OBSZARZE NATURA 2000 – PUSZCZA AUGUSTOWSKA”. Białystok 2005.**

**Authors of the report : Włodzimierz Kwiatkowski, Mirosław Stepaniuk, Krzysztof Gajko, Marek Ksepko**

(...) In the researched area 73 breeding sites of threatened bird species (from Annex I of Bird Directive) were identified. In a 600 meter wide zone of the highest level of threat, 40 breeding sites of those species have been identified. Some of them would be destroyed directly during construction works, the rest of them would be abandoned due to harmful interference in habitat and landscape, or because of disturbance – short distance from the express road (collisions with vehicles, noise, increased human penetration).(...) Particularly threatened would be breeding sites of Lesser Spotted Eagle, White Tailed Eagle, Capercaillie – birds belonging to the group with highest nature conservation value of this area.(...)

The White Tailed Eagles breeding sites consist of usually more than one nest, which are occupied alternately. In the researched area White Tailed Eagles nests are located on both sides of the planned road, what means that the road would cut the breeding site in the middle.(...) There is a very high risk that after construction of the bypass birds will abandon nests which is one of only three known breeding sites of this species in Special Protection Area - Augustowska Forest.

A nest of the Lesser Spotted Eagle is located exactly on the route of planned expressway. Therefore the fate of this species would be determined. The optimum biotope of this bird are riverside carrs and alder carrs.(...). For this reason it's practically not possible for the Lesser Spotted Eagle to find an alternative breeding site. The section of the forest where the present nest is located is the optimum breeding site for this bird on the area under research (...).

The most precious bird species occurring in the researched area is Capercaillie. This bird is extremely threatened with extinction, as in the last years a rapid decrease in numbers in the whole territory of Poland has been observed. Therefore each still existing breeding site of this conservative, sensitive to habitat changes species should be strictly protected (...)

Summarizing, damages in breeding avifauna which will be caused by construction of the Augustów bypass are definitely too large to be accepted. From ornithological – nature conservation point of view construction of the road in present localization is absolutely unacceptable. Moreover, any real compensation of ornithological value lost in this area after proposed construction of the Augustów bypass would not be possible.

#### **Authors of ornithological section of the report:**

**Eugeniusz Pugacewicz** – author of many articles and publications, one of the best known, unquestionable, ornithological authority in North - Eastern Poland

**Tomasz Tumiel** – very experienced ornithologist, coo worker Uniwersity in Białystok and scientific institutions

## **Annex V**

### **„Opinion of the Eagles Protection Committee concerning planned Augustów bypass”**

- fragments

Original title of the opinion: **„Opinia Komitetu Ochrony Orłów w sprawie projektowanej obwodnicy Augustowa”**

(...) planned construction of Augustów bypass will destroy a breeding site of Lesser Spotted Eagle (*Aquila pomarina*) in Rospuda River Valley. Main feeding ground of one pair is located in the west side of the forest near Topiłówka village. Another pair of Lesser Spotted Eagle, with a breeding site near the edge of the forest, preys in that area. The planned investment will partially destroy the feeding ground located on the south meadows near Topiłówka village. Construction works of Augustów bypass might also affect the existing habitat of White Tailed Eagle (*Haliaeetus albicilla*). Construction works on the section of the planned road in the nearest vicinity of the breeding site (about 1,5 km) might cause the nest to be abandoned by birds (...)

Planned localization of Augustów bypass threatens as many as three breeding sites of predator birds from Annex I of Bird Directive ( 2 - Lesser Spotted Eagle, 1- White Tailed Eagle).

**Size of damage to the Lesser Spotted Eagle’s population should be a sufficient reason for searching for alternative solutions for localization of the road.(...)**

**20 % of world population of Lesser Spotted Eagle breeds in our country. Eastern European countries are responsible for the future of the Lesser Spotted Eagle’s population (...).**

**According to the Polish law, the Lesser Spotted Eagle and its sites are rigorously protected. Strict protection rules apply to the breeding sites. The situation in Podlaskie Voivodship is the first case of where the possibility of fully conscious destruction of the breeding site of this species is being considered.**

**Attempts to determine compensations which would allow to keep the number of Lesser Spotted Eagle on an unaffected level, despite destruction of its habitat caused by planned construction of the bypass, are a complete misunderstanding (...)**

**The Eagles Protection Committee has been leading scientific research of conditions which cause irregular distribution Lesser Spotted Eagles in Poland for 15 years (...).**

**Taking into account above arguments, the Eagles Protection Committee, as an expert organization in protection of populations of endangered predator bird species, opposes the construction of Augustów bypass in present variant and suggests searching for less harmful alternative solutions.**

**On behalf of Eagles Protection Committee Board**

**Zdzisław Cenian**

Above opinion is on the website of Eagles Protection Committee :

[http://koo.free.ngo.pl/aktual\\_16.htm](http://koo.free.ngo.pl/aktual_16.htm)