

# IMPACT ASSESSMENT OF LEGISLATION IN THE CASES OF CONSTRUCTION IN PROTECTED AREAS ALONG THE BULGARIAN BLACK SEA COAST, SET IN NATURA 2000

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## Abstract

*In recent years, impact assessment has proven to be a useful tool for handling of bills and regulations that would be hard to enact after adoption, as well as a crucial part of the public policy cycle for unification of the regulatory systems in the countries of Eastern Europe that are part of the EU. Impact assessment is a tool used for studying various economical, ecological and social effects of legislation. Its use enables solutions to be offered and laws to be adopted based on a clearly defined correlation between the set goals and expected outcomes as the decisions made are based on the objective evaluation of concrete data and indicators.*

**Keywords:** *impact assessment, public policy, decision making*

## 1.1. Impact assessment - historical context

Impact assessment has been known in the United States since the 1970s. Its initial appearance took the form of an "Inflation Impact Assessment", and the cost-benefit method was introduced in the 1980s. The mechanism for assessing the impact of legislation has been adopted by all economically developed countries that are members of the Organization for Economic Cooperation and Development. The World Bank also encourages countries with which it is partnering to introduce an impact assessment.

## 1.2. Impact Assessment in Europe and the European Union

In Europe impact assessment came in the late 1990s and early 21st century. Among the most successful countries in implementing it are the United Kingdom, Germany, Denmark and the Netherlands. EU Member States have introduced the impact assessment for their legislative programs about two decades ago in support of the notion that new legislation may have significant and sometimes unexpected impacts and consequences not only on the budget but also on different spheres of the economy and society generally. Today, the Member States share the view that some form of impact assessment should take place before the introduction of legislative changes.

In an effort to achieve its policy objectives at a minimal cost and to the benefit of European citizens, businesses and workers, while avoiding any unnecessary regulatory burden, the European Commission is setting up an impact assessment system in 2002. It has been seen by the Commission as one of the smart regulation tools. It is successfully used at an early stage in the policy-making process and, in particular, in the development of new proposals. The Impact Assessment ensures that the Commission's initiatives and proposals for European Union legislation are drafted on the basis of transparent, comprehensive and balanced information on the nature of the problem to be addressed, the added value of action at EU level as well as on the cost and benefits of alternative modes of action for all stakeholders. In 2009, the Commission adopted guidelines for impact assessment.

Six years later, in 2015, the European Commission announced its new "Program for Better Regulation: Enhancing Transparency and Control for Better Lawmaking in the EU". It is presented as a comprehensive package of reforms covering the entire policy cycle that will make the decision-making process in the European Union more open and transparent, will improve the quality of new laws through better impact assessments legislative proposals and amendments, and will promote a consistent and coherent review of the current legislation of the European Union.

The specific program is aimed at drafting and evaluating European Union policies and legislation in a transparent way based on evidence and opinions of citizens and stakeholders. The program covers all policy areas and strives for targeted regulation, whereby minimum goals and benefits are achieved with minimal cost.

Impact assessments examine whether action at EU level is needed and analyze the possible impact of possible solutions. They are carried out during the preparatory phase before the Commission finalizes the work on a legislative proposal. They provide facts and information to support the decision-making process.

Impact assessments are prepared for the needs of various initiatives that are expected to have significant economic, social or environmental impacts. Such initiatives include:

- legislative proposals;
- non-legislative initiatives (eg financial programs, recommendations for negotiating international agreements);
- implementing acts and delegated acts.

The results of the impact assessment process are summarized in a report, the quality of which is checked by the Regulatory Committee, an independent authority providing opinions. One such impact assessment report should include a description of:

- the environmental, social and economic consequences, including the implications for small and medium-sized enterprises and competitiveness, as well as an explicit declaration if any of these consequences are not considered significant;
- who will be affected by the initiative and how;
- the counseling strategy and its outcomes.

Impact assessment reports are published with the proposals or acts adopted by the European Commission. They are also sent to Parliament and the Council to be taken into account when deciding whether to adopt a proposed law.

### **1.3. Impact Assessment in Bulgaria**

Impact assessment in Bulgaria has been introduced for the first time in one of the strategic documents of the executive power - the Strategy for Development of the State Administration (2014-2020). As a result, the expectation for 2020 is that "100% of the new legislation should be accompanied by an impact assessment, except where it is not required by law".

This is related to one of the main problems in the work of the administration that has to be adapted in the course of the numerous legislative changes resulting from the pre-accession period of Bulgaria upon its admission to the European Union but also with the transposition of the European law after 2007.

### **1.4. Background on the introduction of impact assessment in Bulgaria**

However, the introduction has its own background. In July 2008 under the Administrative Capacity Operational Program the administration of the Council of Ministers became a

beneficiary of the project "Better Public Management: Institutionalization of the Impact Assessment Process in the State Administration" co-funded by the European Social Fund. The aim of the project is to ensure better quality of regulatory acts and strategic documents by institutionalizing the process of impact assessment in the Republic of Bulgaria. It has produced seven preliminary and seven subsequent impact assessments, as well as a questionnaire containing questions on the complexity of existing laws. The results were produced a year later, in July 2009, and were the first impact assessments of legislation carried out in Bulgaria, both on legislative projects and on certain applicable laws. This is the first positive practice that has begun to pave the way for introducing the mechanism for impact assessment of the legislation in Bulgaria. From the end of 2011 in Bulgaria starts a slow and gradual process of entry at the central administration level of elements, concepts and procedures from the impact assessment mechanism of the legislation applied in the European Union.

In August 2013, at the initiative of the President of the 42nd National Assembly (2013-2014), a new unit to the parliamentary administration started, called the Unit for the Study and Analysis of the Effect of Legislation. It is tasked with monitoring how the adopted laws and legislative amendments are working in practice, what are the main groups of problems, what are the areas in which there is potential for optimizing one or another legislative solution, etc.

The State Administration Development Strategy adopted by the Government in 2014 underlined that "Impact assessments of legislation are not satisfactory, and improving practice in this area will lead to increased transparency and predictability and reduction the frequency of regulatory changes". It is also noted that "the activity of assessing the impact of legislation, monitoring and evaluating its implementation as well as policies are new to the Bulgarian administration and the improvement and development of capacity is an important condition for more effective policies". The Strategy commented that "managers and officials in the administration do not recognize this activity as the main one and do not make enough efforts to better understand the approach and logic of carrying out impact assessments. There is a need to impose a mandatory evaluation practice, including through regulatory input, which will allow real measurement of the impact of proposed measures and policies". It is concluded that the problems that arise from the implementation of the European legislation arise from the lack of an integrated common approach to the transposition of European legislation and the lack of a mechanism for systematic examination of good European practices.

Among the main objectives of the Strategy for Development of the State Administration is the creation of a sustainable regulatory framework. The active implementation of the impact assessment mechanism is one of the important means by which this objective will be achieved. It is stated that "the administration will need to actively assess impact as a key instrument for measuring the effect of introducing new regulations and policy implementation". Emphasis is placed on making preliminary impact assessments of bills. The strategy document also states that: "Concurrently with the accumulation of experience in this area, capacity will be developed to carry out follow-up impact assessments of the legislation". It also forecasts that "along with the regulatory regulation of the impact assessment process, it is necessary to work on the practical implementation of this approach for better public governance as well as on the strict application of the requirement to mandatorily motivate the need to introduce new regulations".

There is also a problem with the use of external consultants in collecting the data necessary for carrying out impact assessments. The Strategy provides for the corresponding internal capacity to carry out impact assessments in each ministry by 2020.

Bulgaria's main strategy document on public administration reform clearly shows that the impact assessment mechanism should be seen as an important European practice. Therefore, it is necessary to build not only the administrative capacity in the executive bodies, but also the

implementation of the impact assessment to be established as a mandatory element of the preparation of the acts, the legislative process and their subsequent analysis.

In November 2016, nine years after Bulgaria's entry to the European Union, Impact Assessment was introduced as an integral part of the legislative process in Bulgaria. This is done through a change in the Law on the Normative Acts.

### **2.1. Use of Impact Assessment in the Ecology Sector**

Ecology is one of the areas where the impact assessment mechanism is most actively used. In this sector, the mechanism is primarily used as an environmental impact assessment (EIA). It is a preventive tool to identify potential impacts on the environment and human health carried by the construction and exploitation of investment proposals in all sectors of the economy and infrastructure development, at the early stage of their exploration and development, before a decision is made on the realization at a specific place with the respective technology, way of construction, etc. The EIA results should be taken into account when planning, building and operating the investment proposals.

EIA is applied in identifying the environmental impact in the process of sustainable development of various sectoral policies, such as transport, energy, construction, agriculture, tourism, industry, etc.

The EIA procedure in Bulgaria was introduced in 1991 with the Environmental Protection Act (EPA). The regulated procedure is in line with the EU Directive (85/337 / EEC) and introduces preventive action as a fundamental principle of environmental management. Regulation No 1 on EIA, detailing the procedure and requirements laid down in the law, was adopted in 1992, and in 1995 a new ordinance was adopted on the basis of the accumulated experience. Following are some amendments to the Environmental Protection Act - in the EIA section, in line with the practical development of the process in Bulgaria as well as with the experience and knowledge of the implementation in the EU Member States. The most significant in volume and essence is the amendment from 1997 when specific criteria for carrying out a mandatory EIA is laid down and the competent authorities are clearly regulated.

In 1998, the Regulation of 1995 was repealed and a new Regulation No 4 on Environmental Impact Assessment was adopted. This was necessary in order to fulfill the requirements for complying with the Bulgarian legislation with that of the European Union, as well as for the full integration of the EU practice. It clarifies the requirements related to the scope and content of the EIA reports for plans and programs, projects and sites in operation. The sequence of the process for the various projects and sites, as well as the place of the EIA in the process of approving and solving the investment intentions, etc., is regulated in detail. The legal regulation also clearly regulates the procedure for judicial review of the EIA decisions taken by the competent authorities, the Ministry of Environment and Water (MOEW) or the Regional Inspectorates of Environment and Waters (RIEWs).

In 1999 was established Interdepartmental Commission at MOEW with the participation of representatives of the Ministry of Health, Ministry of Agriculture and Forestry, the Ministry of Regional Development and national experts, which specifies the requirements for the scope and content of the EIA report on the development plans and their amendments. In 2003, a new Regulation on the conditions and procedure for environmental impact assessment was adopted, which - after amendments and supplements in the period 2006 - 2016 - is still in place.

According to the Bulgarian legislation, EIAs are mandatory for investment proposals for construction, activities and technologies (according to Annex 1 of the EPA), as well as for their amendments or extensions, where significant environmental impacts are possible. The necessity to carry out an EIA shall be assessed for the investment proposals for new construction, activities

and technologies (according to Annex 2 of the EPA), as well as for any extension or amendment thereof, if it is expected to lead to significant negative impact on the environment.

## 2.2. „Natura 2000“

Natura 2000 is an ecological system of protected areas in the European Union aimed at ensuring the long-term survival of the most valuable and endangered species and habitats for Europe in line with the main international agreements on environmental protection and biodiversity. It has to be implemented in all the member states of the European Union and is required for the accession of the candidate countries of the Union. With Bulgaria joining the EU in 2007, Bulgaria is obliged to identify the territories to be included in the system.

The process of creating the Natura 2000 ecological network in Bulgaria started in 2002 with the adoption of the Biological Diversity Act, which introduces the norms of the two European directives. According to this law, protected areas in the country are declared as part of the National Ecological Network. These are places within the territory and the country's aquatic environment that meet the requirements for the presence of plant and animal species and habitat types of importance for biodiversity included in The Annexes to the Habitats and Birds Directive. From 2002 to 2006, through the implementation of a number of projects and expert evaluation of the Ministry of Environment and Waters, a national list of potential sites for inclusion in the Natura 2000 network was developed. The originally proposed list contains 114 protected areas for the protection of wild birds (Natura 2000 sites under the Birds Directive) covering approximately 23.6% of the country's territory and 225 protected areas for the conservation of natural habitats and wild flora, and fauna (Natura 2000 - sites under the Habitats Directive) covering approximately 30% of the country's territory.

With subsequent decisions of the Council of Ministers in the period 2010-2013 this list has been increased. At present, the network of protected areas is almost fully built up, with national lists of protected areas being approved by the Council of Ministers and the European Commission. It includes 119 protected areas for the protection of wild birds, covering 22.7% of the territory of Bulgaria and 233 protected areas for protection of natural habitats covering 30% of the territory of Bulgaria..

### 3.1. Case studies with building sites on protected Natura 2000 territories on the Bulgarian Black Sea coast

Since the beginning of the 21st century, one after another a number of protected areas in Bulgaria have been the subject of numerous violations for the purpose of implementing various investment projects. All of them triggered political scandals and a sharp public reaction, manifested in civil protests. Some of these occur in a territory that enters the Natura 2000 ecological network, and over the years they turn into a relapse.

### 3.2. The Irakli case

Among the first such cases is the one with the Irakli area, considered to be one of the few intact areas of development on the Bulgarian Black Sea coast. The area "Emine - Irakli" is a protected area of the European ecological network "Natura 2000". In addition, Irakli was declared a protected area by the Council of Ministers in May 1994. However, in 1997, following an EIA procedure, a Territorial Development Plan of Nessebar Municipality was approved, for the construction of the Irakli resort on Irakli beach area on 75 hectares of agricultural land.

Later, it became clear that the EIA report, which gave grounds for approval of the plan by the Minister of Environment, had a significant omission - to highlight the existence of protected habitats in the area. In 2004, the offshore company "Swiss Properties" purchased the land and in

2006 started building activities but without EIA and no mandatory Natura 2000 compatibility assessment. As a result of the illegal construction activities, the bed of the river Vaya and the dense (riverine) forest occupied by various protected species of birds and animals were affected. This caused mass protests by citizens and environmental organizations. A civil group, "Let's save Irakli," was set up to submit a petition to the Parliament asking for the Irakli area to be designated as a Natura 2000 site. Public pressure forced the Minister of Environment and Water to issue an order for a temporary ban on construction in the area.

By the end of Sergei Stanishev's government, the MOEW did not complete the procedure for declaring the Emine-Irakli area a protected area under the Protected Areas Act, which would introduce a construction ban on a much wider perimeter around Irakli.

The non-compliance with the Natura 2000 network, which includes Irakli, is not unnoticed by the European Commission, and it is launching a criminal procedure against Bulgaria on the case. It is transferred to the next office of the Borisov Cabinet (GERB). Representatives of nature conservation organizations say that the plans of the Nessebar municipality for Irakli not only do not comply with the biodiversity, EU legislation and Natura 2000, but the MOEW suggests that Natura 2000 should comply with the plans for the construction of the municipality.

The European Commission's request to the Bulgarian government is to take measures to rehabilitate the bed of the Vaya River and remove the dyke illegally built by the municipality of Nessebar and the investor. Instead, in 2008, the regional branch of the Ministry of Environment and Water in Burgas undertook coordination actions on construction. A lawsuit against the construction in Irakli, filed by the Bulgarian branch of the World Wildlife Fund (WWF - the Danube-Carpathian Program), has been started. In 2012, the Supreme Administrative Court declared the construction of Irakli illegal. The court ruled that the „Swiss Property” project should be abolished and the area recovered from illegal construction.

At the end of 2013, however, during the Oresharski cabinet, the Burgas Administrative Court repealed the order of the head of the Regional Directorate for National Construction Control, Southeastern Region, which declared the investment projects and the building permit for Irakli beach to be null and void. This judgment, which is final, entitles companies Dars Invest EOOD and Emona 2000 EOOD to start the construction works. The investment intentions of the companies envisage in the land of the village of Emona, Nessebar municipality, a holiday village with one-storey and two-storey bungalows and a swimming pool to be built.

### **3.3. The precedent with Strandja Nature Park**

In 2007, another precedent occurred, resulting in legal proceedings taken by a private investor, which almost legally wiped out the Strandja Nature Park, which is the largest protected area in Bulgaria. There were intentions for building on the territory since 2004 under the office of the Saxe-Coburg-Gotha (NMSS and MRF). The author of the investment intention is Krash 2000, which is referred to in various publications as indirectly related to structures close to the „Multigroup” economic holding.

The company declares its intention to build a villa settlement "Golden Pearl" on the territory of Strandzha Nature Park in the village of Varvara, Tsarevo municipality. The construction plan of the holiday village is approved by Tsarevo Municipality. The approval was made contrary to the current municipality construction plan, which does not foresee building there. The construction is inadmissible because of the status of Strandja Nature Park as a protected area.

Apart from these violations, the Regional Directorate "Agriculture and Forests" in Burgas changed the purpose of agricultural lands with "non-agricultural needs" in violation of the Protected Areas Act. Immediately afterwards, Tsarevo Municipality granted permission for construction of the complex without an EIA being carried out. After the scandal expanded, the

Minister of Environment and Water Dzhevdet Chakarov stopped the implementation of the investment proposal of the company "Krash 2000" on the territory of Strandja Nature Park. This, however, does not disturb the investor who is pouring the foundation of the construction near Varvara. It comes to a protest of a group of ecologists and a referral to Prime Minister Simeon Saxe-Coburg-Gotha for a ban on the construction of the village of Varvara, which is within the boundaries of the nature park. A prosecutor's inquiry starts on the case, which establishes that the company has submitted a fake co-ordination letter from the MOEW, according to which the project does not need an EIA. Crash 2000, however, disputes before the Supreme Administrative Court (SAC) and wins the case. The SAC assumes that the Nature Park has not adopted a management plan outlining its boundaries, which is a mistaken conclusion, as this was fulfilled with the order for declaring Strandja Nature Park as early as 1995. With subsequent complaints Tsarevo Municipality with the mayor Petko Arnaudov and Krash 2000 nearly managed to erase the Strandja Nature Park. In 2007, on the basis of their requests, a panel of the SAC declared null and void the order that Strandja was declared a natural park in 1995. A public scandal followed that leads to suspicions towards the court and doubts about the objectivity of the law.

The Parliament reacted without delay by adopting a change in the Protected Areas Act, which does not allow the orders to declare protected areas to be subject to judicial review. In this way the Strandja Nature Park is saved. In 2008, it was included in Natura 2000.

After lengthy procedures and litigation, Krash 2000 is forced to demolish the construction of 10 villas in the illegally built Golden Pearls complex in 2012. The investor also sued the European Court of Human Rights in Strasbourg, but the court rejected his claims.

In the coming years, however, the danger of Strandja's construction remains. The reason for this is a general development plan of the Municipality of Tsarevo from 2008, which foresees building up two-thirds of the coast of the nature park south of Tsarevo or with 75,000 beds - all in its territory which is part of the Natura 2000 econetwork. The layout was prepared by a team led by arch. Kalin Tiholov, whose name is also involved in the so-called 2012 Duniyat case, and who was nominated as Minister for Investment Projects at Oresharski's unfortunate office in 2013 but withdrew the position following the threat of protests.

The case law of the Supreme Administrative Court in cases related to the Strandja Nature Park is still controversial. In 2013, a court panel considered that the Tsarevo construction plan was void and adopted without an environmental assessment, but half a year later, in January 2014, another panel of the SAC allowed construction along the coast of Strandja Nature Park, permitting the entry into force of the General Plan of the Municipality of Tsarevo.

### **3.4. The liquidation of Kamchia Sands**

Protected area "Kamchia Sands" includes the biggest Black Sea sandy beach in Bulgaria. It preserves a unique combination of several species of dunes and dense forests. Its significance is recognized both by its national conservation status and by its inclusion in the European ecological network Natura 2000 together with the Kamchia Reserve.

The area is the largest dune complex on the Bulgarian Black Sea coast, which is threatened with destruction after the closure of the Kamchia Sands Protected Site by the Supreme Administrative Court. This is at the request of a private company, which then replaced all the dunes in the area, during the Saxe-Coburg-cabinet, when Minister of Agriculture and Forestry is Nihat Kabil from the quota of the Movement for Rights and Freedoms.

Subsequently, the replaced properties were transferred from agricultural land and forests to urbanized lands with an illegal Detailed development plan with a decision of the Council of Ministers with Prime Minister Sergey Stanishev. Despite the change of several governments, the

only serious obstacle to building is the introduction of a temporary ban on the construction of the replaced land. The legislative, executive and judicial authorities in Bulgaria have so far failed to do the necessary to solve the problem, restore the legality and restore the state property of the dunes

The transformation of land from the exclusive strip of land to private state property takes place in the summer of 2005 at the end of the Saxe-Coburg-Gothic Cabinet when 1500 decares are excluded of the beach area in Dolni Chiflik municipality, the lands of the villages of Shkorpilovtsi and Dolni Chiflik. Part of this territory falls within the borders of "Kamchia Sands" Protected Site. By the same decision, the Council of Ministers transforms the ownership of these properties from exclusive state property into a private state in violation of the Protected Areas Act and the Constitution of Bulgaria, which defines the public character of state ownership in coastal beaches and in protected areas.

In execution to this decision of the Council of Ministers, Petar Kandilarov, District Governor of Varna issues acts for part of the land of Shkorpilovtsi, as well as property from the land of Novo Oryahovo. With this decision part of the land is changed from exclusive state property to private state and sand dunes in the protected area are transformed into agricultural land - pasture category 10. Subsequent acts of the same regional governor have established separate lands - plots that are on the very border of the Protected Site "Kamchiyski Sands" and those that fall entirely within the protected area. This update contradicts the Protected Areas Act, according to which the state property in the protected areas is public.

There are other administrative procedures that have been used to replace land from the beach with farmland. This was done in 2006 with a contract between the Minister of Agriculture and Forestry, represented by Georgi Stefanov Georgiev, Regional Director of Agriculture and Forests, Varna, and Rees International EAD. It is a replacement of parts of property 999 in the land of the village of Shkorpilovtsi with an area of 407 decares, state land fund, type of land use: pastures, measures, 10th category, valued at 55 673 BGN, or 0.14 BGN / m<sup>2</sup>, against 31 real estate agricultural lands in the municipalities of Vidin, Bregovo and Makresh with a total area of 650 decares, valued at 415 340 BGN, or 0.64 BGN / m<sup>2</sup>. At real market prices of the property on the sea line, reaching up to 500 BGN / m<sup>2</sup>, the state was offset by the Minister of Agriculture and Forestry and Rees International EAD with a minimum of 150 million BGN.

After acquiring land ownership, Rees International (owned by Raiffeisenbank) disputes before the Supreme Administrative Court (SAC) the order to declare the "Kamchiyski Sands" Protected Site on the grounds "due to unclear boundaries" of the site. Defendants in the case are the Ministry of Environment and Waters and the Council of Ministers.

By a decision of 27 June 2006, a panel of the Supreme Administrative Court, chairman Andrei Ikononov, decided that the order for declaring the protected site was void on the basis of completely formal arguments - in 1980 the order was signed by the chairman of the then Committee on the Protection of the Natural Environment, and not by the Minister of Forests and Forest Resources, according to the court only the latter had the right to declare new protected areas. Thus, the court does not accept the motives of Rees International EAD concerning the "unclear boundaries" of the protected site, but finds other grounds for wiping it out, which are inconsistent with the factual circumstances - grounds which the applicant itself has not raised, as well as grounds from a reference to untruthful texts of the law then in force. The decision was appealed by the MoEW and several environmental organizations were admitted as interested parties.

In November 2006 five members of the SAC with Chairman Konstantin Penchev obliterated the Kamchiyski Sands Protected Site by declaring the order of 1980 void, with which the area became protected. The reasoning stated that "the insufficient individualization of the territory of



the Kamchiyski Siesta locality (lack of a clear southern border of the protected site) leads to the nullity of the administrative act due to the lack of a "fit object" - the subject of the official will. Immediately after the property of the dunes was changed from "exclusive state property" to "state-owned" and their use was changed from "beach" to "pasture category 10". This allows, in the beginning of 2007, with a contract for the exchange of real estate between the Minister of Agriculture and Forestry Nihat Kabil and Met Real Estate EAD 1015,265 acres of dunes to become private property. For the purpose of this replacement, they are estimated at 186 809.00 BGN or 0.18 BGN per m<sup>2</sup>.

Other replacements have been made as well. In 2007, Minister of Agriculture Nihat Kabil carried out the replacement of 9208,782 acres of forests owned by Beta Forrest, mainly located in the Troyan region, with 1364,067 acres of dunes, leading as a state forest fund. And also the replacement of 9356,871 decares of forests owned by Mirta Engineering EOOD, located mainly in Svoge, with 1344,763 decares of dunes.

Thus, all the exchanges of the subsidiaries of Raiffeisen Centrobank - Austria, amount to at least 4100 decares at an average price of about 4.5 BGN per m<sup>2</sup>. This happens while the minimum beachfront market price is up to 500 BGN / m<sup>2</sup>, which means a state damages of up to 2 billion BGN.

In January 2008, the company "Met Real Estate" EAD received an investment certificate class "A" from the Bulgarian Investment Agency, which declares the company as first class investor for its project "Sports and Recreation Complex" Kamchia Park Resort ". The strongest reason is the presence of the Austrian Raiffeisen Centrobank, a 100% owner of the MET Betfairswerverwaltungs GmbH (Real Estate Management Company), which is the owner of Metre Real Estate. According to the company's estimates for a three-year period, Metropol Real Estate must invest 411 million BGN and open 3200 new jobs after the project.

With the 2008 decision of RIEW - Varna, the project of Raiffeisenbank "Kamchia Park" is coordinated. In the same year, with the orders of the Mayor of Dolni Chiflik, the project was finally approved.

In September 2008, with the decision of the Stanishev Cabinet, the purpose of the land and its exclusion from the forest fund was changed in order to implement the investment project "Innovative Complex for Mixed Housing and Service Activities" Kamchia Park. By its decision, the Council of Ministers affirmed that the lands of Beta Forrest and Mirta Engineering are excluded from the forestry fund and are already part of the detailed development plans of the villages of Novo Oryahovo and Shkorpilovtsi..

Neither a completed EIA procedure, environmental assessment nor assessment of compatibility with the Natura 2000 objectives of the project "Innovative Complex for Mixed Housing and Service Activities" Kamchia Park are known to have been made. Thus, for two years, during the time of the Saxe-Coburg-Gotha and Stanishev Governments, the four related companies Mirta Engineering, Rees International, Beta Forest and Met Real Estate managed to liquidate the Kamchia Sands Protected Site and acquire over 4,000 acres dunes.

### **3.5. The Dunigate case**

At the end of 2012 in the sand dunes between Nessebar and Ravda the construction of a residential complex of over 120 two-storey houses appiered to be another investment attack on a territory protected by Natura 2000. In the course of the scandal, it is understood that a favorable opinion was submitted for the construction by the RIEW - Burgas. And also that the land was sold by the Ministry of Agriculture and Food in November 2012 and through a number of sophisticated procedures, the sand dunes have been turned into a forest fund that has been acquired with state purchase and has changed its purpose. As early as 1999 the dunes were

excluded from regulation and declared a forest park by the Municipal Council - Nessebar with the adoption of the territorial development plan of the municipality. In 2007, however, the mayor of Nessebar municipality approved a detailed development plan and a plan for regulation and construction for a specific area on the land of Nessebar with permanent use in the territory "urbanized" and a way of permanent use - unbuilt property for residential needs. This plan is made by arch. Kalin Tiholov but in violation of the law presents a boundary between zones A and B on the Black Sea coast, placing the bulk of the property in zone B. The approved project is for 30 houses and 400 inhabitants. The detailed development plan is presented by a private person, although the property is owned by the state and on its behalf has no written permission to draw up such a plan.

Mayor of Nessebar Magdalena Manduleva signed this plan and the person managed to acquire 29 decares at a price of BGN 580,000 in November 2012. The property was resold for 4 million BGN the next day after the acquisition.

Subsequently, it comes to knowledge that in November 2012 the Ministry of Agriculture and Food sells to the person the same territory for BGN 20 per m<sup>2</sup> at a tax assessment of BGN 50 per m<sup>2</sup>. At the end of 2012 the individual resold the purchased state land to the company "SLE GROUP OOD" for about 140 BGN / m<sup>2</sup>, or 7 times higher price. A project for the construction of one-family residential buildings and a residential building for seasonal occupation has been submitted for this property in Nessebar municipality. The project presents 124 single-family houses for 1,800 inhabitants.

The company deposited the Regional Inspectorate of Environment and Waters - Bourgas with a notification of the change of the plan. In response, on 17 December 2012, the inspection gave a green light to the company's plans. With the new certificate, the company received approval from the Municipal Expert Council of Nessebar on December 19, 2012, and only two days later was issued the building permit. Preparatory works for construction begin immediately with the equalization of sand dunes.

After the environmentalists spoke of the case, the scandal grew into a political one and finally reached Prime Minister Borissov. It has even been proposed to impose a moratorium on the construction of the Black Sea coast. Environment Minister revokes the last opinion of the Director of RIEW - Burgas on the case. In February 2013 the 41st National Assembly adopted amendments to the Law on the Structure of the Black Sea Coast and a number of other laws prohibiting the construction of the dunes, declaring them state property and restricting their use. Several dismissals and resignations followed, including the director of the Executive Forestry Agency, Bisser Dachev, and Deputy Minister of Agriculture and Food Svetlana Boyanova, who signed the sale of the dunes of SLE Group. The Director of the Regional Directorate for National Construction Control - Burgas Georgi Georgiev was fired.

The mayor of Nesebar Nikolay Dimitrov and the chief architect of the town Valentin Dimov have been removed for a certain period of office. The Prosecution Office attracted them as accused in the Dunigate case. The Commission for the Forfeiture of Unlawfully Acquired Property requires disposal of their property. The investigation against them was terminated in May 2015.

In June 2013, the parliament adopted a moratorium on state property transactions in areas A and B of the Black Sea coast. The Ministry of Environment and Water is obliged to take the initiative to create a protected area - national or natural park. In March 2016, the Supreme Administrative Court puts an end to the dispute by ceasing the oppourtinity to build on the dunes near Nessebar, confirming the decision of the Administrative Court in Burgas to ban the construction of the Aheloy - Ravda - Nessebar Protected Zone.

### **3.6. 3.6. The attempt to build Karadere**

In 2014, during the Plamen Oresharski's office, a further attempt was made to build at Karadere - another wild spot on the Black Sea coast, which falls within two Natura 2000 protected areas: Kamchia Mountains - Protected Area for Birds, and the Shkorpilovtsi Beach Protected Area - for the protection of the habitats. By decision from March 2014, the government approved the issue of a certificate of priority investment project of Black Sea Gardens Class A of the joint venture "Madara Europe" AD, which plans the construction of a massive holiday complex of three hotel structures with over 4,000 apartments on 247 acres in the Karadere area for 105 mln BGN.

In this case, the Oresharski office gives the green light to an investment project that violates a number of laws and requirements. In addition, in various media publications, a conflict of interests has been pointed out, as the brother of BSP leader Sergei Stanishev - Georgi Stanishev works as an architect on the project. He was included as a design consultant from the start of the project in 2006 when he worked with London's Foster & Partners studio of the famous English architect Sir Norman Foster. At that time his brother, Sergey Stanishev, is prime minister. The media reported that in December 2007 the exhibition of Norman Foster, organized in Sofia, where he was presented by Georgi Stanishev. Then Prime Minister Sergei Stanishev and Minister of Regional Development and Public Works Asen Gagauzov discussed projects of the world-famous architect, including the project for the construction of Karadere. Just six months after the British architect's visit to Bulgaria, 700 decares of land was transferred to Karadere from the State Forestry Agency at the Council of Ministers to "Madara Byala" in return for "properties in another region". The revised project by the new investor, Madara Europe, which receives Investment Class A from the Oresharski Cabinet, is the same project prepared by Foster and Stanishev but has been redesigned for the realization of a smaller part of the buildings - three hotels and 1500 houses with apartments. The offshore company Madara Europe expressly states in its reports in 2013 that the quality of the Foster & Partners project is a pledge of successful sales.

The decision of the Oresharski Cabinet provokes a political scandal. According to nature conservation organizations, the decision of the Council of Ministers for the investment project is illegal, as the project itself has no assessment of compatibility with Natura 2000, as well as an environmental assessment.

Citizens and environmental organizations undertake a campaign to protect Karadere, all the more so that in the summer of 2014 a second investor for construction of Karadere - Maxi 1 AD - appeared. The company submitted documents for the implementation of a luxury camping project to RIEW - Burgas for 1860 people. After the coalition "Let's save Karadere" is referred to the MOEW, a number of irregularities have been identified in the opinion of the Regional Inspectorate of Environment and Water - Bourgas, which gave permission for the construction of the "luxury camping". The final decision on the fate of Karadere depends on the alignment with the environmental legislation of the General Plan of the Municipality of Byala, which guarantees the protection of the area. Karadere can be preserved as a habitat if it is declared a protected area.

### **4.1. Has the mechanism "Impact Assessment" been implemented on law-making by the MoEW?**

The listed cases, as well as some other, are definite proof of a serious recidivism and gross violation of Natura 2000 sites, accompanied by a number of violations of different laws, as well as the relevant control procedures under the Ecology sector, including the compromise of the environmental impact assessment. The violations are recorded by different political majorities and are the expression of non-transparent policies, which hide different economic and financial interests.

From this point of view, they are a serious prerequisite in this sector to apply the impact assessment mechanism on the legislation in terms of both the preparation of new amendments to the laws in this field and the evaluation of the implementation of the existing normative acts. A statistic on the number of amended laws in Bulgaria since 2000 shows that the most frequently amended laws are the Territorial Development Act - 64 times and the Water Act - 46 times (see the chart below).

Despite the problems that arise in the middle of the first decade of the 21st century, the Ministry of Environment and Waters is not among the ministries involved in the first project on impact assessment on the legislation, carried out in the period 2008 - 2009. The MOEW website lacks published documents to show any interest from the government on policy adopted by the Council of Ministers in the administration on the implementation of the new European mechanism. The sites of the different nature conservation organizations also lack information that the MoEW has used the impact assessment mechanism on the legislation.

With a review on the vicious practice of the last two decades and the likelihood of it continuing, it is logical for the Ecology sector to actively introduce the mechanism for impact assessment on legislation that could help to overcome and curb corruption in the state and municipal administrations. Otherwise, the measures adopted by the Bulgarian governments for the practical use of this mechanism are likely to remain on paper only.