

Strasbourg, 15 October 2010  
[tpvs02erev\_2010.doc]

**T-PVS (2010) 2 revised**

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE  
AND NATURAL HABITATS

**Standing Committee**

30<sup>th</sup> meeting  
Strasbourg, 6-9 December 2010

---

**APPLICATION OF THE CONVENTION**  
**- Summary of case files and complaints -**

**SEPTEMBER 2010**

*Secretariat memorandum  
prepared by  
the Directorate of Culture and Cultural and Natural Heritage*

---

*This document will not be distributed at the meeting. Please bring this copy.  
Ce document ne sera plus distribué en réunion. Prière de vous munir de cet exemplaire.*

## **1. IMPLEMENTATION OF THE CONVENTION: FILES**

### **1.1 Specific sites - Files open**

#### **a. Ukraine: Project for a waterway in the Bystroe estuary (Danube delta)**

This case concerns the excavation of a shipping canal in Bystroe estuary of the Danube delta in Ukraine, which is likely to affect adversely both the Ukrainian Danube Biosphere Reserve – the most important of Ukraine’s wetlands – and the whole Danube delta dynamics.

The first phase of the project was conducted in 2004.

In 2004, the Standing Committee adopted Recommendation No.111 (2004) on the proposed navigable waterway through the Bystroe estuary (Danube Delta), inviting Ukraine to suspend works, except for the completion of phase I, and not to proceed with phase II of the project until certain conditions were met.

Ukraine did not send a delegate to the Standing Committee meeting in 2008, but they sent information to the Secretariat afterwards, concerning the repeal of the Final Decision regarding Phase II of the Project and confirming that the amended and updated EIA documentation would be sent to the Secretariat, and that measures would be undertaken to ensure public consultation and participation on this Project. Furthermore, the Secretariat was informed that a document entitled “Draft Time-Schedule” had been signed with the Romanian authorities for further mutual implementation of the steps to be taken by both countries.

In March 2009, the Ukrainian authorities reported to the Secretariat confirming the repeal of the Final Decision regarding Phase II of the Project, in line with Recommendation 111 (2004) of Bern Convention. The report also confirmed that “the works on the Phase II never started and are not going to start until the appropriate procedures are being implemented”.

At the 2009 meeting of the Standing Committee, the delegate of Ukraine outlined the measures taken by his government, including the initiative to collaborate with the International Commission on the Protection of the Danube River regarding research and monitoring of the transboundary part of the Danube Delta. The Standing Committee welcomed the positive co-operation underway between Ukraine and Romania, but it agreed to keep the case file open and asked Ukraine to continue to report to in 2010.

In March 2010, the European Union informed the Council of Europe that Ukraine has adopted a final decision on the project at the end of January 2010, agreeing to start works related to the full-scale implementation of the Danube-Black Sea Navigation Route, thus initiating the implementation of Phase II of the Bystroe Channel project. The case will be therefore monitored by the European Union.

The Bureau took note of this information and asked the Secretariat to contact Ukrainian authorities to request more information on the state of progress of the Bystroe Channel project, as well as on the EIA study and negotiations with the Romanian government. However, no new information has been received from the Ukrainian government in 2010. In June 2010 the European Union confirmed that no new information is available there either.

#### **b. Cyprus: Akamas Peninsula**

This case concerns plans for the tourist development in the Peninsula of Akamas (Cyprus), with detrimental effect on an ecologically valuable area with many rare plant and animal species protected under the Bern Convention.

This case was first discussed at the 16<sup>th</sup> meeting of the Standing Committee in 1996. Two on-the-spot appraisals were carried out in 1997 and 2002 and a recommendation adopted in 1997 (Recommendation No. 63 (1997) on the conservation of the Akamas peninsula in Cyprus and, in particular, of the nesting beaches of *Caretta caretta* and *Chelonia mydas*).

In 2008, the Standing Committee asked Cyprus to send the management plan as soon as it would be ready, and wished that the area of Limni would also get adequate protection. The Committee asked Cyprus to fully implement Recommendation No. 63 (1997); to create a National Park and ensure the maintenance of the ecological integrity of the area; as well as to apply the ecosystem approach to the Akamas peninsula, including Limni.

At the 29th meeting of the Standing Committee, the delegate of Cyprus informed that there had been no great changes since the previous year.

In March 2010 the European Union confirmed that the European Commission continues considering that the area of Akamas requires appropriate designation and protection under both the Habitats and Birds Directives. In particular, the area is covered under the infringement case initiated against Cyprus for insufficient designation of Special Protection Areas pursuant to the Birds Directive (the Commission issued on 20.11.2009 a Reasoned Opinion in accordance with Article 226 - currently 258 - of the Treaty). According to latest information sent by the National authorities to the European Union, the designation of the site under both directives was imminent. Once the site will be formally designated and related data properly transmitted to the European Union, the European Commission will assess the adequacy of its boundaries, taking fully into account the ornithological value of the site on the basis of the inventory of Important Bird Areas as well as the commitments made by Cyprus following the Mediterranean Biogeographical seminar towards filling identified gaps.

At its first meeting in 2010, the Bureau took note of this information and asked the Secretariat to request to Cyprus authorities to report on the issue as well as to send the management plan foreseen for the area.

In June 2010, Cyprus authorities have informed the Secretariat that a part of the Akamas Peninsula has been officially proposed, by the Government of Cyprus and after decision of its Council of Ministers, to integrate the Natura 2000 Network, as both a Site of Community Importance (SCI) and as a Special Protection Area (SPA), pursuant to the Habitats Directive. The final boundaries of the area, as well as the management plan in Greek, have been forwarded to the Secretariat. Moreover, Cyprus authorities informed that the proper conservation of the area to be included in the Natura 2000 network will ensure the long-term protection of the species and habitats concerned. In addition, the Secretariat has been informed that the Council of Ministers is implementing a Plan for the management of the entire area of Akamas Peninsula (thus not limited to the Natura 2000 area), combining both the needs of nature and those of local Communities. This plan includes provisions for the improvement of the infrastructure, the restriction of certain human activities taking place in the area (i.e., safari, rally, etc.), the promotion of ecotourism. A Project Manager will be soon recruited for ensuring the smooth implementation of the Management Plan.

For what concerns the town planning, the competent Department has initiated the selection procedure for development zones that will ensure the protection of the environment in parallel with the promotion of the sustainable development of the area.

With regards to the Natura 2000 area of Limni ("Polis-Gialia"), Cyprus authorities informed the Secretariat that part of the area is considered as national forest, thus the Forestry Department is in charge of daily monitoring of the entire site. The coastal zone is protected by several national laws, which prohibit any disturbance of the turtle nests, as well as any development on the beach. Furthermore, the Department of Fisheries and Marine Research, as the competent authority on the protection of turtles, carry out a yearly monitoring plan, aiming at the protection of the species. The Draft Management Plan for the Natura 2000 site has been presented to local communities in March 2010, but negotiations are still on-going.

In a report sent to the Secretariat in July 2010 the NGO Terra Cypria states that the site boundaries proposed by the Cyprus Government are particularly insufficient for the protection of species and habitats, and in breach of the agreements made with the European Commission at the Biogeographical Seminar for Cyprus in December 2006. The report lists a series of habitats, mammals and birds species which are insufficiently covered by the current SCI. Concerning the turtles nesting on Akamas beaches, the NGO considers that despite repeated recommendations by the Bern Convention's Standing Committee neither

the state nor the local authority have taken adequate measures to protect the turtle nesting beach in front of the Anassa hotel.

In July 2010 the European Union informed that the Commission recently received a complaint claiming insufficient designation and protection of the Akamas Peninsula. In that context the Commission will assess the sufficiency of the designated site as well as the measures implemented to safeguard its conservation values, with a view to ensuring compliance with relevant provisions under EU nature legislation.

In September 2010 Terra Cypria submitted to the Secretariat an updated report requesting that the relevant case file remain open as no concrete and/or effective measures have been taken to adequately protect and/or manage the important wildlife of the Akamas Peninsula or Limni. In addition, the report states that for both Akamas and Limni sites the boundaries currently proposed for Natura 2000 designation do not adequately protect the key species or habitats. Furthermore, Terra Cypria considers that Recommendation No.63 (1997) has not been observed or put into effect.

The NGO stress that the adequacy of the SCI designation under the Habitats Directive is under examination at European Union level and that, as far as the SPA designation is concerned, the European Commission has already sent a reasoned opinion to Cyprus authorities concerning inadequate designation of SPAs, including Akamas.

The NGO further informs that in Limni (known as the Polis-Yialia site), the management plan, although adopted, has not yet been implemented, and even if it were, the Natura site is so small that it would be of limited benefit to the turtles it is supposed to protect, as there are major developments planned adjacent to the site.

### **c. Bulgaria: Wind farms in Balchik and Kaliakra – Via Pontica**

This case concerns the building of the first windfarms in Bulgaria, at Balchik and Kaliakra, on the Black Sea coast. The NGO is challenging the chosen sites located on the Via Pontica which is one of the main migratory routes in Europe especially for soaring birds.

An on-the-spot visit was carried out in September 2005, on the basis of which the Committee adopted Recommendation No. 117 (2005), asking the Bulgarian government to reconsider its decision to approve the proposed wind farm in Balchik in view of its potential negative impact on wildlife and taking account of Bulgaria's obligations under the Convention.

In 2006, the Bulgarian government informed the Secretariat that it did not intend to review the decision approving the wind farm project. The Secretariat received information from NGOs on a similar case involving plans to build 129 windmills 20 kms away from Balchik, between the town of Kavarna and the Kaliakra Cape.

A new on-the-spot appraisal was carried out on 20-22 June 2007. On the basis of the expert's conclusions the 27<sup>th</sup> meeting of the Standing Committee adopted Recommendation No. 130 (2007) "on the windfarms planned near Balchik and Kaliakra, and other wind farm developments on the Via Pontica route (Bulgaria)".

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.

At the 2009 meeting of the Standing Committee, the delegate of Bulgaria reported that a Strategic Environmental Assessment (SEA) of Bulgaria's Energy Strategy and National Plan for Renewable Energy Sources had been initiated and that they aimed to identify hot spots and provide the necessary recommendations so that future projects for renewable energy take into account existing Recommendations of the Standing Committee. They were also considering the option of a moratorium. The Committee decided to keep the case file open and continue to follow it up in close co-operation with the European Commission.

The delegate of the European Commission informed the Committee about a fact-finding mission carried out in June 2009 in an area designated as an SPA, but where many development projects had been authorised before the designation. The European Commission was assessing the impacts of other windfarm projects in the region, apparently without proper EIAs nor assessment of cumulative impacts. They had reviewed 23 EIA screening decisions concerning 34 wind farm projects (including 21 decisions to install 219 generators).

The Bulgarian government sent in March 2010 the following information:

The Ministry of Environment and Water has given a negative evaluation of the quality of the Environmental Compatibility Assessment Report according to the Article 6(3) of Habitat Directive concerning:

- “Energy Strategy of the Republic of Bulgaria until 2020” and has returned it with concrete recommendations for addition and revision back to the investor – the Ministry of Economy, Energy and Tourism.
- The General Development Plan of municipality of Shabla and has returned it back to the investor – with concrete recommendations for addition and revision.

Furthermore Bulgarian authorities have taken measures concerning the preventive protection of NATURA 2000 sites.

The Secretariat informed the Bureau that the European Commission apart from the initiated infringement procedure is also using other means of monitoring to limit the impact of the large number of permitted projects. It also held several meetings with the Bulgarian authorities to discuss the preparation of national renewable energy action plan.

The Bureau took note of the information provided by both the government and the European Commission, and asked the Secretariat to look for the European Union’s decision.

In July 2010 the European Union informed that the Commission continues to closely follow-up windfarm developments in the region of Kaliakra and Balchik, and is currently working on its future steps regarding the three relevant infringement procedures against Bulgaria, namely:

- For insufficient designation of Kaliakra Important Bird Area (IBA) as Special Protection Areas (SPA); a letter of formal notice was sent by the Commission on 6 June 2008;
- For windfarm developments and other urbanization projects breaching the Birds Directive’s provisions in Kaliakra Important Bird Area (IBA); a letter of formal notice was sent on 27 November 2008;
- For systematic failure to provide adequate protection for its bird sites, by authorizing a number of urbanization, tourist and windfarm projects in 16 SPA under the Birds Directive and 17 IBAs before they were designated as SPAs. The letter of formal notice, sent on 29 October 2009, covers the sites on the Black Sea Coast in Northeast Bulgaria.

In addition, the Bulgarian authorities informed the European Union that no new authorisations for development in SPA Kaliakra and IBA Kaliakra have been issued since the beginning of the year 2010. Currently there are no constructions on the undesignated areas as a general ban has been issued until the end of the year 2010.

The adoption of the National Renewable Energy Action Plan, originally planned for June 2010, will be delayed for a few months as currently a SEA and appropriate assessment pursuant to Art. 6(3) of the Habitats Directive are under development. The plan will indicate "red spots" where the cumulative effects should be taken into account.

In August 2010 BirdLife Bulgaria sent a report stating that although there have been some positive steps taken by the Bulgarian authorities since late 2009, it seems that the Black Sea coast sites are still in

danger. Birdlife thus requests the Bern Convention to continue following-up the developments concerning this case file.

**d. France: Habitats for the survival of the Common Hamster (*Cricetus cricetus*) in Alsace**

In 2006, the Secretariat of the Bern Convention received a complaint from the Association “*Sauvegarde Faune Sauvage*” expressing its concern over the insufficient measures aimed at ensuring the maintenance of the habitats needed for the survival of the Common Hamster.

At the Standing Committee in November 2007, the French delegation presented the range of measures taken, including a restoration scheme approved by the *Conseil national de la protection de la nature* (National Nature Conservation Board).

The Standing Committee decided to open a case-file, not calling into question the efforts already made by the authorities, but wanting to highlight the urgent need for action in the field.

In June 2008, the European Commission sent to France a final written warning for failing to implement proper measures to safeguard the great hamster of Alsace.

Considering that the population is still under threat, the European Commission brought the case before the European Court of Justice in June 2009.

At the 29<sup>th</sup> Standing Committee meeting, the delegate of France reported on the recent results of the measures taken within the framework of the restoration plan, including the positive attitude of farmers towards the proposals of contracts; the control of infringements, with the launching of a specific plan; and actions undertaken to give statutory value to the whole mechanism.

The delegate of the European Commission reported on the conclusions of the meeting held in June with the French authorities, including that agri-environmental schemes remain insufficient despite the progress made. The representative of the *Association Sauvegarde Faune Sauvage* felt that the situation is still very worrying as 387 burrows were not covered by biotope protection agreements in 2009.

The Committee decided to keep the case file open and continue to follow it up in close co-operation with the European Commission.

In July 2010 the French authorities submitted a report on measures taken:

- Monitoring of populations: following the 2010 survey, the presence of the hamster was confirmed in 25 municipalities, 24 of which are in the Bas-Rhin and 1 in the Haut-Rhin (in 2000, the species was present in 85 municipalities). Despite the shrinkage of the range observed from 2000 to 2010, after a significant fall in numbers in the core areas between 2001 and 2004, the surviving populations have shown an upward trend in the last few years.
- 2010 is a better year for the species. The overall increase in the size of the hamster population in Alsace in the past year could be explained by increased planting of crops favourable to the species and the greater burrow density observed.
- Reinforcement of wild populations: in early 2010 the ONCFS (*Office national de la chasse et de la faune sauvage*) launched an applied research programme with the aim of monitoring more specifically the fate of released hamsters. An interim report will be produced at the end of 2010. The ONCFS and *Sauvegarde Faune Sauvage* are continuing to work in partnership to improve the 3 breeding programmes. Exchanges with German and Dutch partners will be intensified.
- Farming: mobilisation of farmers and their leaders is continuing, as reflected in particular in the increased area covered by contracts (eg in the northern and Piémont priority action areas, the increase is significant, both within the zones (+40 hectares) and outside them, in the vicinity of known burrows (+110 hectares).

- Urban development: 3 zones have been designated: historical area (301 municipalities), reclaimed area (155 municipalities), and priority action areas (20 municipalities). All the urban planning documents concerned included a hamster survey in 2009 and 2010.

As regards development projects, information has already been provided to a large number of developers. A procedure is currently being introduced to ensure that when applications for planning permission are considered, projects impacting on hamsters, their rest areas or their breeding sites are identified and include a hamster impact study.

- Road infrastructure: as regards road projects within the national network which have been declared of public interest and are located in the areas where the hamster is present (Strasbourg western bypass and southern ring road, *Piémont des Vosges* expressway), allowance has been made for significant compensation measures in the impact studies and public interest procedures. In the case of the project at the most advanced stage, the *Piémont des Vosges* expressway, the state, which is the main contractor, began the development of crops favourable to the hamster under agreements with farmers in 2006. As regards the Strasbourg southern ring road, in order to encourage the migration of hamsters away from the projected construction site, and in anticipation of compensation measures, 57 hectares of favourable crops were contractualised in 2009 and 2010
- Prevention of infringements: a plan for the prevention of infringements was signed in May 2010.

In September 2010 the NGO sent out an updated report asking for the case-file to be kept open. In fact, the NGO recognises the efforts made by French authorities while considering the extensive urbanization of the big cities nearby the villages and the corn monoculture on the *plaine d'Alsace* as a continuous threat for the common hamster.

#### **e. Italy: Eradication and trade of the American Grey squirrel (*Sciurus carolinensis*)**

In 2007, the Standing Committee asked the Bureau to examine the possibility of opening a file for a possible breach of the Convention by Italy on this case. An on-the-spot appraisal was carried out in May 2008.

The main conclusions of the expert's visit were that the presence of the American grey squirrel in Italy was a serious threat for the survival of the protected native Red squirrel, and that this expansive trend had the full potential to turn the invasion into a continental problem, where France and Switzerland would become the next countries to be invaded.

In 2008, the Standing Committee agreed to open a case file and decided that a new Recommendation was not necessary. Instead it asked the Secretariat to communicate a list of actions to the Italian government.

In September 2009, the Italian government reported on progress to finalise the signature of a Memorandum of Understanding between the regions concerned, and the preparation of a LIFE+ project on: "Eradication and control of grey squirrel: actions for preservation of biodiversity in forest ecosystems", with the involvement of the three regions (Lombardia, Piemonte and Liguria), and the Ministry of Environment. Regarding the decree to ban the trade and keeping of American grey squirrel which will cover the whole national territory, the final text was agreed in late July 2009, and it will shortly be examined by the legal offices of the three Ministries involved (Agriculture & Forestry; International Trade; and Public Health).

At the 29<sup>th</sup> meeting of the Standing Committee, the delegate of Italy announced that the Ministry of Environment was fully committed to implementing Recommendation No. 123 and therefore had concluded a MoU in August 2009 with the three regions involved and two research institutions. A number of activities had been planned, including control of the species, monitoring of Grey and Red squirrels and awareness campaigns. The Ministry was preparing a decree to prohibit the trading and keeping of the Grey squirrel.

The Committee took note of the information presented and welcomed progress in the conclusion of a MoU among all the actors involved in the control of the species, as well as plans to pass legislation banning trade on the species. However, it considered that there had been no action on the ground nor legislation approved, so it decided to keep the case file open, asking Italy to fully implement Recommendation No. 123 (2007).

At its meeting in March 2010, the Bureau asked the Secretariat to contact Italian authorities for getting a copy of the decree and of the Memorandum of cooperation.

In July 2010, Italian authorities informed the Secretariat that the Memorandum of cooperation, signed in August 2009 by the three concerned Regions is still awaiting the signatures of the competent Provinces for entering into force. The draft decree for banning the trading and keeping of the Grey squirrel is currently under discussion of the competent legal offices. However, the Italian authorities also informed that the LIFE+ Committee approved in May 2010 the project proposal "LIFE09 NAT/IT/000095 "EC-SQUARE. Eradication and control of grey squirrel: actions for preservation of biodiversity in forest ecosystems". The project implementation started in September 2010, and the National authorities are confident that it will give a crucial contribution to solve the problems generated by the Grey Squirrel in Italy.

In October 2010 the Italian government sent an updated report, informing –among others- on the measures undertaken in the field of the control and eradication of the American Grey Squirrel.

## 1.2 Possible files

### - France: Conservation of the European Green Toad (*Bufo viridis*) in Alsace

A complaint was lodged in 2006 by the Association BUFO (*Association pour l'étude et la protection des amphibiens et reptiles d'Alsace*) focusing on threats to the Green toad's few remaining habitats in Alsace. It specifically targeted shortcomings in the impact studies carried out for a major bypass and urban development projects, and a project for the construction of a leisure complex.

In March 2009, the French authorities reported that the national restoration plan for the Green toad was under development, and would follow up on the regional restoration plan for the Green toad and the Common spadefoot launched in Lorraine in 2007. A Sub-Committee of national and European experts, and a Validation Committee, were being set up under the national action plan for the Green toad. Once the plan is validated by the *Conseil National de Protection de la Nature*, specific actions will be undertaken from 2010.

At the 29<sup>th</sup> meeting of the Standing Committee, the delegate of France informed about the National Action Plan (2009 was the year of its preparation, while 2010 will be the year of concertation), which will pay special attention to awareness raising. In addition, further information was provided regarding the revision of the POS of Entzheim, in order to facilitate the installation of economic activities, and the construction of a new road connecting Ostwald/Illkirch-Graffenstaden, which is at a very early stage.

The representative of the Association *Sauvegarde Faune Sauvage* stressed that the situation is highly critical for the Green toad, as out of seven sites of reproduction in the Haut-Rhin only one remains, showing that the viable population has been decimated. He asked for the opening of a file.

The Standing Committee considered the very limited progress achieved and decided to treat this complaint as a "possible case file" at its next meeting in 2010.

The Secretariat got information from the NGO Bufo which has drawn again attention to the pressure of urbanisation and road projects liable to damage the green toad populations.

The French authorities submitted a report to the Secretariat in July 2010. The procedure for drawing up the national action plan is ongoing. Several meetings of the committee of national and European experts and of the monitoring committee were held in 2009 and 2010. Among other things, these meetings highlighted the need for the plan to take account of the green toad populations in Rhineland-Palatinate,

Baden-Württemberg and Switzerland, and developments in those populations. They also made it possible to move ahead with the ranking of sites and the prioritisation of actions, to establish a link with the protected areas strategy and the “green and blue network” and to specify awareness-raising and educational measures.

Following these meetings, a fourth plan is currently being drafted. It will be forwarded to the Environment Ministry in the course of summer 2010.

7 road projects liable to have an impact on the green toad populations in Lorraine and Alsace are currently under scrutiny.

Generally, one may note a concerted effort with the different stakeholders and greater attention to amphibian issues in development projects and urban planning documents.

**- Sweden: Natterjack (*Bufo calamita*) population on the coastal island of Smögen**

In December 2007 the Secretariat received information from the Chair of the Bern Convention’s Group of Experts on Amphibians and Reptiles concerning the threat presented by a residential housing project in Hasselösund Väster, Smögen, to the northernmost population of the worldwide distribution of the Natterjack toad (*Bufo calamita*), a species listed in Appendix II of the Bern Convention.

At the 2008 meeting of the Standing Committee, the Swedish delegation informed that the decision regarding the plan for the residential housing project had been appealed to the County Administrative Board of Västra Götaland and that, in the meantime, the plan had come to a halt pending the outcome of the decision by the County Administrative Board.

In September 2009, the Swedish government reported that the County Administrative Board rejected the appeals of the Municipality’s decision, as it considered that the habitats for the Natterjack toad had been taken into account in a satisfactory manner. The County Administrative Board’s decision has now been appealed to the Swedish Government and the Swedish Environmental Protection Agency awaits the decision of the Swedish Government on this issue.

At the 29<sup>th</sup> meeting of the Standing Committee, the delegate of Sweden confirmed that the decision of the government on the appeal was pending and the project had been stopped in the meantime (the decision was expected in early 2010). The Standing Committee took note of the information presented by the delegation of Sweden and asked them to inform the Secretariat when the decision on the appeal will be available. It agreed to review this case in 2010 as a “possible case file”.

At its meeting in March 2010, the Bureau decided to wait for the decision and reconsider the issue at the next meeting.

Swedish authorities have recently ensured that they will inform the Secretariat as soon as a final decision on the issue is reached.

**- Wind turbines in Alta Maremma (Italy)**

In September 2008, the Secretariat received a complaint from the *Comitato Nazionale Paesaggistico*, based in the Alta Maremma region, concerning plans for a wind-farm of 6 mega turbines at Bellaria (Roccalbegna), less than 3km away from an existing 10 turbine plant in the town of Scansano (built without EIA and therefore declared illegal but still operating). The location of the turbines at Roccalbegna would worsen the damage already caused by the turbines at Scansano, and would interrupt an important ecological corridor between the sites of the Albegna valley and those of the Trasubbie and Trasubbino.

The Bureau discussed the complaint in March 2009 and asked for more information about the status of the project and on the affected populations.

In February 2010, the NGO (*CNP/Comitato Civico per Roccalbegna*) reported on the status of the project:

- A proposal to site 6 x 2MW mega wind turbines on the crest of a hill in the town of Roccalbegna was presented to the Office of Evaluation of Environmental Impact in Florence, and interested parties were invited to submit their comments by 23rd January 2010 (the NGO “*Comitato Civico per Roccalbegna*” presented a substantial dossier on 21st January including reports of wildlife experts).
- The existing wind farms in the area are located in an IBA. The planned turbines, with masts 80 metres height and blades span of 90 metres, are to be sited less than 3 km away from the existing 10 turbines of Poggi Alti.
- The project presented by ENEL Green Power is largely based on data that the NGO considers distorted and misleading, as it ignores the cumulative impacts, and does not indicate the bird species present in the area, such as the Lanner.
- WWF stated that the project would impact the following species: Short-toed Eagle, Stone Curlew, Lanner, *Elaphae Quatorlineata* (“Cervone” – black rat snake), Hermann Tortoise
- The decision-making process for renewable energy in Italy: All decisions have been delegated to local government. Regional authorities decide how many MWs they want to install but they leave it to companies and local councils to negotiate.
- ISPRA, the Italian environmental research institute “proposes an unfavourable verdict to the realisation of this installation”.

The Bureau took note of the information provided and instructed the Secretariat to write to the Italian authorities to ask to produce an updated report, clarifying the question of the cumulative impacts of the windfarms. If no new information is provided before next Bureau meeting, the Standing Committee could eventually consider the possibility to open a case file.

In July 2010, the Secretariat has been informed that Italian authorities would provide a reply on the complaint as soon as possible.

In September 2010 the Bureau took note of the lack of new information available on the case and decided to consider the case as a possible case-file.

In October 2010 Italian authorities send to the Secretariat an updated report informing on the current status of the situation.

### 1.3 On-the-spot appraisal

- **France: Impacts on the Hermann tortoise (*Testudo hermanni*) of: (1) a waste management plant in the commune of Cabasse; and (2) a housing project in the commune de Ramatuelle (Var)**

Following an invitation from the French authorities, an expert, Mr Guy Berthoud (Switzerland), accompanied by a member of the Secretariat, undertook an on-the-spot visit whose aims were to:

- Analyse the measures taken for the protection of the Hermann tortoise in the Plaine des Maures, in particular following the establishment of the national nature reserve;
- Study the projects for the siting of a waste management plant in Cabasse (CET) and the construction of housing in Ramatuelle and the threats they pose to the species;

The visit highlighted the decisive role played by the Bern Convention in the establishment of the reserve and the launching of the action plan.

With regard to the two complaints, the various discussions held brought out not only the existence of major ecological issues but also a desire on the part of the promoters of the projects to minimise their impact.

The CET project is no longer on the agenda for the time being, as the local authority has not amended its urban development plan; it might, however, represent an alternative to the Balançan waste disposal site.

As for the housing project, the Mayor of Ramatuelle, faced with increasing demographic pressure and the local population's housing needs, has provided extensive justification for the project, which, in his view, meets an overriding public interest. The project has received a favourable opinion from the fauna and flora committees of the *Conseil National de la Protection de la Nature*. It was deemed acceptable subject to the taking of significant avoidance, reduction and compensation measures. If the project is carried out in accordance with the specifications, it should not have a major impact on the species.

## 1.4 Complaints in stand-by

### - France: Black Grouse (*Tetrao tetrix*) in Drôme and Isère

In April 2009, the association ASPAS (*Association pour la Protection des Animaux Sauvages*) sent a complaint to the Secretariat for the possible breach of Articles 7 and 9 of the Bern Convention by France concerning the Black Grouse (in Appendix III species) in the departments of Drôme and Isère. In particular, the complaint stated that human activities such as tourism and sport developments in mountain areas are destroying the winter and reproduction sites of this species, causing also disturbances in these areas and in their calling sites, while hunting compounds the problems for the species.

The ASPAS association reports that current population levels in France are estimated at 16000-20000 individuals, with an "unfavourable conservation status" at the national level and a strong decrease in numbers, especially in the Drôme region where estimates are at about 100 individuals. ASPAS contests the French hunting regulations, which do not favour the repopulation of Black grouse nor prevents their destruction, given the unfavourable conservation status of the species, and therefore are not in line with the Bern Convention. The NGO has also lodged a complaint to the European Commission in June 2010. The information provided by French authorities at the European Commission's request is being currently analysed.

In July 2010, the French authorities submitted a report to the Secretariat, which described:

- The monitoring of the distribution area, which is carried out through national surveys and systems for supervising the population. The distribution area of this species in the French Alps has shrunk by about 9% since the last decade. The average population is estimated at 8 400 adult males, which represents an 8% decrease compared to 1990-1999;
- The breeding situation: it is clear that the decrease in numbers in the northern Alps is not the result of a chronic decline in breeding;
- The hunting situation: Since the introduction of the compulsory personal hunting record, hunting statistics have been better known and are centralised by the mountain galliform observatory (OGM).

Hunting of male black grouse is authorised throughout France from the third Sunday of September to 11 November but completely banned in the Var. The shooting plan introduced in Haute-Savoie in 1995 has gradually been extended to most of the *départements* of the French Alps.

Only the *départements* of Drôme and Isère are yet to introduce such a plan. In Isère, however, the length of the hunting season may be altered by the Prefect according to the success of the breeding season and the size of young birds.

In Drôme there are no special regulations on the length of the hunting season. Hunting may be prohibited, however, in years when breeding was poor.

Exemplary management of hunting seems essential.

Other causes for concern are the reduction and breaking up of habitats owing to growth and changes in human activity, particularly the development of ski resorts.

Available objective data show that the situation of the black grouse in the French Alps is not yet desperate but the time has almost certainly come to take action, particularly in the northern Alps. In 2009, the regional environment, planning and housing directorate (DREAL) worked with Rhône-Alpes Region to devise and implement a regional action plan, which the OGM was asked to run. It is planned to extend it to the Region of Provence-Alpes-Côte d'Azur as soon as possible.

The main aims of this plan are to enhance, add to and co-ordinate the conservation measures introduced in the French Alps since the beginning of the 1990s. Most of these measures were based on hunters' ideas. Their support on the ground is essential to promote and/or facilitate the implementation of the action plan at local level, particularly outside protected areas.

In spite of people's sensitivities and provided that hunting is subject to an appropriate regulated shooting plan (with no impact on the population), banning hunting, and hence losing the support of hunters, would probably be more of a counter-productive step than a beneficial one for the conservation of the black grouse.

In national nature reserves where hunting is still authorised, the Rhone-Alpes environment directorate (DREAL) followed the advice of the Regional Scientific Council on the Natural Heritage and decided not to introduce a general ban but to proceed on a case-by-case basis.

#### **- Morocco: Tourism development project in Saïdia affecting the Moulouya wetland site**

A complaint was received in 2009 from the "*Espace de Solidarité et de Coopération de l'Oriental*" (ESCO), based in Oujda, Morocco. It concerns the Moulouya site, a "zone of biological and ecological interest" (SIBE, in the French acronym), as well as a Ramsar site, since 2005. The organisation denounced the mega-project "New tourist site in Saïdia", part of the country's 'Blue plan' for the strategic development of the tourism industry. They claimed that this project was developed without prior environmental impact studies and that the infrastructures planned (roads, canals, water treatment plants) will damage the Ramsar site of Moulouya, very important for migratory bird species and hosting two thirds of the total bird species known in Morocco. The organisation had submitted a complaint to the public prosecutor at the Court of first instance of Berkane in 2006, without follow-up so far. They also organised a petition to safeguard the Moulouya site, which was signed by 680 people.

The authorities from Morocco have informed the Secretariat that their project, which is a part of the strategic priorities of the region's development, has been initiated, encouraged and accepted by the Government. An agreement was signed for the first setting-up of the project between the Government of Morocco and the developer ("Fadesa Group"). It covers an area of 7 hectares and a waterfront of 6 km of beach and is located outside the boundaries of the Ramsar site. The touristic development of this area is not inconsistent with the aims of conservation and the bio ecological and fragility of the site are taken into account. The authorities have underlined that the studies carried out within the project MedWet Coast are of unquestionable reference.

In June 2010, ESCO sent in videos and a press release calling for a halt to the following activities:

- The diversion of the water which supplied the Chararba marshes and the oxbow lake formed by the Moulouya river, in which dozens of species of birds including flamingos used to take refuge.
- The discharge of raw sewage from the Méditerranéenne Saïdia tourist complex into the wetland.

In September 2010 ESCO sent to the Secretariat an updated report, recalling that the port of Saïdia constitute a serious obstacle to the sedimentary transit which has ensured the balance of the beach of Saïdia during ages. Consequently, the port knows a serious problem of stranding. In addition, the dam which was built between 2008 and 2009 to protect the port from the stranding, will most probably accentuate the erosion of the beach, more particularly for what concerns the shore of Moulouya.

ESCO states that the touristic development of the SIBE area of Moulouya is carried out without taking account the particular status of the site, its ecological value and its importance for the biodiversity and the avifauna. The NGO is persuaded that the constructions carried out on the top of the beach and the

bordering dune (walk and 'Beach Clubs') will result in a slimming and progressive retreat of the beach, due to the fact that they are an obstacle to the displacement of sand between the beach and the dunes and that the latter cannot anymore assume their protective role vis-a-vis marine and wind erosion.

The NGO report concludes by suggesting a series of recommendations for national authorities, which are called to:

- Reduce the pressure of holidaymakers on the SIBE area during the summer;
- Ensure a constant sediment supply to the SIBE shore and to the beach;
- Preserve the environmental flow of Moulouya;
- Review the choice of location of the sewage plant and its discharge;
- Ensure the water flow from the Ain Zebda and neighbouring sources which supplies water to the Moulouya oxbow;
- Establish "eco-guards" to ensure the monitoring of the SIBE in view of sanctioning the infringements noted.

The visit to the site initially scheduled by the Ramsar Convention secretariat for April 2010 has finally taken place in October.

## **2 FOLLOW-UP OF RECOMMENDATIONS AND EVOLUTION OF THE SITUATION IN:**

### **➤ Recommendation No. 66 (1998) on the conservation status of some nesting beaches for marine turtles in Turkey**

In 2009, the NGO MEDASSET expressed concerns over the threats facing the three nesting beaches for the Loggerhead sea turtle (*Caretta caretta*) in Fethiye (Turkey). Unplanned construction and developments, mainly for tourism purposes, are taking place and all beaches are experiencing an ever increasing number of beach bars, lights, watersports rental stands and dense rows of beach chairs and umbrellas, while nesting has been declining steadily in the last years.

This situation is taking place despite the fact that the whole bay is a SPA (specially protected area) in the framework of the Barcelona Convention. Fethiye is one of the most important nesting sites in Turkey and the destruction of nesting beaches, combined with the ongoing destruction of immediately adjoining wetlands for major upcoming construction projects, are incompatible with the status of this species. In 2008, two-thirds of all nests in Akgöl were laid in the planned project area while the NGO was unaware of the existence of an EIA.

In Recommendation No. 66 (1998) on the conservation status of some nesting beaches for marine turtles in Turkey, the Standing Committee asked the Turkish government to "secure the remaining unbuilt beach plots against development" in Fethiye.

The Bureau reviewed this information and agreed to monitor the implementation of Recommendation No. 66 (1998) on the conservation status of some nesting beaches for marine turtles in Turkey in 2010.

MEDASSET reported that:

- A short film, "Turkey's Sea Turtles in Trouble", was filmed during September 2009 for MEDASSET, featuring the threats to Fethiye nesting beaches and the lack of environmental protection; copies of the film have been sent to Turkish authorities.
- MEDASSET is launching a campaign focussed on tour operators and hotels operating at Fethiye, bringing the case to their attention and requesting information and proposing actions to protect the environment they operate in;
- Further filming at Fethiye will take place in 2010.

The Environmental Protection Agency for Special Areas (EPASA) has submitted a report on this subject. Fethiye Special Protected Area (SPA) is one of the turtles' main nesting sites. It is also an important tourist site. The agency has attempted not only to protect the area but also to devise and implement appropriate management measures to cushion the impact of various economic activities such as tourism, fish farming, transport, mining and agriculture.

Several projects have been launched:

- Every year since 1996 a comprehensive biological monitoring survey has been organised on Fethiye beach during the breeding season in co-operation with universities and NGOs;
- A new GEF project entitled "Strengthening Protected Area Network of Turkey – Catalyzing Sustainability of Marine and Coastal Protected Areas". One of the pilot projects relates to Fethiye-Göcek SPA.

The EPASA also carried out various activities in 2010 to solve current problems, focusing in particular on the following matters:

- Meeting various stakeholders;
- Establishing principles of conservation and use;
- Carrying out checks on visitors;
- Covering up hotel lights.

In August 2010 MEDASSET sent an updated report, highlighting that no positive changes towards sea turtle protection were observed. The report includes a brief description of the most serious incidents and additional developments documented during the 2010 nesting season.

MEDASSET has also sent letters and DVDs of the film to the major international tour operators like TUI AG active in Fethiye, as well as to the local hotels, restaurants and bars.

➤ **Recommendation No. 98 (2002) on the project to build a motorway through the Kresna Gorge (Bulgaria)**

A planned motorway crossing an area of high biological diversity was examined by the Standing Committee in 2002, leading to the adoption of Recommendation 98 (2002) "on the project to build a motorway through the Kresna Gorge (Bulgaria)". The Standing Committee invited the Bulgarian government to abandon the plans to enlarge the current road and look for more suitable alternatives, compatible with Bern Convention obligations.

In 2004, the Standing Committee decided to open a file in order to stimulate the Bulgarian government to further implement Recommendation No. 98 (2002).

In 2005, a decision was taken by the Ministry of Regional Development and Public Works (MRDPW) to prepare a new detailed EIA report. A decree of the Ministry of the Environment and Water (MoEW) was approved on 14 November 2005, prohibiting certain activities which could have adverse consequences for the site, such as the building of hydro-electric power stations. In 2005, the Standing Committee welcomed the adoption of this decree and decided to keep the file open.

In 2006, the Bulgarian delegation informed the Standing Committee that a new EIA had been initiated, in consultation with all the partners concerned, where all variants would be studied, including the proposal from NGOs. The European Commission delegation reported that a complaint had been lodged with the Commission concerning this project. The Standing Committee decided to keep this file open.

In 2007, the Bulgarian authorities informed that the EIA report was being prepared and would be publicly discussed, including consideration by Bulgaria's High Ecological Expert Council. The Standing Committee welcomed the forthcoming finalisation of the EIA and agreed to keep the file open until the final decision on this project is taken, with positive encouragements for the Bulgarian government.

In 2008, the Bulgarian authorities reported that the Higher Expert Ecological Council of the MoEW considered the EIA Report and recommended to the Minister of Environment and Water to approve the realisation of the investment proposal. As a result, the Minister issued EIA Decision No 1-1/2008 to build the Struma Motorway. The authorities considered that the EIA Decision had been taken after intensive preliminary consultations to find the most-appropriate decision for the route of the Struma Motorway in the region of the Kresna Gorge and for the sections passing in close proximity or through NATURA 2000 sites. The Standing Committee recognised the positive developments but agreed to leave the file open.

In 2009, the Bulgarian authorities informed that the decision to avoid the Kresna Gorge had been taken, although the final technical project for the actual road bed had not been prepared yet. The Standing Committee welcomed the positive news on the announced decision to avoid the Kresna Gorge and agreed to close this case file, asking the Government of Bulgaria to report to the Standing Committee at its next meeting.

➤ **Recommendation No. 113 (2004) on military antenna in the Sovereign Base Area of Akrotiri (Cyprus)**

The UK authorities reported in March 2007, covering the following issues: Pluto Health Study; Pluto Bird Flight Diverters; Pluto Bird Studies; Hydrology Study; Environmental Management Systems; Akrotiri Peninsula Environmental Management Plan; On-island Environmental Support.

In 2007, the NGO BirdLife Cyprus reported that there had been some progress towards meeting the recommendations of the Standing Committee. Preliminary monitoring of bird strike at the Antenna site had been carried out but the Sovereign Base Area Administration (SBAA) had yet to designate the Akrotiri peninsula – Episkopi cliffs IBA as the equivalent of an SPA, although a highly encouraging policy on management of the area had been adopted and seemed to be implemented well (especially as regards appropriate assessment of proposed developments).

BirdLife International regretted the limited progress made on the SPA designation, which they reported as having been unjustifiably delayed, as well as the continued poaching of birds, and problems for monitoring the mortality of the antenna due to the lack of access to the area by military authorities.

In August 2008, BirdLife Cyprus reported that there had been definite progress towards meeting the Standing Committee's Recommendations in the previous year. In particular, there had been some preliminary monitoring of bird strike at the Antenna site, but a formula for long-term mortality monitoring remained elusive. Significant and sound steps had been taken by the SBAA towards designation of the Akrotiri peninsula – Episkopi cliffs Important Bird Area (IBA) as the equivalent of a Special Protection Area (SPA)/Emerald Network site, although the NGO was concerned that two areas of the site would be omitted from the protected area.

In September 2009, the UK government sent an updated report including information on each of the recommendations adopted in 2004. The report addressed bird collision monitoring; consultations on a management plan for Akrotiri wetlands; the delays and change of approach in the designation process for SPAs and SACs; and the Akrotiri Environmental Education and Information Centre.

At the same time, Birdlife Cyprus reported that significant gaps remained almost five years after the Recommendation was adopted. There has been systematic monitoring of bird movements at the antenna site, but a formula for long-term mortality monitoring seemed unlikely to be found. A survey of migrant *Falco vespertinus* had been conducted, but the SBAA had not yet designated the Akrotiri peninsula – Episkopi cliffs IBA as the equivalent of an SPA/Emerald Network site. BirdLife Cyprus continues to enjoy constructive dialogue with the SBAA, and with the SBA conservation team in particular.

At the last Standing Committee meeting the representative of Terra Cypria, speaking also on behalf of BirdLife Cyprus, confirmed that there had been good developments on some aspects of Recommendation 113 (2004), but pointed out that despite the production of a very good policy statement by the Bases, this had not been reflected in recent projects and initiatives. She called upon the British delegate to encourage

the Sovereign Base Authority (SBA) to proceed without delay to nominate the area as the equivalent of a Natura site and to ensure that the designation is in place before further interventions occur. In addition, the NGO reported on a number of turtle deaths on the Akrotiri/Episcopi coasts, and explained that regulations regarding fishing nets are less restrictive on the Bases than in the Republic of Cyprus. She urged the British representative to persuade the SBA authorities of the need to take appropriate measures before the next breeding season (April 2010).

The delegate of UK valued the NGO comments and announced that there will be a representative of the SBA at the 2010 Standing Committee meeting. She shared concerns for the high rates of turtle deaths in 2009 and expressed her interest to work with fishermen to improve the situation for the next breeding season, as it is not possible to bring in new legislation on this issue.

In July 2010, the UK government sent a new updated report including information on each of the recommendations. The government informs that bird collision studies will be completed with the last flight path survey which will be undertaken between September 2010 and November 2010. Once all reports have been obtained, it is intended to proceed with a joint (SBAA, RoC, Birdlife Cyprus) appraisal of the data obtained.

With regards to paragraph 2 of the recommendation, the UK government suggests to close the item as the Pluto EIA concluded that there was no evidence from which one could predict significant effects of EM radiation on bird.

In addition, the government informs that Akrotiri Wetlands candidate SPA has been formally designated in April 2010, as well as Akrotiri Cliffs and Episkopi cliffs candidate SPAs; the SBA Administration intends to designate SACs in the near future. The report highlights the continuing trend of water reduction in all Akrotiri wetlands. It also provides additional information on the activities carried out by the Akrotiri Environmental Education and Information Centre.

For what concerns marine turtle conservation, the UK government informs that the Administration launched, in May 2010, a survey to address the issue of the high number of dead turtles washing up on SBA beaches. The survey will end in November 2010 and will be repeated for three years.

In a report sent by BirdLife Cyprus and Terra Cypria the NGOs consider that progress remain slow and call on the committee to press for the immediate completion and swift implementation of a comprehensive management plan for the site, the strict adoption of 'appropriate assessment' procedures for all proposed developments and for a renewed effort to fully assess and mitigate for the bird strike risk posed by the Antenna installations.

➤ **Recommendation No. 110 (2004) of the Standing Committee on minimising adverse effects of above-ground electricity transmission facilities (power lines) on birds**

In 2009, the Standing Committee recognised that this is an important issue which requires further follow-up and agreed to include this issue in its 2010 meeting, with a view to discussing a draft recommendation on the basis of the information and assessments received.

A compilation of national reports has been prepared in 2010 (document TPVS/Files (2010) 11) following the reports received by 12 Contracting Parties. The NGO report from 2009 (document T-PVS/Files (2009) 15) will be updated in 2010, including recommendations for the Standing Committee to consider.

➤ **Recommendation No. 137 (2008) of the Standing Committee on population level management of large carnivore populations**

A compilation of national reports has been prepared in 2010 following the reports received by 10 Contracting Parties (document TPVS/Files (2010) 12).

➤ **Recommendation No. 144 (2009) of the Standing Committee on the wind park in Smøla (Norway) and other wind farm developments in Norway**

At its 29<sup>th</sup> meeting the Standing Committee decided not to open a case file following a complaint lodged in 2001, concerning the establishment of two wind farm complexes in the Archipelago of Smøla, in an area of importance for the nesting of White-tailed Eagles and other species. The Standing Committee adopted Recommendation No. 144 (2009) on the wind park in Smøla (Norway) and asked the government of Norway to report on its implementation at the next meeting of the Standing Committee.