

Strasbourg, 28 March 2014
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T-PVS/Notes (2014) 1

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

34th meeting
Strasbourg, 2-5 December 2014

APPLICATION OF THE CONVENTION

- Summary of case files and complaints -

APRIL 2014

*Secretariat memorandum
prepared by
the Directorate of Democratic Governance*

IMPLEMENTATION OF THE CONVENTION: FILES

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 adopted a final decision on the project at the end of January 2010. Ukraine decided 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 Secretariat asked Ukrainian authorities to inform on the issue; however, the national report was only sent on 1st December 2010, a day before the Standing Committee meeting.

Following a long discussion and after calling for an improved and regular exchange of information with the Secretariat, the Standing Committee decided to keep the case file open and agreed to set-up a Select Group of Experts to facilitate dialogue on the issue. The Group should have met after relevant Parties and the Chair of the Standing Committee agree on the terms of reference. These were sent to both Parties in January 2011; however, the Ukrainian Party was not in a position to agree on them.

In September 2011 the Bureau expressed again strong dissatisfaction towards the lack of communication from Ukrainian authorities and decided to keep the case-file opened, as well as to request to Ukraine a detailed report on the state of implementation of the Danube-Black Sea Navigation Route, as well as on the compliance with the Standing Committee Recommendation (2004) 111.

At last Standing Committee meeting, the delegate of Ukraine presented the government report, stressing that - according to the data collected through the monitoring process - no negative impacts for the Bern Convention species and habitats, as well as for the Romanian delta ecosystems could be identified in relation with the Bystroe Channel project. He further recalled that Ukraine proposed to

elaborate a common Plan for the management of the basin of the Danube Delta within the framework of the International Commission for the Protection of Danube River. He informed about the content of the EIA which was elaborated by a pool of independent experts and concluded by stating that Phase II of the Bystroe Channel project has not started.

The delegate of Poland, speaking as EU Presidency, requested the case-file to be kept open. She expressed doubts on the way the recommendation was implemented and stressed the need for more detailed and precise information.

The delegate of Romania regretted the lack of clear information from Ukraine, while contesting the quality of the EIA which should be improved before being agreed by all concerned Parties. He welcomed the monitoring project while stressing that this cannot erase the concerns related to the digging of a channel in the Danube delta. He concluded by recalling that both the Aarhus and Espoo Convention have issued warnings for possible non-compliance to Ukraine, as well as by requesting that shorter but clearer and timely reports should be submitted to the Bureau by Ukrainian authorities.

The Committee decided to keep the case-file open asking the three concerned Parties, namely Republic of Moldova, Romania and Ukraine, to ensure that the Secretariat receive updated reports on the current state of the situation as well as on the implementation of the provisions included in Recommendation No. 111 (2004).

In February 2012 **Ukrainian authorities** sent a full report highlighting that the works related to the implementation of Phase II of the Bystroe Channel project did not start. Moreover, according to the report, Ukraine prepared an EIA which was handed to the Government of Romania and discussed by a panel of international experts before being amended – in 2008 - according to the comments made; a separate analysis of the impacts of the full implementation of the Channel in a transboundary context was also available; public hearings on the issue were organised without the cooperation of the Romanian government. Ukrainian government further affirmed having looked into all possible alternatives to the route of the waterway before deciding to consider the Bystroe one.

Regarding the ecological compensation and mitigation of possible damages to the environment, the Ukrainian government informed having identified specific measures to mitigate the potential negative transboundary environmental impact of the Bystroe project; furthermore, the authorities informed that appropriate measures have been taken over the past years to enhance the conservation status of the Danube Delta Biosphere Reserve and to expand its territory.

Finally, for what concerns the monitoring measures, Ukraine informed of a number of initiatives implemented since 2004, including long-term hydrobiological studies for 2004-2011 whose conclusions allow to affirm the absence of direct impact of the renewing and maintenance of waterway Danube Black Sea to the biotic communities of phytoplankton, zooplankton, zoobenthos, fish fauna, with only a few local and limited exceptions.

The report submitted in February 2012 by the **authorities of the Republic of Moldova** informed on different mechanisms for trilateral co-operation among which the implementation of the Agreement for the Establishment and Management of a Cross-Border Protected Area between the Republic of Moldova, Romania and Ukraine in the Danube Delta and the Lower Prut Nature Protected Areas. The report stresses the strong political will of the Joint Commission towards the full implementation of existing legal instruments, scientific and technical co-operation at the Delta level, a stable socio-economic context in the Delta, exchange of information, data and methodologies, and long-term harmonised monitoring.

In a report submitted in March 2012 the **authorities of Romania** informed that Ukraine has finalised the implementation of Phase I of the Bystroe project, but has also completed some of the works foreseen in the framework of Phase II (such as the retaining dam off the mouth of the Bystroe branch of the Danube, which was continuously extended until it reached the length envisaged for Phase II of the project). Romanian authorities recognised that Ukraine has taken some positive steps in order to comply with its obligations. However, they pointed out that the works in the area had steadily continued (including maintenance dredging to reach navigational depths and work at the engineering structures in the Ukrainian side); the authorities further regretted that the bilateral cooperation was interrupted with the notification, by the authorities of Ukraine, of the “final decision” regarding the

construction of the deep navigation canal, without taking into account the concern expressed by the Romanian authorities (including the persistence of gaps in the EIA). Romania maintained its view that, in its current design, the project poses significant risks of an adverse impact on the environment, including on the territory of Romania.

The report further stressed that the decision V/4 adopted by the Meeting of the Parties to the Espoo Convention at its fifth session (Geneva, 20-23 June 2011) endorsed the finding of the Implementation Committee established under this Convention that, while Ukraine had fulfilled some of its obligations under paragraph 10 of decision IV/2 with respect to both phases of the Bystroe Canal project, it had not fulfilled all of these obligations. The finding of Implementation Committee was caused by the failure of Ukraine to comply with the request of the Committee to provide a written statement confirming clearly and unambiguously that the conditions imposed in the Decision IV/2 of the Meeting of the Parties have been met.

The Bureau acknowledged good progress in communication from all the concerned Parties, who generally submitted their reports within the deadlines and focussed on key information. However, it requested to Ukrainian authorities to make available the English translation of both the EIA and the analysis of the impacts of the full implementation of the Channel in a transboundary context.

In August 2012 Ukraine sent both the EIA (as amended in 2009) and the analysis of the impact in a transboundary context. These documents conclude that the Bystroe option would represent 'the least-impact' alternative to the Unesco Danube Biosphere reserve (DBR) in terms of long-term viability with respect to the sustainable natural resource management and suitable governance of anthropogenic activities taking place in the areas of the Bystroe Branch.

After assessing the requested document, the Bureau - meeting in September – decided to keep the case file open and forwarded the EIAs and its annexes to the Secretariats of other relevant international Agreements for comments.

By the 32nd Standing Committee meeting only the WWF was able to provide the Secretariat with a written opinion. According to WWF analysis, the EIA seems to comply with the formal requirements of EIA but actually fails to address concrete relevant issues, as for instance: emergency situations are not assessed, the knowledge gaps and the level of uncertainties, the post-project analysis of results of the monitoring and management programmes, the social and economic forecasts, the latest hydro-morphological changes in the Delta, the cumulative environmental impact in the transboundary context. Moreover, WWF considers that the list of measures to reduce the negative impact does not contain institutional arrangements.

The delegate of Ukraine presented the EIA stressing that the document went through the assessment of 17 international experts. He explained that the EIA addresses additional aspects that were not considered in previous reports, including a rationale conduct for the transboundary EIA process, information on the socio-economic situation in the areas of the Lower Danube Basin, scientific projections to determine the potential impact of Phase II on the restoration of the environment in the affected zones, an updated assessment of transboundary aspects of some project activities and their habitat loss, considerations of alternative navigation routes and their possible environmental impact. Annex II has been particularly developed to secure answers to questions and comments expressed by the Romanian NGOs, International Non-Governmental Organizations, Romanian Public and representatives of the Romanian authorities. The delegate of Ukraine concluded by informing that the Ramsar Convention stopped monitoring this file after considering that the conservation of the concerned wetlands is satisfactory.

The delegate of Romania thanked Ukrainian authorities for the efforts in improving communication. Yet, he noted that there are still several gaps and shortcoming in the EIA. For instance, the mathematical modelling used by Ukraine is based on data which were not transmitted to the Romanian side, despite several requests in this sense. Moreover, according to the authorities of Romania, the EIA focuses almost exclusively on the impact of the works on the Ukrainian side of the Delta while the transboundary impact is not properly assessed. In conclusion, the authorities of Romania considered themselves not completely-reassured by the EIA since this does not deal with all the environmental consequences rising up from the project and the consultations undertaken under the

Espoo Convention where not duly taken into account. Romania finally requested that the impact of project is further assessed before continuing with the implementation of Phase two.

The Committee took note of the reports of both Ukrainian and Romanian authorities and of comments and concern from other Parties and Observers and, following a ballot, it decided to keep the case file open and instructed the Secretariat to reiterate its requests for feedback to the other concerned stakeholders.

In January 2013 the Secretariat addressed a reminder to the EU, UNESCO, the Espoo Convention, the WCMC and the Ramsar Convention.

The Ramsar Convention confirmed that the file opened under Article 3.2 of the Convention (human-induced negative changes) had been recently closed, together with the file related to the Dniestr River Delta, after the submission of information and reports by Ukraine at the occasion of the 11th meeting of the Conference of the Parties to the Ramsar Convention. The decision was based both on the information submitted and on the consideration that the Ramsar Administrative Authority in Kyiv has taken the responsibility to declare publicly that no negative change will occur through the planned works. More particularly regarding the file opened for the Bystroe Channel in 2003, the Ramsar Convention reiterated its concern that the trilateral cooperation between Ukraine, Romania and the Republic of Moldova shall continue and that it need to be developed further in order to elaborate and coherently implement a sub-basin management plan for the Danube Delta. The Ramsar Secretariat will remain alert about any new and substantial information on negative change occurring.

Regarding the request of comments on the EIA, the Ramsar Secretariat suggests that a meaningful and thorough analysis of this document would need a specifically committed study for which apposite funds should be allocated.

The report submitted in March 2013 by the European Commission summarises the information provided so far while waiting for the possible adoption by the Parliament of Ukraine of draft law on Environmental Impact Assessment in Transboundary Context.

The Bureau held a long discussion on the possible follow-up to this complaint, including options such as: sending the file to the Standing Committee as it stand; setting up a working group tasked to analyse the EIA, or even closing the file in order to ensure coherence with the position taken by the Ramsar Convention. However, taking into account the outstanding biological diversity of the concerned area, and willing to find a satisfactory solution for all, the Bureau instructed the Secretariat to contact the three concerned States with the request of convening as soon as possible a meeting of the Joint Commission in order to inform the Standing Committee on the state of transboundary cooperation.

In the report submitted in July, Ukrainian authorities inform having sent official letters to the correspondent authorities of Romania and the Republic of Moldova, inviting them to convene a meeting of the Joint Commission, according to what the Bureau requested.

The report submitted end of August by the authorities of the Republic of Moldova inform that a meeting between the Deputy Minister of Environment (Republic of Moldova), representatives of the Ministry of Foreign Affairs and European Integration (Republic of Moldova) and representatives of the Embassy of Ukraine in the Republic of Moldova has taken place in June 2013.

The meeting was organised at the request of the Ukrainian Embassy in Chisinau who presented the measures taken by Ukraine to comply with the recommendations made by the Standing Committee to the Bern Convention. According to the report, the representatives from the Ministry of Environment took the occasion for expressing their support for a meeting of the Joint Commission. The report further recalls that the last meeting of the Commission was convened on 11 March 2011. According to the Agreement, by the end of 2011 Romania had to hold a meeting, but this did not take place as Ukraine was unable to attend. The rotation order for the Chair should be Romania, Ukraine, and the Republic of Moldova, but the report affirms that none of the Parties took the initiative of officially convening a meeting since 2011.

In a letter sent in August 2013, the Permanent Representative of Romania before the Council of Europe informed the Secretariat that Romania is taken all necessary steps for convening as soon as

possible a meeting of the Joint Commission. Moreover, the letter informs that in March 2013 Ukraine provided the Danube Commission Secretariat with the details of the full implementation of the “Danube – Black Sea” canal, in apparent contradiction with what stated at last Standing Committee Meeting. The deadline for the completion of the work is 30 months. The letter further recalls that the Decision of Ukrainian authorities to finalise the Bystroe Channel project has not been cancelled or suspended and thus there is no national impediment to its implementation. The Permanent Representative concludes by noting that the attention given to this complaint by a number of International treaties has initiated a transboundary consultation process which is still in progress.

The Permanent Representative kindly attached the Proposal of Ukraine to the Danube Commission to include the Bystroe Project in the “Plan of major works recommended on the Danube”. In this proposal the project is described as “adopted in 2006 and plans to ensure safe navigation conditions with a draft of 7.2 m across the sector from km 172.36 to 0.00 on the Bystroe arm (the navigation on the sector from km 116 to 0.00 was reestablished in 2004). Planned time framework for completion of the project - 30 months”.

In addition, in August 2013 the Secretariat received the reply of the ESPOO Convention, recalling that the matter has been subject to findings and recommendations by the Implementation Committee since Romania expressed its concern, back in 2004. Two decisions by the MoP were also taken on the issue, declaring effective the caution to the Government of Ukraine (in 2011) and requesting the authorities of this country to inform on steps taken to bring into full compliance the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta, as well as on the implementation of the strategy of the Government of Ukraine to implement the ESPOO Convention.

The Secretariat of the ESPOO Convention also recalled that, in November 2012, the Implementation Committee decided to start drafting recommendations to assist Ukraine in complying with its obligations under the Convention at its twenty-eighth session (10–12 September 2013). The recommendations would be drafted on the basis of the information submitted by Ukraine in December 2012, as well as on the additional information that Ukraine was requested to send by 27 August 2013.

At its meeting in September the Bureau welcomed the reports submitted by the Parties, but noted that there was still no proposal or agreement on a possible date for a meeting of the Joint Commission, and regretted the lengthy and somehow dispersed dialogue on this issue. It recalled that the Joint Commission was set up to provide a framework for a true and constructive cooperation and requested the Parties to show real commitment in this sense.

The Bureau decided to keep the file open and requested again that three concerned states – Ukraine, Romania and the Republic of Moldova – convene as soon as possible a meeting of the Joint Commission and inform the Standing Committee at least on the date of the meeting as well as on the state of trans-boundary cooperation.

Furthermore, the Bureau welcomed the exchange of information between the Secretariats of the ESPOO and Bern Conventions, as a good example of international co-ordination on issues which are relevant to Europe’s biodiversity. It finally instructed the Secretariat of the Bern Convention to approach the ESPOO Convention for any updated information, including any relevant outcome of the 28th Session of the Implementation Committee.

At last Standing Committee meeting, the Delegate of Ukraine informed that a meeting of the Joint Commission was organised on 28th November, hosted by Romania. He said that the meeting was indeed a good opportunity for discussing national and international monitoring results, as well as the development of projects and joint activities to be implemented in the short term. The meeting served to plan future co-operation of the three concerned Parties based on an agreed list of priority activities. The Commission highlighted the importance of the common bilateral and trilateral large scale joint projects, including projects within the framework of the EU Strategy for the Danube Region and future Cross border Co-operation Programmes funded by the European Union.

The Delegate further confirmed that the authorities suspended activities in the area after the Phase 1 of the project and did not start the new phase. The Delegate stressed that Ukraine takes appropriate measures to enhance the conservation status of the Danube Biosphere Reserve and to expand its

territory and concluding by asking to note the efforts shown by his country to honour the provisions of the Standing Committee.

The Delegate of Romania agreed that the second meeting of the Joint Commission was positive in the sense that some progress was made by the three Parties to jointly find a way forward in respect of the issue of the canal. He stressed that on that occasion Romania asked Ukraine to provide information on the works carried out so far and on the authorities' intention to proceed with the full scale implementation of the project. Mr Dumitru regretted to inform that although the Ukrainian side affirmed that in 2012 and 2013 only small scale dredging was undertaken, there was no clear answer on a decision of the competent authorities to implement or renounce to implement the Phase 2 of the project.

Furthermore, the Delegate of Romania affirmed that the results of the studies and monitoring activity carried out by his authorities on the work implemented until now in the Ukrainian side of the Canal show that the Bystroe Project had already a significant impact on the Romanian territory, particularly for what concerns the hydrological conditions of the area. Therefore he reiterated Romania's strong opposition to the implementation of Phase II of the project, and underlined the need for the impact of the works on the Romanian territory to be properly and comprehensively assessed by the Ukrainian side.

The Committee welcomed the dialogue and co-operation re-established by the three concerned Parties and noted with satisfaction that a third meeting of the Commission should be organised and held in Ukraine in May 2014. Considering that it could be useful to examine the report of the meeting of the Joint Commission, and noting that the matter would also be assessed by the Committee of the ESPOO Convention at its 29th meeting the Committee decided to keep the case file open and gave mandate to the Bureau for ensuring the follow-up to this complaint until the next Standing Committee meeting.

The Secretariat received the report of the 2nd meeting of the Joint Commission already in January 2014. The latter confirms the adoption of a list of priority activities based on a proposal by Romania. These include the coordination of the initiatives of the parties concerning the natural protected area of the Danube Delta and the Lower Prut, the development of joint management and monitoring programmes, the identification of possible EU grants, the possible creation of a trilateral biosphere reserve, among others. The meeting was also the occasion for an exchange of knowledge and information on the status of the respective nationally protected areas subject to the Agreement, as well as on the advancement of the common projects developed within the framework of the trilateral cooperation. However, from the report it is clear that Ukraine and Romania could not find agreement on the findings of the respective impact assessments, as confirmed by the discussions held at the Standing Committee meeting.

In March 2014, the ESPOO Convention provided the Secretariat with an updated report, informing about the latest developments following the 29th session of the ESPOO Committee meeting. In fact, although Ukraine had submitted its report within the deadlines fixed under the ESPOO Convention, the Committee at its December session found that the information provided was not sufficient to allow for the conclusions on the matter. The issue was reported at the February session, the last before the MoP (June 2014) where the Committee was obliged to reach some conclusions. Although the Committee welcomed the timely submission by Ukraine of the requested information, it regretted that Ukraine had still failed to provide complete and specific information on the progress concerning the implementation of the ESPOO Convention, the adoption of the necessary legislation, and the specific actions to bring the project for the Bystroe Canal Project in full compliance with the Convention. Moreover, the Committee considered that the decisions by Ukraine to continue dredging activities might indicate a further breach of the obligations under the ESPOO Convention. The conclusion of the Committee is that it had no basis to recommend to the MOP to revise its recommendations set out in decision V/4 concerning compliance by Ukraine, including that the caution issued at MOP-4 remain effective.

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.

The case was first discussed at the 16th 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 for the area 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 2010 the Committee took note of the report presented by the Secretariat in the absence of delegate of Cyprus. It further took note of the observations and reports from the NGOs and decided to keep the file open while asking Cyprus to present a report for its next meeting; to send to the Secretariat as soon as possible the translation into English of the management plan for Limni area; to fully implement its Recommendation No. 63 (1997).

In August 2011 Cyprus authorities sent the translation of the Executive Summary of the Draft Management Plan for the Limni Area, specifying that this only referred to the Natura 2000 “Polis Gialia” site (thus not including the proposed “Chersonisos Akama” site) and informing that the Government of Cyprus designated a wider area that would be managed via development regulations and restrictions, to ensure the highest possible protection of the peninsula.

The report from the NGO (Terra Cypria) informed that a formal notice letter and a reasoned opinion were sent by the EU to the Republic of Cyprus regarding the insufficient SPA proposal for the area. It is expected that the issue will be led to the European Court of Justice.

In the absence of a delegate from Cyprus at the 31st Standing Committee meeting, the Secretariat presented the case-file and called the attention of the Committee on the report on the management plan for the Natura 2000 “Polis Gialia” Natura 2000 site.

The representative of Terra Cypria argued that the size and extent of the Natura site was still being considered at the EU level. The proposal by the Cyprus government to regulate part of the area not as a Natura site, but through Town Planning regulations relating to land use (rather than conservation), was an indirect admission that the area is inadequate. She further considered that in the case of Limni, while a management plan exists, this was not implemented yet and, in any case, the area designated comprises such a narrow strip of land that it cannot protect turtles from human interventions taking place just beyond. Moreover, according to Terra Cypria, the plan proposed does not seem to include policy for foraging turtles. In both cases, developments are taking place all the time. The local authorities are allowing unsuitable activities and the threats to wildlife are continuing. Therefore, she urged that the file against Cyprus remains open.

These views were supported by the representative of MEDASSET, who pointed the attention of the Committee to deaths on the sea in different areas of Cyprus. The representative of Birdlife noted the importance of the Akamas Peninsula for some threatened birds, for which not enough Natura 2000 sites were designated.

The delegate of the European Union informed the Committee that the European Commission was analysing the information sent by Cyprus authorities in reply to a letter of formal notice for insufficient designation of the area. A decision on the follow-up to infringement procedure was expected by January 2012.

The Committee decided to keep the case file open requesting from Cyprus the full implementation of its Recommendation No. 63 (1997) as well as more information on the protection of sites in the whole of the Akamas Peninsula and Limni. The Committee asked the Secretariat to follow-up the file in close co-operation with the European Commission.

The Secretariat sent out official letters requesting updated detailed information to both the Government of Cyprus and the NGO on 19 January 2012.

In a succinct report sent in March 2012 the Government of Cyprus apologised for not having participated in the last Standing Committee meeting and expressed disagreement towards the NGO's claim of inadequate designation of both the Akamas and the "Polis Gialia" areas. More particularly regarding the latter, the authorities wanted to reassure the Committee that the developments surrounding the area were being controlled by the competent authorities and the procedures for granting building permits were observed. Furthermore, the Government stressed that maximum efforts were put in place to ensure the protection of birds, particularly by designating large SPAs.

Finally, the authorities informed that a full scientific package of information was under preparation in the framework of the complaint opened under the Commission and that this information would be forwarded at the same time to the Secretariat of the Bern Convention (around end of June).

The European Union also informed that, in the framework of a complaint on the issue of insufficient designation and protection of the Akamas area under the Natura 2000 network, a reply was received from Cypriot authorities following which the Commission issued a Letter of Formal Notice under Article 258 of the Treaty for insufficient designation of the area. The Commission analysed the reply and requested a number of further clarifications, after which they would decide on next steps.

The Bureau decided to keep the case file open and instructed the Secretariat to contact both the European Commission and Cyprus authorities by mid-July 2012 for information on further developments concerning the infringement procedure.

No substantial new information was submitted by the European Union, which in August 2012 was still expecting the reply of the authorities to its request of clarifications. No information was submitted by Cyprus authorities either.

Stressing the lack of new information the Bureau instructed the Secretariat to approach again Cyprus authorities and ensure that the scientific package of information related to the Akamas peninsula is forwarded to the Standing Committee. The complainant and the European Union are also invited to submit any relevant information available.

At the 32nd Standing Committee meeting the delegate of Cyprus informed that the Cyprus Department of Environment proceeded to the revision of the Akamas Peninsula mapping using high resolution satellite and aerial images. Additionally, site visits and sampling were also made. Once the information would be properly analysed, appropriate protection measures would be taken. The delegate of Cyprus concluded by reaffirming that, concerning the "Polis-Gialia" area, the authorities were in disagreement with the claim that the designated area was inadequate. However, he informed that Cyprus was in the process of reviewing the monitoring and inspection protocols in place so to ensure adequate surveillance of the area.

The delegate of Norway stressed that the fact that the file had been open for sixteen years was a sign that the actions undertaken by the authorities were not enough effective to solve the conservation problems encountered. There was a regrettable lack of progress, an opinion which was shared by the representatives of the NGOs.

The Committee decided to keep the case file open and encouraged Cyprus to fully implement its Recommendation N°63 (1997). The Committee further instructed the Secretariat to continue co-ordination with the European Union on this complaint.

In March 2013 the European Commission informed that it had received new scientific data both from the Cypriot authorities and NGOs. The information showed controversies in its conclusions. Hence, the Commission services informed being in the process of assessing the results in the attempt of finding the best solution to resolve the case.

The Secretariat requested Cyprus authorities to report after the first Bureau meeting.

In a letter received in July 2013, Cyprus authorities communicated that the Department of Environment was finalising the mapping of the Akamas Peninsula area and that the results would be forwarded to the Secretariat once they would be published. Moreover, they affirmed being in the process of conducting a Management Plan for the Akamas Peninsula area, which was expected to be completed by the end of 2013.

Also in July, the complainant requested the Bureau to continue keeping the case under scrutiny first of all because the Akamas issue was being examined by the European Commission as a matter of “insufficient designation”, meaning that the production of a management plan for the area designated would presumably be insufficient for solving the problem alone. Secondly, the complainant informed that a local developer proposed the construction of two golf courses surrounded by villas and hotels in the adjoining Limni area, which could presumably directly affect the turtles nesting there. The complainant further informed that the Government’s failure to take a firm stance about the distance of installations from the foreshore had been the subject of a second and different formal complaint to the Commission.

In its update, the European Commission informed having received extensive additional scientific information both from the Cyprus authorities and the NGOs which was under assessment to determine whether the SCI has been (on the basis of scientific evidence) sufficiently designated or not.

At its September meeting the Bureau assessed the case for the first time in 2013. The Bureau welcomed the information provided by the authorities on some progress towards the mapping and management plan of the Akamas Peninsula, but considered it necessary to follow the developments related to the complaint regarding the presumed insufficient designation of the SCI. The matter was forwarded to the Standing Committee.

Unfortunately, Cyprus could not attend last Standing Committee meeting and did not address updated information. However, the complainant presented the NGO point of view insisting on the investigation by the European Commission concerning the presumed insufficient designation of the Natura 2000 areas as a strong evidence of the possible inadequate protection of both Akamas Peninsula and Limni. Moreover, the complainant asked the Committee to make a number of recommendations to the attention of Cyprus authorities, including to promptly revising and extending the current boundaries for the areas, regulating development in the adjacent area, adopting a management plan of Akamas with all necessary measures for monitoring and control of habitats, reacting with adequate measures against illegal constructions and unsuitable activities on the surrounding beaches, and adopting an early warning system in order to closely monitor these areas, and the rest of the Natura 2000 sites, and prevent human destruction from taking place.

The Committee decided to keep the case file open and encouraged Cyprus to fully implement its Recommendation No. 63 (1997) and to report namely on the concrete measures implemented to avoid further deterioration of the concerned habitats. Furthermore, and taking into account the urgent need of protecting these unique sites from further destruction, the Committee invited Cyprus government to undertake any necessary step aimed at providing an early warning system against illegal damage and to inform the Committee on their implementation.

The decision of the Committee was forwarded by the Secretariat to the authorities in January 2014. By the end of March, Cyprus authorities addressed an updated report affirming that the areas proposed as SCI for Akamas and Limni are considered adequate and that further development of the area is subject to the necessary impact assessment as foreseen by both international and national legislation.

The authorities further inform that the Management Plan for the “Polis-Yialia” Natura 2000 site is being implemented but the management plan for the Akamas Natura 2000 site (expected to be completed by the end of 2013) is still under preparation.

Additionally, the authorities inform that a wider residential and rural area around the Akamas Natura site will be subject to special regulations and restrictions so to ensure the highest possible protection of the peninsula.

Besides, the report provides short but specific information on the implementation of operational paragraphs 7, 9 and 10 of the Standing Committee Recommendation No. 63 (1997), which are specific to Lara-Toxeftra Reserve area and to seagrass communities in Akamas.

Finally, the government report also addresses the recommendation by the Standing Committee to adopt an early warning system against illegal damage and considers that the regular monitoring mechanism already in place is both appropriate and effective. However, the authorities declare to be ready to evaluate any specific recommendations regarding the issue.

In an e-mail sent on 28th March, Terra Cypria informed being in disagreement with several points and committed to address to the Secretariat in two weeks-time a detailed note to present its arguments. In the meantime, Terra Cypria requested the Bureau to keep the matter on the agenda of its next meeting.

c. Greece: threats to marine turtles in Thines Kiparissias

On 22nd August 2010 the Secretariat received a complaint from MEDASSET (The Mediterranean Association to Save the Sea Turtles) regarding development plans in a NATURA 2000 site (THINES KYPARISSIAS - GR2550005) which would affect *Caretta caretta*, a threatened species protected under the Bern Convention. The NGO reported about uncontrolled development on the site (summer houses building, construction of coastal roads, occupation of the beach by, among others, bars, umbrellas and deck chairs) and expressed concerns over the intensive pressure on the nesting activity of turtles, which can lead to reducing the unique population of *Caretta caretta*.

The complainant referred to the obligations for the Contracting Parties mentioned in articles 4 and 6 of the Bern Convention, and highlighted that *Caretta caretta* is also protected by other international agreements, among which CMS, CITES and the Barcelona Convention for the protection of the Mediterranean Sea against pollution, and the EU Habitats Directive.

At the second Bureau meeting in 2010, the Secretariat informed the Bureau that a letter requesting further information had been addressed to Greek authorities on 7 September. The Bureau took note of the information provided; due to the very short notice given to the Greek authorities to provide a reply, the Bureau decided to re-consider the complaint at its next meeting.

In March 2011 the Greek authorities forwarded to the Secretariat the response sent on 22nd December 2010 to a letter of the European Commission in relation to the protection of priority species in the Natura GR 2550005 site.

The response informed that a law concerning Conservation & Biodiversity was recently approved by the Greek Parliament to ensure a more effective protection regime for the priority species in all Natura 2000 sites. The law should have entered into force by the end of March 2011. In addition to that, the Ministry of Environment was in the process of drafting a Joint Ministerial Decision, based on a specific environmental study of 2002, which should regulate all activities within the GR 2550005 Natura 2000 site by providing a specific legal protection regime. The Joint Ministerial Decision should allow facing conservation problems in an integrated way for the whole *Thines Kyparissias* Natura 2000 site.

Among the measures taken, national authorities forwarded to Local Authorities the specific environmental study mentioned above, along with a Presidential Draft Decree which includes a Management Plan for the Area, with the request of taking these into account to enforce the necessary Environmental Protection measures. The response additionally informed that a recently adopted Ministerial Decision required the official approval of the Ministry of the Environment for any license of exploitation of the sandy seashore sites issued by the Local Authorities. However, the responsibility concerning the compliance with obligations related to the exploitation itself lies down to the Local Authorities and the State Property Service.

In a report sent in September 2011 the NGO informed that, although the law on Conservation and Biodiversity entered into force in March 2011, enforcement of specific protective measures was still poor, and a number of illegal activities continued to exert a considerable amount of pressure on the nesting activity of marine turtles. In addition, according to the NGO, the Joint Ministerial Decision announced by Greek authorities was drafted yet; furthermore, none of the demolition protocols issued

by the State Property Service of the Prefecture of Messinia for the illegal constructions in the area was executed.

The NGO report denounced the degradation and erosion of the sand dunes and coastal forests, due to roads and buildings illegally developed; the lack of restoration measures to compensate the destruction part of the sand dunes; the absence of specific protection measures and lack of provision of appropriate information to local residents. The NGO considered that it would be appropriate to draft an updated Special Environmental Study (the current one was prepared in 2002), which would take into account the new developments and assist competent Local Authorities to identify specific conservation measures for the area in question.

The Bureau took note of the information provided by the NGO, which questioned the effectiveness of the measures undertaken by Greek authorities, as described in the report submitted the government in March 2011. However, because of the lack of reply by Greek authorities, as well as of new information from the European Commission, the Bureau was not in a position to properly assess the situation. It decided to consider this complaint as a complaint in stand-by at its first meeting in 2012.

In a report sent end of March 2012, Greek authorities forwarded the “Response to the letter of the European Commission in relation to the protection of priority species in the Natura GR 2550005 site” (sent on 22nd December 2010) and further informed that the procedure for the special protection of the above area and the issuance of a Joint Ministerial Decision (J.M.D.) applicable for a period of 2 years would be jointly prepared by the competent Legislative authority of the Ministry. The updating of the Special Environmental Impact Assessment (S.E.I.A.) prepared specifically for this referenced area had been included in the overall planning for the time period 2012 - 2015.

Finally, the authorities confirmed that the Administration of Messinia Prefecture had been instructed on the need to protect the site in order to ensure that the requirements set under the EC Directive 92/43 were met.

The report sent by the complainant informed that enforcement of the specific protective measures for Thines Kyparissias, included in the law concerning the Conservation and Biodiversity (entered into force at the end of March 2011) was lacking. At the same time, the provision of information to local residents by the Prefecture of Messinia regarding appropriate use of the nesting beach was also missing, while a number of activities and illegal constructions on the site continued to exert a considerable amount of pressure on the nesting activity of marine turtles. The NGO also stressed that the situation remained unchanged since last reporting, as the JMD had not yet been drafted by the National authorities and in the meantime local authorities had not prepared any specific protection measure for the area.

Finally, the NGO recalled that none of the demolition protocols issued by the State Property Service of the Prefecture of Messinia for the constructions illegally built in the area had been executed; extensions of already existing beach bars were recorded by the Land Property Service in 2011 for which new demolition protocols were issued but not executed. The same concern remained for the three beach bars that operated illegally in 2011 within the core zone of the protected area (Kalo Nero) which the NGO feared that they could restart their illegal activity soon.

The Bureau decided to consider the complaint as a possible file and to forward it to the Standing Committee to decide whether or not to open a case-file. The Bureau further instructed the Secretariat to organise an on-the-spot appraisal for putting mediation in place and gathering additional information for the attention of the Standing Committee.

In June 2012 the Secretariat addressed an official letter to Greek authorities informing about the decision of the Bureau and requesting their agreement for an on-the-spot visit which would serve to gather additional information for the Standing Committee’s attention. In September 2012 Greek authorities informed the Secretariat that its request of agreement for an on-the-spot visit was being duly considered and that a reply would be communicated soon.

At the 32nd Standing Committee meeting the Secretariat regretted to inform that no new information had been received since.

In the absence of delegates from Greece, the Chair gave the floor to the representative of MEDASSET, whom summarised the content of the reports submitted in 2012. MEDASSET used a power-point presentation illustrating with photos some few examples of degradation collected in 2011-2012, including the construction of four roads within the core NATURA 2000 area, and other disturbing human activities as, for instance, the opening of beach bars (generating light pollution and noise), fisheries with fishing vessels operating too close to the shoreline in the Southern Kyparissia Bay, the use of heavy machinery for levelling, clearing, etc.

Moreover, MEDASSET reported that the Municipality of Trifylia continued the construction of a road network within the Natura 2000 area without either an Environmental Impact Assessment or authorisation from the Ministry of Environment. The Ministry was alerted to these works, which nevertheless continued unabated in 2012. MEDASSET concluded by requesting that a case-file be open.

The delegate of the European Union referred to the report sent to the Secretariat, informing that a field visit was carried out by the Commission services in July 2012. In the light of the findings, as well as the reply of the Greek authorities to the Letter of Formal Notice, the Commission issued in September 2012 a Reasoned Opinion under Article 258 of the Lisbon Treaty for insufficient protection of the area. In case of referral to the Court of Justice of the EU, the Commission does not exclude to ask the Court for interim measures.

Regretting the absence of delegates from Greece, the Committee further stressed the lack of relevant and substantial communications from the authorities. It decided to keep the complaint as a possible file, emphasising on the need to be informed by the authorities on the state of the situation in the area. The Committee instructed the Secretariat to request to the authorities, the NGOs and the EU, updated and complete reports on this important issue.

In January 2013 the Secretariat sent Greek authorities the decision of the Standing Committee together with a specific request inviting the Party to report on the state of conservation and management of the area, enforcement of relevant legislation, assessment of possible negative impact of the tourism developments, and mitigation measures envisaged.

In reply to this request, on 15th March, the Secretariat received a short e-mail summarising the content of a letter sent by Greek authorities to the European Commission about the official schedule foreseen by the Greek Government to prevent further degradation of the natural habitats and the improvement of the situation.

However, in March 2013 the complainant sent an updated report about the information submitted by the Ministry of Environment Energy & Climate Change to the EC. A detailed Action Plan for the protection of the area in question is currently being elaborated with the aim to halt any current development works in the area until the issuance of a Ministerial Decision, which will constitute the basis for the protection of the area until a Presidential Decree is in place.

The Ministerial Decision should be drafted based on the Special Environmental Study (SES) carried out by ARCHELON and submitted to the Ministry in 2002. A Steering Committee consisting of members representing Local and National Authorities, NGOs and experts has been established in order to supervise the implementation of the afore mentioned Action Plan.

However, MEDASSET further informed about some recent unpleasant developments, occurred despite the assurances of the Ministry, including the building – since last November - of three houses in the sand dunes of the core nesting area near Vounaki hill, for which a permit has been issued outside the city planning area.

Moreover, on 20 February 2013, a part of the back of the beach in the core nesting area was plowed, resulting one more time in the destruction of dune vegetation.

In conclusion, MEDASSET requested that the complaint is again screened by the Standing Committee and urged the Secretariat to follow up through the Greek Government the progress made over the Action Plan and in particular over the cessation of all infrastructure and/or development activities, which pose an immense threat for Thines Kyparissias.

The Bureau reiterated its request to Greek authorities for timely communication and sound information, and noted that enforcement is still a major issue. It decided to screen again the complaint at its next meeting and instructed the Secretariat to urge the Greek authorities to send an official progress report informing: on the state of conservation and management of the area; on enforcement of relevant legislation and administrative decisions (including more particularly the execution of the demolition protocols); on the adoption of the measures whose implementation is envisaged as of June 2013; and on the progress made over the Action Plan, particularly regarding the cessation of disturbing activities and infrastructures.

The Secretariat regretted to inform that its letter to the authorities of May 2013 and the reminders sent until end of July remained unanswered.

In August 2013 the complainant sent an update focussing on the developments since February 2013:

1. On Kalo Nero Beach (O Sector): the Illegal wooden platforms remained despite the demolition protocols that were issued from the Land Management Agency of Kalamata. Sunbeds and umbrellas placed late May without the necessary permissions still occupied almost the whole beach and were not removed at night-time. Other disturbances reported by the complainant were intense light pollution and excessive vehicular traffic on the coast road of Kalo Nero. The Municipality of Trifylia did not equip the area with informative signs and prevented ARCHELON to erect the seasonal information station. The complainant denounced a worsening situation and an increase in the number of tourists on the beach at night.

2. Beach Sector between Neda River and Kalo Nero beach (A, B, C Sectors): The Plowing of the dunes recorded in February 2013 was repeated in April 2013 (with the blessings of the Mayor of Trifylia). The construction of the houses was progressing, while planning permission was issued for the construction of another 2 buildings in the area. However, the issuance of building permits had been suspended for a part of the NATURA 2000 site since late May 2013 (Bill (FEK): 180/24-5-2013).

Intense light pollution at night and lack of informative sign-posting were a threat also to this area.

According to ARCHELONS most recent investigations, adult turtles that attempted to nest returned to the sea without successfully doing so. In addition, a high number of nests were purposefully vandalised almost on a daily basis since the start of the nesting season. Moreover, ARCHELON's personnel had been victim of physical and verbal offences and the scientific equipment was stolen.

No Action Plan was been elaborated for the area in question at that time, while the Steering Committee responsible for supervising the implementation of the Action Plan and for drafting a Ministerial Decision (MD) met only twice.

Regretting the lack of concrete information on the conservation and management of the area, as well as the enforcement of relevant legislation, the Bureau suggested, at its September meeting, that the case file should be discussed as a file open at the 33rd Standing Committee meeting.

Greek authorities didn't attend the 33rd Committee meeting but addressed a report in October 2013 informing that the Ministerial Decision of Suspension/Prohibition of all construction and agricultural activities in the broader coastal area was issued in May; a Ministerial Decision issued in July had put in place a basic set of management measures concerning the reproduction of the sea turtle; in June the authorities commissioned to a Professor of the University of Athens a detailed study of the area in order to provide all the necessary environmental data that should form the basis of a Joint Ministerial Decision.

Moreover, the authorities announced that in January 2014 there would be a Decision offering a specific legal protection regime for the site (GR 2550005) during the next 2 (+1) years. This should include an integrated management plan and measures for the cessation of all disturbing activities and infrastructures with an emphasis to sand dune restoration, where possible.

After examining the presentation of the complainant, which provided examples of habitat degradation due to the recent development of roads, large and small-scale housing development plans, installation of greenhousing, and the presence of heavy machinery and vehicles on the nesting beaches

the Committee expressed worries for the continued developments in the Natura 2000 site and the possible threats that these may cause to the habitats and species of the area. Considering the matter as urgent, the Committee decided to keep the case file open and instructed the Secretariat to seek the agreement of Greece on an on-the-spot appraisal to be carried out in the first semester of next year.

In 2014 the Secretariat addressed Greek authorities twice: a first letter communicated the decision of the Committee to the authorities and invited the letter to agree on the principle of a visit whose purpose would be to gather additional information, as well as to examine ways to improve the situation, and provide the authorities with specific advice. A second letter followed in March 2014, reiterating the Committee's concern and proposing the period of 14-16 July as possible dates for the on-the-spot visit, bearing in mind the involvement of national authorities in the Presidency of the European Union until 30 June. The Permanent Representation of Greece before the Council of Europe was copied in this correspondence. However, the Secretariat regrets to inform that no reply was received by the preparation of the present document.

d. Turkey: Presumed degradation of nesting beaches in Fethiye and Patara SPAs

At the Bureau meeting in September 2012 the Secretariat informed that MEDASSET submitted an updated report regarding the implementation by Turkey of Recommendation No. 66 (1998) on the conservation status of some nesting beaches for marine turtles.

Although in 2011 some valuable steps were made to protect the loggerhead nesting areas at the Fethiye SPA, the NGO was concerned by the fact that several of these measures were not sustained in 2012.

In the light of these new elements the Bureau decided to include the follow-up of this Recommendation on next Standing Committee meeting agenda.

At the 32nd Standing Committee meeting the delegate of Turkey informed on the measures undertaken to protect the nests in the area, including caging, tagging of animals, awareness raising and monitoring.

The representative of MEDASSET made a detailed presentation based on photo supports showing, despite some efforts from the authorities, lack of guarding and of information signs, litter and light pollution, plantation of introduced species, unregulated motorised water sports and presence of people and vehicles on nesting beaches at night. MEDASSET stressed that, in 2012, one new wooden hut with a concrete patio was installed on the nesting beach, and a hotel was built on the beachfront, destroying the last section of the remaining wetland while Recommendation No. 66 (1998) specifically states that remaining unbuilt beach plots should be secured against development.

MEDASSET proposed that a file should be open regarding Fethiye SPA, and concluded its intervention by calling upon Turkish government to inform regarding the neutralisation and removal of the toxic waste as well as sea turtle conservation efforts in Kazanlı, and informing the Committee that a new complaint has been lodged before the Convention regarding the Patara SPA.

The delegate of Turkey acknowledged that the images presenting the situation in Fethiye were "uncomfortable" and stated that he expected matters to improve, as certain organisational issues related to the management of the beaches were expected to be resolved soon.

The delegate of Norway considered that there were reasons for concern, but welcomed the conscious reaction of the delegate of Turkey. He therefore suggested, with the support of the delegate of the Slovak Republic, that the file be dealt as a possible file.

In January 2013 the Secretariat forwarded the Standing Committee's decision to the authorities of Turkey, together with a reporting request. Turkish authorities replied on 15th March asked for an extension of the deadline for submitting the information requested. The Secretariat committed to make an oral summary to the attention of the Bureau members in case of reply before 5th April.

Meanwhile, the NGO submitted updated information on the situation in Patara, Fethiye and Kazanlı, urging the Secretariat to consider the complaints lodged for Fethiye SPA and Patara SPA as distinct.

In fact, MEDASSET argued that on the one hand the complaint and the subsequent update reports submitted to the Secretariat referring to Fethiye SPA highlight the lack of implementation of conservation and management measures, as well as the construction of new hotels and other buildings on the nesting beaches; on the other hand, the problems highlighted in the complaint referring to Patara SPA at this stage focus on the ongoing large scale construction projects taking place within the protected area and failure of the current land use and management plan to secure adequate protection status to the SPA at both the ecological and archaeological heritage management level. MEDASSET offered to invite an expert on land use and heritage site management to further inform the Standing Committee, if requested by the Bureau.

Regarding more concretely Fethiye SPA, and noting the continued decline of nest numbers in the area possibly due to poor management and protection of the habitat, MEDASSET requested a detailed report by the Turkish authorities with an account of conservation and management measures to be applied in Fethiye SPA before and during the 2013 nesting season.

Concerning Kazanlı, MEDASSET requested that the issue be dealt with as a follow up to Case File No. 2000/1, which the Bureau dismissed in 2009 in order to consider the complaint under the general monitoring of the implementation of Recommendation No. 66 (1998). However, MEDASSET asked that Recommendation No. 95 (2002) on the conservation of marine turtles in Kazanlı be put on the agenda of the 33rd Standing Committee meeting since there has been no news or report on progress for the safe disposal of the 1.5 million tons of highly toxic solid waste located right next to Kazanlı's most important green turtle nesting site, posing a threat to the environment and human health.

In April 2013, after assessing the file, the Bureau took note of the concern and requests expressed by MEDASSET and agreed to monitor the implementation of Recommendation No. 95 (2002) at next Standing Committee meeting. However, the Bureau still considered that the conservation and management issues related to Fethiye and Patara SPA are interlinked and that they should be addressed in conjunction. It therefore decided to re-assess this complaint as a unique possible file at its next meeting.

The report of the national authorities reached the Secretariat a few days after the Bureau meeting.

In the report, the authorities explained that, following the restructuring of the Ministry of Environment, the General Directorate for the Protection of Natural Assets had been appointed as the body for the Special Environmental Protection Areas (SEPA). The latter can be subject to urban developments, provided that these are foreseen in the so-called Master Plans, which fix the conditions for land use and density of developments in the respective areas.

More specifically regarding Patara, the report informed about the legal status of the area, stressing that the zone where the villas are constructed is a 3rd Degree Archaeological Site (DAS). Moreover, the construction plans related to Patara 1st DAS have been approved by decree. In addition, the report summarised the measures taken for ensuring sea turtle conservation in the period between May and September 2012, and provided some data collected as a result of monitoring studies carried out in the same timeframe (i.e. number of nests, tracks, predation, accidents, etc.).

Concerning Fethiye SEPA, the report provided the same kind of data, and further informed on more specific conservation actions, like for example the caging of nests against human activities and predators, a measure which concerned 11.23% of the nests. Public awareness actions were also implemented by night at the "Caretta Info Desk" on Çalış beach, targeting for instance local and foreign tourists.

The Secretariat acknowledged the encouraging information on some conservation actions carried out by the authorities in 2012, but invited them to complete the report submitted with more detailed information on some of the issues raised in the Secretariat's correspondence, for instance the measures and actions whose implementation was foreseen this year, as well as the steps towards the removal of illegal or unauthorised constructions in both Fethiye and Patara SPAs. The deadline for the complementary information was set to 6th September 2013.

On 9th September the Secretariat received the report by the complainant. Regarding Fethiye, the report listed and described into details the impact of the main threats to the nesting population, affirming that in 2013 there was no improvement to the protection and effective management of the

nesting beaches, with the exception of beach furniture management in a small part of the nesting beaches and some new signage which, however, remained insufficient. The main threats continued to be the lack of effective signage, the presence of beach furniture, beach access at night, light pollution, plantation, and illegal tourism infrastructure. The report included a list of recommendations, namely regarding the need of reinforcing guarding on the beaches, of continuing the programmes of scientific monitoring and nest protection, the need of appropriately managing beach furniture, preventing the access to the beaches at night, removing the plantations and securing the remaining unbuilt beach area against developments.

Regarding Patara, the complainant reported that the building of 27 villas to be inhabited by summer 2014 had been completed. The complainant further recalled that the whole construction project concerns the building of around 400-750 villas in total and stressed the need of urgently reconsidering the scale of the project. Moreover, like in Fethiye, signage was insufficient and apparently no guarding was foreseen to enforce conservation rules on the nesting beaches, unlike previous years. The complainant reiterated its proposal to bring an expert on land use and heritage site management to further inform the Standing Committee, if requested by the Bureau.

At its meeting of September 2013, the Bureau requested the Party to provide the Standing Committee with an updated report, including more recent information related to, among others, the breeding season.

At the 33rd Standing Committee meeting the Secretariat informed that Turkey didn't send a written report but the Delegate of the country expressed the wish to provide an oral update after the presentation of the representative of the complainant.

The representative of the NGO presented the most updated information, reiterating the problems already spotted in previous reports. More concretely, for Patara the NGO requested the re-evaluation of the scale of the tourism development project in the 3rd Degree Archaeological Area, the implementation of an Environmental Impact Assessment, and the elaboration of an updated SPA management plan to manage visitor flows prior to the 2014 tourist season.

On Fethiye, the NGO showed pictures taken during the summer season in 2013 clearly showing the lack of effective signage and guarding, lack of management of the beach furniture, beach access at night and consequent light pollution, creation of parking spaces, wooden pavillons, temporary discos, and even a new road.

The Delegate of Turkey explained that the authorities are aware of the situation and committed to revert it. In fact, the process of reorganisation of the competencies within the bodies responsible for nature conservation had an impact on the efficiency of the response of the government, but some measures were already envisaged to ensure that the effective management of both areas is done in compliance with the recommendations of the Standing Committee.

In the light of the above, the Committee decided to open the file as a mean for encouraging relevant bodies at national level to work towards greater accountability, co-operation, and responsibility. Besides, the Committee instructed the Secretariat to promptly approach Turkish authorities with a detailed reporting request, and mandated the Chair of the Standing Committee to convey the Committee's concern to the responsible national authorities, together with the relevant proposals of assistance.

The Secretariat addressed a letter to Turkish authorities already in January 2014, conveying the worries of the Committee as well as the proposal of assistance, and requesting an updated report on the progress towards the management of the area. Due to a communication problem, the Delegate requested an extension of the deadlines fixed by the Secretariat until the 28 March.

Therefore the Secretariat first received the report from the complainant, concerning both Fethiye and Patara. Regarding Fethiye SPA, MEDASSET considers that there are no signs of preparatory actions by the authorities to improve the management and conservation of sea turtle nesting beaches. In addition, the complainant report denounces the promotion by the authorities of a "public interest decision" to allow for the relocation and construction of a shipyard/drydock on Akgöl nesting beach. The latter is an "old" project regularly denounced by MEDASSET since its construction could undermine conservation efforts in the area and have a severe impact on a pristine habitat. In its report,

MEDASSET addresses a series of requests to Turkish authorities, including the preparation of a SPA management plan for both the land and marine areas, the urgent implementation of a comprehensive action plan ensuring proper management and adequate protection of the SPA, and the allocation of the necessary financial and human resources for the enforcement of regulations. Furthermore, the complainant requests that the government reject the plans for the construction of the drydock in Akgöl.

On Fethiye, MEDASSET requests that the Bureau consider an on-the-spot assessment as a way forward in case no relevant information is communicated by the national authorities on the complaint, and that it request an official update on the status of the shipyard construction project and reiterate its request towards Turkish authorities to reject the proposed location of the shipyard.

Regarding Patara, MEDASSET informs that the construction of another 300 villas inside the protected area has been documented in several press articles since January 2014. According to the complainant this summer house construction project is incompatible with the Bern Convention's related recommendations and requests that the national authorities take a clear position regarding the construction project, re-evaluate its scale, revise the SPA management plan and ensure its implementation through the necessary human and financial resources before May 2014. As for Fethiye, the complainant concludes by requesting that the Bureau consider the possibility of an on-the-spot assessment in case of lack of reporting by the Turkish authorities.

The government report, sent on 27 March, informs about the few activities undertaken in 2013 to protect marine turtles and their nests.

Concerning the Fethiye-Göcek SEPA, the report admits the lack of a local management unit, as well as of physical points of entry/exits. Although the control of the area was not adequately maintained, the report informs about the results of the studies carried out during the 2013 nesting season, with data regarding the number of emergencies, of nests caged against predation and human activities, and hatching. Regarding the latter, only 1.92 % of the nests did not produce any hatchlings and, after considering the unfertilized eggs and the death in shell, the hatching success was calculated at 91.99%. The report further contains pictures documenting some public awareness activities, namely with hotel owners, personnel and guests, as well as the installation of three info signs at the main entrance to the beach at Çalış, Yanıklar and Akgöl sections.

Concerning Patara, the authorities note that the area where the villas are to be constructed is about 2 km away from the beach. The Implementation Plans for the construction project received all necessary authorisations and were prepared by the Ministry of Culture and Tourism and endorsed by the Antalya Culture and Natural Heritage Protection Regional Council. Moreover, the scale of the initial plans has been already reduced of approximately 75%.

More concretely regarding sea turtle protection activities, the report informs about the results of the studies conducted between May and September 2013, showing a high percentage of eggs suffering from predation, mainly by foxes. However, around 90% of hatched turtles managed to reach the sea. Some awareness activities, similar to those carried out in Fethiye, were also organized in Patara.

[e. Bulgaria: Wind farms in Balchik and Kaliakra – Via Pontica]

[f. Italy: Eradication and trade of the American grey squirrel (*Sciurus carolinensis*)]

The Secretariat reminds that complaints under brackets on the meeting Agenda will be assessed at the second Bureau meeting.

Reporting requests, where appropriate, have been addressed to the competent authorities.

2. Possible files

- Turkey: threats to the Mediterranean monk seal (*Monachus monachus*)

End of June 2011 the Secretariat received a complaint from the Middle East Technical University Institute of Marine Sciences regarding the development plans comprising the construction of a road as well as of a new marine terminal near Yesilovacık village (Silifke district, Mersin Province) which would eventually have a detrimental impact on the Mediterranean monk seal (*Monachus monachus*), a species listed in Appendix II of the Bern Convention (strictly protected fauna species).

The complainant expressed concern with regards to the location of the planned marine terminal, foreseen at just 500 meters away from a breeding cave acting as a bridge between the core monk seal colony of the area and the pioneers moving further east.

Moreover, the complainant considered that the breeding cave, formed by soft geological material, could eventually collapse once the planned road will be opened to lorry traffic, and that pollution, turbidity and noise will force the actual inhabitants to abandon the cave without having in the vicinity other caves with similar morphology. The complainant informed that an Environmental Impact Assessment was made by the Ministry of Environment and Forestry for the marine terminal although this had not apparently taken into account the critical importance of the chosen area for the Mediterranean monk seal.

The complainant highlighted that the Mediterranean monk seal is also protected by other international agreements, among which CMS, CITES and the Barcelona Convention.

The Bureau took note of the information provided, stressing that the Monk Seal is one of the world's most endangered mammal. However, it considered necessary to give Turkish authorities enough time to provide a reply. Therefore the Bureau instructed the Secretariat to contact Turkish authorities for a complete report, in particular concerning the status of the project and the populations of the species affected. The Bureau further required the Secretariat to contact the complainant for more detailed information and data regarding the morphology of the habitat under threat as well as on the possible habitats in the vicinity and the population likely to be affected.

The report sent in March 2012 by the complainant was accurate and provided a summary of the main studies carried-out on this issue since the '90s. However, it stressed the difficulties in providing exact information on the population size in the Mediterranean because of the fact that the seals on the Aegean coast are transboundary and move between Greece and Turkey. Nonetheless, the complainant highlighted that even if the last available estimation (2007) for the narrower coastal band between Antalya and Syria was given at 38 individuals (thus showing a certain increase if compared with the '90s), the Monk Seal population is still low enough to consider the species as one of the most endangered as well as to concentrate conservation efforts on the protection of those habitats - more particularly the caves - in which crucial biological requirements for the species are fulfilled.

Regarding more concretely the breeding cave which is the object of this complaint, Balıklı cave, the plaintiff first stressed that Mediterranean monk seal was forced to abandon beach habitat due to human disturbance, hunting and habitat fragmentation, choosing, as a consequence, cave habitat for resting and reproduction; he further presents the results of long-term studies revealing that the total number of suitable caves in Mersin area is 37 out of which only 7 caves are located in the coast between Tasucu and Aydincik, and only one of them, Balıklı has the morphology suitable for whelping (and hence is used by pregnant mothers) which consists of an entrance with a barrier against strong waves, a deep and wide beach located at the very far end, and a shallow protected pool in front.

Taking into account the scarcity of suitable habitats, Mersin (Cilician) coast and the targeted breeding caves and the foraging areas were designated by the competent authorities as "No-take-zone" (sea) and "1st Degree Natural Asset" (land) already in 2007. The further studies carried out right after the enforcement of conservation measures showed that the response of the seals in Mersin was very positive with increased success in breeding as from 2002.

Concerning the morphology of the Balikli cave the complainant explained that the West side of Mersin coast (Cilician basin), where the cave is located, is characterised by ruggedness with steep mountain sand shoreline cliffs plunging into the Mediterranean. The geography on the coast is dominated by karst topography, but also by sand and sedimentary rocks. Balikli is built by soft material mainly deposition of soil at the outskirts of the coastal ridge and therefore has a very fragile structure and a delicate ceiling. However, it is protected from prevailing winds (no risk for the pup to be wounded or die during very harsh winter storms as it is the case for other caves), and a shallow pool is located inside the cave, surrounded from right to left by a small platform, a beach, and some flat-topped rock blocks. For these reasons the complainant considered that the conservation of Balikli cave is directly linked to the survival of the monk seal population in Mersin.

Regarding the report from the government, the Secretariat informed that an official letter requesting updated detailed information was sent to Turkish authorities on 4 October 2011, followed by several reminders in February and March 2012. The Secretariat regretted to note the absence of a reply.

The Secretariat recalled the “Criteria for selecting underground habitats of biological value” appended to Recommendation No. 36 (1992) on the conservation of underground habitats, which suggest considering as underground habitats of ecological value or value for the heritage, those habitats where – among others- vulnerable, endemic or rare species are present; those habitats whose vulnerability may result either from danger of destruction of the habitat itself (quarrying, filling in, development) or from the destruction of its fauna by chemical or organic pollution, over-visiting or thoughtless hunting; those habitats which can either serve as a reference or be used for long-term follow up of populations and biotic communities.

The Bureau considered that this issue was serious enough to deserve attention at the international level. It therefore decided to forward the complaint to the Standing Committee as a possible file; it further instructed the Secretariat to continue seeking for the opinion of the national authorities, to be referred to the Standing Committee directly.

At the meeting of the Standing Committee in November 2012, the delegate of Turkey presented the government report, stressing that the development project was approved after undergoing all EIA procedures. Moreover, an independent evaluation of the EIA was carried out by three Professors from the Ankara University. The authorities further organised a meeting with the complainant to discuss the possible ways forward but, in the meantime, the issue has been brought before the Turkish National Court. The authorities ensured that the Turkish Ministry of Forestry and Water Affairs will be monitoring all developments related to this complaint and inform the Secretariat as soon as the Turkish Justice will emit its judgement.

The Secretariat sent a request for updated information to the Party in May 2013.

In the meantime, it received a report from the complainant, namely informing on the results of the monitoring carried out in the past two years using photo-traps. The investigation shows that Balıklı cave has been actively used by two females, two males and 1 monk seal pup that was born in the cave. Although the complainant recognises that the number of seals using the cave can be higher than the number of seals observed (only a few chambers of the cave could be monitored due to technical constraints), it seems likely that seal activities is now lower if compared to the period before the construction.

Following the letter of the Secretariat, Turkish authorities kindly informed that the competent Ministry sent a pool of experts to the area for preparing an official report on the state of the situation. The report is under inspection now and the Ministry committed to inform the Secretariat as soon as the assessment of the report is completed.

At the meeting of the Standing Committee in December 2013, the Delegate of Turkey confirmed that a final judgment on the law case before the Turkish National Court was expected soon. He informed that the report following the on-the-spot investigation confirmed that the Monk seal is again using the cave, and this since the construction in the nearby were stopped by the authorities.

The Committee decided to keep the complaint as a possible file and invited the Turkish authorities to keep the Bureau informed of any new development, including on the Court’s decision.

For this meeting of the Bureau, no new elements were communicated by the Turkish authorities. The complainant however, sent an updated report in March 2014, warning the Secretariat in particular on the fact that the construction of the marine structure has apparently not been stopped as stated by the national authorities in December 2013.

The complainant provides dated pictures to illustrate the progress in time in the construction works. It further confirms that even the pool of experts sent to the area by the Ministry for preparing an official report on the state of the situation has witnessed the continuation of the works although the decision of the national court is still pending. The complainant informs that the marine works are almost finished.

The complainant also notifies on a worrying decrease in seal activity in the cave during 2013, as shown by camera recordings in the period July 2013 and December 2013. The most disturbing information provided by the complainant concerns the death of a pup born in December 2012 in the cave, found dead on the beach near the construction site by local inhabitants. According to the complainant, the autopsy performed by authorised veterinarians at the Institute of Marine Sciences on 29 February 2014, reveals clear indications of the severe malnutrition of the new born pup. This theory is supported by the evidence provided by the camera photos of the pup in the cave in a very weak and undernourished condition.

- Possible spread of the American mink (*Neovison vison*) in Poland

In 2012 the Secretariat received a complaint by a Polish citizen claiming that the American mink (*Mustela vison*) was not included in the list of non-native plants and animals that might endanger native species. The American mink is farmed in Poland and is also present in the wild. The complainant did not specify which provisions of the Convention might be breached by the Party.

The complainant requested the inclusion of the species in a specific regulation published on 9 September 2011, particularly because of the known effects of American mink on native fauna, quoting a number of native species that may be prey.

The Secretariat addressed a reporting request to the government which replied that although the Ministry of Environment had proposed the species to be in the list, the Ministry of Agriculture opposed its inclusion as it considers the American mink as a farm animal that should not be affected by regulations such as prohibition of import or other controls on alien species. The Ministry further affirmed that the risk of escape relatively low, as there are no incidents reported so far.

The Secretariat noted that Article 11 paragraph 2 b) of the Convention commits states to strictly control the introduction of non-native species.

At its meeting of September 2012, the Bureau noted that although apparently the species has not spread yet in Poland, inaction from Parties could eventually lead to a possible breach of the Convention, particularly because the risk of escape of the American mink into the wild is high, and several European countries have already been confronted to this situation.

The Bureau decided to re-consider this complaint as a complaint in stand-by at its first meeting in 2013 and instructed the Secretariat to contact Polish authorities for an updated report, better detailing the reasons why the species has not been listed as invasive alien, and informing on the occurrence of the species in the wild and on the measures in place to limit the risk of escape or eventually foreseen for its eradication.

A detailed reporting request was sent to Poland in January 2013. A reminder was sent in March. However the Secretariat didn't receive a reply by the preparation of the present document.

At its first meeting in April 2013 the Bureau regretted the lack of reply from Polish authorities and instructed the Secretariat to reiterate its request. It further expressed serious doubts regarding the low risk of escape of the species and decided to reassess this complaint at its next meeting as a complaint in stand-by, stressing that if no new information will be available by then, the complaint could be forwarded to the Standing Committee as a possible file.

Despite a detailed official letter sent in May (requesting to inform on the reasons why the species has not been listed as invasive alien, as well as providing information on the occurrence of the species in the wild and on the measures in place to limit the risk of escape or possibly foreseen for its eradication) the Secretariat didn't receive any reply from Polish authorities.

Nevertheless, in June 2013, the complainant sent a short update accompanied by a recent scientific publication showing that the American mink in Poland presents high genetic diversity and originates from different source population of their native range. According to the article, the colonization was triggered by numerous escapees from farms, as well as by immigrants from Belarus.

The complainant also contested the authorities' statement according to which in Poland the American mink is a farm animal and thus cannot be classified as IAS. In fact, the complainant

provided the example of the Sika deer (*Cervus Nippon*), which is listed both in the farm animal, IAS and game lists.

In September 2013, the Bureau decided to change the status of the complaint and to forward it to the Committee as a possible file because its reiterated reporting requests to the authorities remained unanswered. It was later discovered that, because of the appointment in Poland of a new focal point for the Bern Convention, any of the reporting requests addressed to the Party were received.

At the meeting of the Standing Committee in December 2013, the Delegate of Poland provided further information on the Polish population of wild American mink, as well as on the measures implemented for its eradication, including measures to prevent escapes into the wild. An audit was also conducted, with the objective of assessing the effectiveness of the State supervision on the running of fur farms.

The Delegate of Poland was pleased to announce that, taking into account the results of this audit, the Minister of the Environment decided to amend the Regulation on the list of non-native plants and animals species, which if released to the environment might endanger native species or natural habitats, in order to include the American mink into its Annex I. In December 2013, the draft amendments to the Regulation and its Annex were under preparation.

The Committee decided to keep the complaint under scrutiny as a possible file, until the amendments to the Regulation are notified to the Secretariat and the Bureau. In January 2014, the Secretariat sent a letter inviting the Polish authorities to send any new information on the adoption of the amendments. No new information was submitted by the preparation of the present document.

3. Complaints in stand-by

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

A complaint was lodged in 2009 by the *Espace de Solidarité et de Coopération de l'Oriental* (ESCO), based in Oujda, Morocco. It related to the 4 500-hectare Moulouya estuary site, which ranks as a “zone of biological and ecological interest” (SIBE, in the French acronym), and has been a Ramsar site since 2005. The organisation denounced the huge project for a new tourist resort in Saïdia, which formed part of the country’s ‘Blue plan’ for the strategic development of the tourist industry. The project was, they claimed, devised without prior environmental impact studies and the planned infrastructure (roads, canals, water treatment plants) would damage the Ramsar site of Moulouya, which was very important for migratory bird species and hosted two thirds of Morocco’s total known bird species. The organisation had submitted a complaint to the public prosecutor at the Berkane Court of First Instance in 2006, to which it had had no response to date. They had also organised a petition to safeguard the Moulouya site, which had been signed by 680 people.

The Moroccan authorities have informed the Secretariat that this 700-hectare project along a 6 km-long beachfront lies outside the limits of the SIBE and the Ramsar site. It is part of the strategic priorities for the region’s development and was agreed to, launched and encouraged by the Government. The authorities have stressed that the studies carried out under the MedWestCoast project are completely reliable.

At the 2010 Standing Committee meeting the Secretariat announced that a Ramsar Advisory Mission had been conducted on the site from 12 to 16 October 2010. As a result, many recommendations had been made, covering all aspects of plant and wildlife conservation.

The Moroccan Delegate, who had taken part in this visit, informed the Committee that the tourism project next to the Ramsar site had indeed raised concerns but these had been dispelled as a result of the on-the-spot visit. The report was being validated by the Moroccan authorities but certain measures had already been taken.

The Committee instructed the Bureau to analyse the report of the consultative visit organised from 12 to 16 October 2010 in the framework of the Ramsar Convention and take appropriate decision on this issue.

At the 2011 Standing Committee meeting, the Delegate of Morocco confirmed that her government shared the concerns expressed both by the Ramsar Convention and in the Bern Convention and said it had made sustainable development a central plank in its development policy. Some recommendations were already being implemented, moreover.

The Delegate of Norway noted that all the various interests could be reconciled and that the efforts already made by the Moroccan government were encouraging.

The Committee decided to keep the complaint as a complaint in stand-by and asked the Moroccan Government to report on the progress made in the implementation of the recommendations issued as a result of the advisory visit. It further instructed the Bureau to continue to co-operate with the Ramsar Convention on this issue

In 2012, the Secretariat continued to receive information from ESCO concerning the concreting over and drying out of the Moulouya SIBE.

In a letter dated 20 February 2012, the Moroccan authorities reasserted their desire to focus efforts on restoring and rehabilitating the areas concerned and underlined that all the local NGOs had been involved in the advisory visit and helped to draft the recommendations, which in no way hid the problems with water management. The authorities also questioned the reliability of the information submitted by ESCO and asked the Secretariat to treat it with maximum caution.

The Secretariat remained in contact with the Ramsar Convention which had not received any detailed information on the implementation of the recommendations.

At its April 2012 meeting, the Bureau noted with satisfaction the progress made by national authorities towards fulfilling the requirements of the recommendations raised by the Ramsar Convention. It decided to keep this complaint as a complaint in stand-by and to reassess it in September, in light of updated information from both Moroccan authorities and the Ramsar Convention.

In June 2012, Moroccan authorities were requested to send a report by 24th August 2012. However, the updated information hasn't reached the Secretariat.

Moreover, in August 2012 the Secretariat received a report by the complainant, analysing the recommendations raised by the Ramsar Convention and the measures so far implemented by the Government. In the complainant's view, the actions undertaken by the authorities are neither sufficient nor satisfactory. Furthermore, the complainant informed about other problems which apparently occurred after the Ramsar consultative mission, as for instance a supposed ecological disaster (caused by the accidental discharge, in July 2012, of sewage and chemical pollutants in the Moulouya River by the SUCRAFOR sugar plant in Zaio, leading to a complaint submitted by local NGOs to the competent court). According to the complainant, local NGOs were also obliged to lodge an appeal to stop three new constructions foreseen in the SIBE disregarding the status of the site.

Noting with disappointment the lack of reply by the national authorities but further noting that no new information was available under the Ramsar Convention either, the Bureau decided to keep this complaint as a complaint in stand-by and to reassess it at its first Bureau meeting in 2013.

In January 2013 the Secretariat sent a reminder to Moroccan authorities including the decision of the Bureau and asking for an updated report. A second reminder was sent in March. However the Secretariat hadn't received a reply by the preparation of the summary document for the Bureau meeting in April 2013.

Meanwhile, the complainant sent an update of recent developments in the area stressing further deterioration of coastal dunes in Saïdia.

At its meeting in April 2013, the Bureau instructed the Secretariat to consult with the Ramsar Secretariat on the need to keep the complaint under scrutiny. The Secretariat requested Ramsar's opinion on the complaint and was informed that a reply would be sent before the Bureau meeting in September 2013. However, no updates had been received by the Secretariat by that date.

In September 2013, the Bureau instructed the Secretariat to send a last request for information to the Ramsar Secretariat and to re-assess the complaint for its meeting in April 2014. If no further information is submitted, the Bureau could decide to dismiss the complaint.

The Ramsar Secretariat answered in February 2014 that the case was not closed on their side yet. They also reported that they were currently working on re-establishing a constructive relationship with the government of Morocco that they were planning to meet in 2014.

The Secretariat offered its assistance or cooperation, if needed, in the process of re-establishing the contacts with the authorities, and requested further information on the nature of the meeting, the dates and the topics to be discussed.

- Sport and recreation facilities in Cirali key turtle nesting beach (Turkey)

In May 2012 the Secretariat received a complaint submitted by the Ulupinar – Çirali community, questioning the allocation of a land including 75% of Çirali beach to “Orman Spor” – a football society - for the establishment of football grounds and recreation facilities. Çirali beach is in fact among the 20 key nesting areas in Turkey and has been designated as 1st Degree Natural Site, belonging to the National Park Olimpos-Beydaglari. Furthermore, the area is well known in Turkey as it has been pioneer in establishing eco-agriculture; for instance, the local community set-up a Cooperative which is in charge of managing and conserving the area.

According to the complainants, the land was allocated to the sport society by the Ministry of Forests, while the Ministry of Environment and Development delivered a permit to use the area as “C Class” excursion area”, i.e. allowing for the touristic exploitation of the site. The complainants highlighted that Orman Spor’s sponsor is in fact a tourism promoter. Therefore the complainants expressed strong worries regarding the impact that new infrastructures and an increased human presence will certainly have on the nesting activity of *Caretta caretta*.

Despite a reporting request addressed to Turkish authorities for the Bureau meeting of September, the Secretariat didn’t receive any notification from the Party.

In the meantime, the Secretariat received a notification by the complainants informing that some local residents and the Bar Association of Antalya lodged a complaint against the Ministry of Environment and Development, requesting both the cancellation of the decision converting the area into a “forest recreation area” and the decision to allocate it to “Orman Spor”. The 2nd Administrative Court of Antalya delivered its ruling, quashing the decision consisting in allocating to Orman Spor the land in question, but confirmed the decision regarding the land uses and development of the area.

As a result, the complainants applied to a regional, higher, court which, in June 2012, quashed the array of the Antalya 2nd Administrative Court which has now to reconsider its position and emit a new judgment.

The Bureau strongly regretted the absence of an official report from Turkish authorities on such an important issue and decided to forward this complaint to the Standing Committee as a possible file

At the meeting of the Standing Committee in November 2012, the delegate of Turkey apologised for the lack of reply to the reporting requests, explaining that the authorities preferred to wait for the Court decision before informing the Secretariat. He emphasised that, following the ruling by the 2nd Administrative Court of Antalya, the authorities gave back the protection status to the site while waiting for the decision on the appeal.

The representative of MEDASSET welcomed the information provided by the delegate of Turkey and stated it hoped that the re-designation of the area will mean better protection in Cirali.

The Committee decided to forward the complaint to the Bureau for its follow-up as a complaint in stand-by. The Secretariat addressed a request of possible update to the Party in May 2013.

The Turkish authorities informed that the decision of the Court is still pending, and that the construction works are suspended in the meantime.

At its meeting in September 2013, the Bureau welcomed the suspension of the works pending the court’s decision and decided to discuss again this complaint as a complaint in stand-by at its first

meeting in 2014. The Secretariat contacted the Turkish authorities with a request for updated information if any, on 23 January 2014. No updated information was submitted by the preparation of the present document.

- Presumed illegal killing of birds in Malta

This complaint concerns the bird-killing by Maltese nationals during the spring season, in presumed violation of Articles 6-9 of the Bern Convention. The complaint was lodged by a private citizen and registered by the Secretariat in July 2012.

The complainant referred to CABS and BirdLife reports, according to which the phenomenon in Malta concerns a number of migratory birds whose populations are suffering a dramatic decline, such as the Honey Buzzard and the Golden Oriole, or which are legally huntable in Malta but red listed in other European countries (like for example Golden Plover, Lapwing and Skylark). According to BirdLife Malta, the poachers are specifically targeting raptors and Herons, as well as other rare migratory birds.

The complainant further referred to the CBD, the CITES, the Barcelona Convention and the CMS, of which Malta is Party, and the AEWa. She recalled The European Court of Justice in 2009 issued a judgment against Malta determining that it was in violation of the European Bird Directive by allowing the hunting of skylarks and quail in the spring. In light of continued violations by the Maltese government the European Community was considering returning to court against Malta asking to impose fines on the Maltese government.

The report sent by Maltese authorities in January 2013 informed about the legal framework put in place to transpose into the national legislation both the provisions of the Bern Convention and those of the EU Directive 2009/147/EC on the Conservation of Wild Birds (Birds Directive), stressing that all species of birds which may be hunted or taken under Maltese legislation are either listed under Appendix III of the Bern Convention or not listed in any of its Appendices. Regarding the EU Directive, Malta recalled the derogations which allow, under strictly controlled and supervised conditions, to legally hunt certain species protected under the Directive. Moreover, the import or export, sale, transport for sale, keeping for sale or offering for sale of live, or dead birds, or any recognisable parts or derivatives of birds protected under the Maltese Regulations is prohibited and appropriate fines are foreseen for the offenders.

Regarding the reporting obligations under Article 9 of the Convention, on exceptions made to the provisions of the Convention, the authorities of Malta referred to the Updated Biennial report form, according to which "European Community states do not need to report on exceptions regarding birds, as the European Community will cover that obligation for all its member States".

Furthermore, the authorities questioned the statement that the consequences of hunting on Malta are catastrophic for many European migrant bird species since they affirmed that huge passages of migratory birds over Malta are considered to be rare. The report further detailed special provisions regarding spring hunting in Malta, stressing the government's commitment to their enforcement, and highlighting that spring hunting is subject to a stricter regime of control than that provided for in the Conservation of Wild Birds Regulations as applicable.

Concerning the illegal hunting of birds of prey, the government affirmed its commitment towards condemning it and informed about the applicable legislative framework, revised in the past years, and which foresees severe fines for the offenders.

On the (legal) hunting of species listed in Appendix III of the Convention, the government report stressed that this is allowed under certain conditions which ensure that the population concerned are taken out of danger, as requested by the Convention.

In April 2013, the Bureau asked the Group of Experts on the conservation of birds to examine this complaint at its forthcoming meeting. It further invited the authorities of Malta to attend the 2nd Conference on Illegal killing, trapping and trade of wild birds, as well as the 4th Meeting of the Group of Experts on the conservation of birds, and to report to the Group. Finally, the Bureau instructed the Secretariat to seek for the EU opinion on a possible joint follow-up.

A delegation of Malta positively replied to the request of the Bureau, and so did BirdLife Malta, whom supported the complainant.

The discussions on the complaint raised the interest of the participants, and questions arose for example on the quota for hunting turtle doves in the spring, or on the figures relating to the number of turtle doves passing through the island. Participants also recalled an IMPEL meeting will take place in Malta on 1-3 October 2013. The Group decided to leave to the Standing Committee's institutions to decide on the status of the complaint.

Moreover, in July 2013 the European Union (European Commission) sent a specific report recalling that the Commission raised the issue of enforcement of wildlife regulations with the authorities of Malta in several occasions, calling for appropriate measures to ensure its effectiveness.

In this regard the Commission acknowledged that some measures have been taken by the authorities, for instance concerning penalties possible under Maltese legislation; the Commission further noted a substantial record of prosecutions and referred that the government was envisaging the setting up of a specialised Wildlife Crime Unit, exclusively dedicated to enforcement of wildlife regulations.

The report further confirmed that the judgment of the ECJ left open the possibility of a limited spring hunting derogation of Turtle Dove and Quail, under strictly supervised conditions, and informed that relevant national regulations appeared to comply with the parameters of the Court's judgment.

The Commission received in early June 2013 a detailed derogation report from the Maltese Government which should be assessed in order to see whether the spring 2013 hunting derogation has been applied in line with the strict conditions of the EU's Birds Directive.

Concerning the reports on derogations under Art. 9 of the Birds Directive, the Commission confirmed that Malta should have sent three reports since 2010 (for the period 2009-2011) and that none of these reached the Secretariat.

At its meeting in September 2013 the Bureau considered that this complaint addresses a serious concern but acknowledged the tangible efforts of the authorities, and decided to keep it as a complaint in stand-by. It further instructed the Secretariat request further information regarding the assessment of the autumn migration season to both the Party and the complainant.

The report submitted by the national authorities in March 2014 provides detailed information on some recent institutional and policy developments including: the establishment, in July 2013, of a Wild Birds Regulation Unit with a Specialist Enforcement branch; an undergoing inter-ministerial consultation for the setting up of a national Wildlife Crime Investigation Unit within the Malta Police Force; the setting-up – in October 2013 - of a working group to develop a national strategy for the eradication of illegal killing, trapping and trade in wild birds; a special focus given by the Malta Ornithological Committee to the issues object of this complaint.

Furthermore, amendments to the legal regime on the conservation of wild birds has allowed for rendering the present system of dealing with certain types of offences much more effective, and resulted in a considerable increase in the amount and range of penalties for all types of offences.

The report also presents the specific legal framework governing Autumn 2013 hunting and live-capturing seasons (1st October 2013 – 31st January 2014) which contemplates particularly strict conditions for hunting and trapping and ancillary activities regarding wild birds.

For what concerns enforcement, the report informs that the Administrative Law Enforcement Unit doubled its human resources during peak raptor migration period; as a result over 40 offences of various categories were disclosed in a period of three weeks.

The report provides comparative statistics between the 2012 and the 2013 hunting seasons, showing an improvement in enforcement of legislation. The latter extended to cases of suspected illegal possession and taxidermy of protected species.

Maltese authorities further produce a table detailing the offences and Court's decisions on cases disclosed during the period autumn hunting season. The table shows an increase in the financial fines (up to 4.600 Euros in one case) although none of the convicted has been condemned to imprisonment.

The last part of the report is an interesting list of remaining challenges and commitments which shows the plans of Maltese authorities for the short and medium term, in line with the Bern Convention Tunis Action Plan for the eradication of illegal killing, trapping and trade of wild birds.

In its report submitted in March 2013, BirdLife Malta – in support of the complainant – acknowledges the recent amendments and improvements to the legal framework for bird protection, but affirms that, despite being positive and in favour of harsher penalties, the changes in regulations have not resulted in any significant improvement in implementation and enforcement which remain insufficient to prevent extensive illegal incidents of hunting and trapping. More particularly, the NGO is still concerned by insufficient controls and widespread illegal hunting and trapping practices which BirdLife has witnessed and documented.

Further worries are expressed regarding the specific derogation regime under the EU legislation which, according to the complainant, allow for spring hunting and autumn trapping in Malta, with the result of exacerbating the illegal hunting and trapping of migratory birds, and undermining prevention.

Spring hunting derogations for Turtle Dove and Quail are particularly denounced since they are considered to be inadequate for granting the proper conservation of the species. The system of controls in place under these derogations presents, according to BirdLife Malta, several failures which have already based the ground for the verdict of the European Court of Justice against Malta. Moreover, the authorities have failed – in the opinion of the complainant – to ensure the necessary strict regime of supervision and proportionality in the numbers of birds killed.

The same systematic failures for the spring hunting season are relevant for trapping derogations for Song Thrush and Golden Plover, with a lack of enforcement leading to the indiscriminate trapping of birds in particular during derogated seasons.

Moreover, some of the amendments to the legislation have paradoxically weakened enforcement in return, and the report provides a few concrete examples, including the consequences of the removal of the 50 euros spring hunting license fee, or the removal of a 3pm curfew in September 2013 aimed at protecting migrating birds of prey during the autumn season.

The use of bag limits and their calculation is also questioned, particularly because BirdLife considers this measure as very difficult to be enforced.

Concerning illegal hunting of birds of prey, BirdLife Malta reports 65 incidents of shooting at protected species, 62 incidents of protected birds flying with gunshot injuries and 21 birds belonging to 14 different species received by the organisation with gunshot injuries for the sole derogation period of the 10th to the 30th April 2013. Again, the resources allocated by the authorities to tackle wildlife crime are considered to be insufficient by BirdLife Malta which denounces lack of improvements in this sense.

In addition, BirdLife Malta reports about the concerns already conveyed to the Malta Ornis Committee regarding its recommendation, issued on 4th March, to open a spring hunting season.

In conclusion, the complainant requests that the Bureau assist Malta to properly conserve Europe's wild birds and demand the European Union to effectively ensure the adequate implementation of the Birds' Directive in the country. Moreover, BirdLife Malta is of the opinion that abusive derogations which lead to the further indiscriminate illegal killing and trapping of birds over and above customary hunting seasons, should not be permitted until Maltese authorities show concrete improvement of the situation on the ground.

- **Western rustwort (*Marsipella profunda*) threatened by a waste burn incinerator at Rostowrack Farm St Dennis, UK**

The complaint was submitted in October 2012 and concerns a project of incinerator plant, which is likely to affect the Special Area of Conservation (SAC) in close vicinity (2 km) to the project location. The site is listed as a Natura 2000 site (code: UK0030282) and provides the habitat for

bryophyte *Marsupella profunda*, a species listed in the Appendix I to the Bern Convention. The species exists in only three sites in the UK, where it is thought to represent 50% of the known world population.

According to the information submitted by the NGO, an impact assessment was carried out by a private Environment Agency (Cornwall Environmental Consultants Ltd) commissioned by the waste company in charge of the project plant, but it is claimed to be inadequate by the complainant as it underestimates the local impacts on bryophytes. The EIA did, however, acknowledge that the incinerator project is likely to have distant ecological impacts as a result of emission of low levels of atmospheric pollution during the plant operation.

Moreover, the complainant informed that a complaint to the European Commission was under preparation. Taking into account that the area of concern falls under the site protected by the EU Habitats Directive, the Secretariat invited the Bureau, at its meeting in April 2013, to consider whether an additional follow up under the Bern Convention would be necessary.

The Secretariat further informed that a reporting request had been addressed to UK authorities, whom requested an extension of the deadline.

The Bureau took note of the information provided and decided to postpone its decision to the next Bureau meeting pending the report from UK authorities.

The report sent by UK authorities in July 2013 informs that the application for building a waste burn incinerator was consulted on and involved extensive community engagement. According to the report, the EA provided technical information and explanations of the assessment process to the community, including the applicant, during the permitting determination process.

In the review of the applicant's assessment, EA had considered both critical loads and levels of the air quality as regards different chemical compounds (ammonia, nitrogen oxides and hydrogen fluoride) and generic habitat of acid grassland. It concluded that the impacts were not likely to be significant and that there could be no measurable damage to **the Western rustwort**. The EA considered that an appropriate assessment for **the Western rustwort** was not required.

The report of the UK government was sent to the complainant who provided its comments.

Concerning critical loads and levels, the complainant underlined that *Marsupella profunda* is not subject to any variation in the critical load as it does not absorb nutrients via its roots as it has none. The habitat comparison to acid grassland would be totally mistaken as *Marsupella profunda* grows on outcrops of crumbling granite or clay waste substrates. Referring to existing scientific opinions of various *Marsupella profunda* experts, the complainant emphasized that impact on *Marsupella profunda* and its habitat is believed to be substantial, but this can only be proved by a study of the critical level of the species concerned. According to the Habitats Directive, this means that an appropriate assessment is required.

The complainant suggested finally that the precautionary principle is applied.

Taking into account the specificity of the species, the Bureau instructed the Secretariat, at its meeting in September 2013, to contact the UK government for their reply to the concerns expressed by the complainant in its last report. The Bureau decided to postpone its decision until the next meeting in 2014.

The Secretariat received in November 2013 a new report from the UK authorities in reply to the last complainant's report.

The authorities' report mentions that as there are no critical levels specific to the Western rustwort, Environment Agency (EA) used generic critical levels for the protection of vegetation and ecosystems. Critical levels for ammonia, nitrogen oxides and hydrogen fluoride were considered in the review of the applicant's modelling and EA concluded that the impacts were not likely to be significant.

EA assessed the predicted acid deposition at the Claypits with background acid concentrations quoted in Air Pollution Information System (APIS). Concerning the hydrogen fluoride, EA considered the predicted process contribution from the proposed incinerator at the Claypits and compared that

with background on APIS. The assessment in combination with other sources (and background) was therefore carried out.

The UK government report underlines that EA used the best available information for this species and followed advice given to them by Natural England, which agreed with EA's methodology for assessment and the conclusions reached, and had not raised specific concerns in this respect.

The new report of the UK government was sent to the complainant who provided its comments in February 2014.

Concerning the acid deposition, the complainant reminded that, as the Western rustwort has no roots, the only measurement that would indicate effect on it is deposition directly from air.

The complainant also informed about two academics¹, with specialist knowledge of *Marsupella profunda*, working for Natural England at the time when the investigation into effect was undertaken. They respectively stated that the emissions from the incinerator were likely to affect *Marsupella profunda*, particularly its reproductive ability, that the species was "endangered and declining" and likely to suffer ill effect from over shading as a result of soil nitrification feeding vascular plants. Besides, pollution deposition effects cannot be accurately predicted due to the climatic variations caused by the unique microclimate of the area. Both experts ceased working for Natural England after publishing their findings.

The complainant concluded that the assessment was done using data from the wrong plant, in the wrong habitat, using unscientific methods because correct data was unavailable. He asked the Bureau to note that according to his opinion, the Appropriate Assessment under the terms of the EU Habitats Directive has not been correctly carried out.

On 28 February 2014, the complainant further informed the Secretariat that a survey carried out by Imerys, operating in the vicinity of the proposed incinerator, has identified *Marsupella profunda* at several of its China Clay Works across the Mid Cornwall China Clay area, and following discussion with Natural England they have an agreed *Marsupella profunda* Management Plan in place.

In addition, the complainant informed the Secretariat that he sent a complaint to the European Commission in August 2013, for which he has not received yet a feedback by the preparation of the present report.

- Impact of a project for the regulation of the Danube River on the river's biodiversity

This complaint was submitted in December 2012 by the WWF to denounce the planning of an "over dimensioned" project for the regulation of the Danube river in Croatia, for navigation purposes, which could affect a relatively important number of species and habitats listed in Appendices I-II-III of the Convention.

The complainant's report explained that, according to the official description, the project is aimed at "fixing the river regulation line in order to establish navigation route, stability of river banks, protection of banks from erosion and proper transport of ice and sediment". However, the complainant stressed that the project intends to finalise the implementation of the regulation corridor, which was defined in the 1970s when environmental needs, such as the protection of the unique natural values in the area, were not taken properly into account. The complainant further denounced that: the project was approved by the authorities without previous EIA or analysis of the transboundary impact on Serbia (in possible contradiction with the ESPOO Convention); that the river regulation, as it stands, is not coherent with the standards set under the Convention, EU Directives or the Ramsar Convention; and that possible negative impacts could affect national and international key protected areas of about 50,000 ha.

In conclusions, the complainant feared that the implementation of the planned measures can lead to a deterioration of the ecological and hydro-morphological quality of the Danube River, constituting a clear violation of several international Conventions and European legislation.

¹ Dr. Porley and Dr. Holyoak

The Secretariat forwarded copy of the complaint to both the EU and the Ramsar Convention. It further addressed a reporting request to Croatian authorities.

In a report submitted for the April 2013 meeting of the Bureau, Croatian authorities affirmed first of all that the development project has been updated to take account of the current situation, and subsequently harmonised with relevant legislation.

Moreover, an Environmental Impact Assessment (EIA) procedure was underway and carried out in line with the Regulation on Environmental Impact Assessment, in full compliance with the European Union *acquis*. An advisory Expert Committee was set up in September 2011, gathering representatives of all the Ministries involved, as well as independent experts, representatives of the Public Institution Nature Park Kopački rit, and representatives of municipalities. In addition, public consultations took place and the opinions expressed were taken into account and the EI Study amended accordingly.

The expert assessment of the study carried out afterwards concluded that this addressed all necessary elements and relevant data for the implementation of the EIA procedure concerning the conservation of the area provided that continuous monitoring continues to be carried out before and during project implementation as well as during the use of the facilities.

The Ministry further informed on the procedure related to the transboundary assessment: a public presentation of the project was carried out in Serbia and the competent body for the implementation of the Espoo Convention in the country is preparing its position or possible comments on the Study itself. Regarding Hungary, the country requested detailed information on the project plans and communicated its wish of commenting the documentation received.

In conclusion, the Ministry of Environmental and Nature Protection envisaged two possible scenarios: either the EIA procedure for the project in question will be completed on the basis of the expert study and after finalising all transboundary consultations, or the investor will withdraw the study. The Ministry of Environmental and Nature Protection will wait for the final opinion of the Expert Committee before deciding whether the project can be considered environmentally acceptable or not.

Concerning the Ramsar Convention, its Secretariat was already informed of river channelisation measures in the area, and had liaised with the European Union in the framework of the analysis of a number of specific programmes of investments for river bank stabilisations, dredging and others along the Danube and Drava rivers. Already a year ago, the Ramsar Convention offered to the Minister of Environment an on-site Advisory Mission, which the EU should join, and which has been several times postponed since. The Ramsar Convention suggested that the complaint submitted under the Bern Convention could help relaunching the consultation process among the concerned actors.

At its meeting of April 2013, the Bureau thanked the WWF for the active role in raising attention on possible problems, as well as the Croatian authorities for the constructive reply and useful information. It also recognised the interest of this complaint and agreed that it could deserve international attention. Nevertheless, the Bureau further noted that the situation is already monitored by the Ramsar Convention and the European Union and expressed the wish that in future a better coordination among all international stakeholders would favour a more timely exchange of information.

In view of the meeting of the Bureau in September 2013, the Secretariat approached the Croatian authorities, the European Union and the Ramsar Convention with a request for updated information on the state of play of the EIA procedure for the project. Nor the Croatian authorities, nor the Ramsar Convention Secretariat provided a report with new information for the meeting of the Bureau.

The Bureau regretted the lack of updates from both the Croatian authorities and the Ramsar Convention, and instructed the Secretariat to reiterate its reporting requests. The complaint was kept as a complaint in stand-by pending the completion of the EIA, with a possibility to request the opinion of the ESPOO Convention on this EIA.

In a report submitted by the Croatian authorities in March 2014, the Minister of Environment gave additional details on the project planned for the Drava and Danube rivers in Croatia. He

confirmed that three projects are planned and concern the regulation of the rivers:

1. A waterway regulation regulatory works at the Danube River (from km 1382 to 1433): On this project, the Minister informed that the EIA is still on-going and confirms that the project has been publically presented in both Croatia and the Republic of Serbia in order to comply with a procedure on determining the transboundary environmental impact of the project. The public consultation produced a lot of comments and objections which are currently being considered.
2. Development of the Danube River waterway at Sotin (at km 1321 to 1325): The procedure for the evaluation of the need for an EIA (screening) was implemented and all actors concerned and consulted expressed an opinion that the minor extend of the project does not require an EIA. The public consultation on the possible need for an EIA also did not give place to any comments.
3. Regulation works on the River Drava (km 0+000 to km 56+00): EIA procedure was implemented in 2008 and a decision was issued on the environmental acceptability of the project. A public consultation on this project was organised in the form of a public debate part of the EIA procedure. No transboundary consultations were held as the Ministry concluded that the project will not have significant transboundary effects.

No report was submitted by the complainant for the meeting of the Bureau in April 2014.

- Cutting of trees for the expansion of the railway network

This complaint was submitted in October 2012 and concerns the Network Rail tree clearance programme along the railway embankment in Whitstable, Kent (UK). Motivated by safety concerns (excessive soil moisture impacting on track quality), the programme is being actively challenged by complainant (Whitstable residents) who claim the need for public consultation and proper environmental assessment. According to the file presented, the governments did, however, carry out a pre-site survey and an ecological risk assessment for the work in the area concerned. The assessment report prepared by private Capel Group Ltd confirms that the area has no specific environmental status and has no evidence of species of great conservation concern.

The Secretariat sent a reporting request to UK authorities whom requested an extension of the deadline.

In light of the summary provided, the Bureau, at its meeting of April 2013, considered that more detailed information on the species possibly affected by the expansion of the railway network was needed. It decided to keep the file under scrutiny as a complaint in stand-by and to re-assess it at its next meeting, in light of the information expected from the UK authorities.

The report sent by the UK authorities in July 2013 provides a summary of the report and supporting documents submitted by Network Rail (NR) to answer the questions raised by the complaint. Network Rail admitted that its communications with local residents were poorly handled, but a number of public meetings were already organized to palliate to this. Moreover, NR commissioned an independent survey which confirmed the presence of nesting birds in the area of concern. Subsequently, the works were postponed until the nesting period had finished. As for the vegetation clearance, a land management strategy is currently being drafted by NR as to ensure that the railway security and biodiversity objectives are harmonized and achieved. This will include a replanting programme that foresees replanting of tree species less likely to disturb rail operations.

The report also underlined that the proper environment assessment is not required according to the legislation and taking into account that the area of concern has no specific conservation status.

The complainant sent additional comments reaffirming that vast area of rail side embankments were being destroyed by NR in the bird breeding season, and insisting on the irregularities of the project implementation - which Secretariat presented orally to the Bureau at its meeting in September 2013. The government confirmed, through an electronic message, that comments have largely reiterated various issues already answered by the NR and that no reply is deemed necessary by both the NR and the UK government.

The Bureau took note at its meeting in September 2013 of the information provided and remarked that the complaint falls within the domestic jurisdiction as it primarily concerns a vegetation clearance

programme and the management of green spaces. It asked the Secretariat to propose the UK authorities to directly contact the complainant for an internal settling of the issue. The Bureau decided to keep the complaint on stand-by pending the UK authorities' final reply.

The Secretariat requested to the UK authorities to send a letter with their official position on the matter. The Secretariat also reminded the complainant that in order to effectively use the Bern Convention mechanism, the complaint should specify species that are threatened by Network Rail and are included in the relevant appendices to the Bern Convention. No answer has been received by the preparation of the present document.

- Hydro power development within the territory of Mavrovo National Park (“the former Yugoslav Republic of Macedonia”)

The complaint was submitted in March 2013 by the association “Eco-svest - Center for environmental research and information” to denounce a possible breach of the Convention by “the former Yugoslav Republic of Macedonia” with regards to the development of hydro-power projects within the territory of Mavrovo National Park, an Emerald candidate site since 2011.

According to the complainant, the construction of several hydro-power plants and supporting infrastructures (roads, bridges and transmission lines) will result in the direct destruction of forests, severe disturbance of water sources and fragmentation of wildlife habitats – the home of numerous strictly protected species of plants, mammals, birds, amphibians and reptiles listed in Appendix I and II of the Bern Convention.

The complainant emphasised that some of these species, namely the *Lynx lynx balcanicus*, might be critically endangered if the projects are implemented.

The Secretariat addressed a reporting request to the government, stressing that according to the Recommendation No. 162 (2012) of the Standing Committee, on the conservation of large carnivore populations in Europe requesting special conservation action, “the former Yugoslav Republic of Macedonia” should assess the environmental impact on the lynx population of dams in the Mavrovo National Park - a site identified as a candidate for the Emerald Network - and consider abandoning the project if the dam poses a risk of endangering the lynx population. The Secretariat also reminded that, according to Recommendation No. 157 (2011) of the Standing Committee, on the status of candidate Emerald sites and guidelines on the criteria for their nomination, national authorities should “take the necessary protection and conservation measures in order to maintain the ecological characteristics of the candidate Emerald sites”, until their full inclusion in the Emerald Network.

The Government report, received on the 2nd September 2013, informed that an Environmental Impact Assessment Study for the hydropower plant project Boshkov Most was prepared by GEING Skopje, “the former Yugoslav Republic of Macedonia” based engineering company with operation in the Balkan area. Additionally, a 4-seasons biodiversity monitoring has been carried out by a team of experts on invertebrate and vertebrate species. The report says that according to EIAS and monitoring study, the hydropower plant project Boshkov Most satisfies entirely the requirements of the national legislation and that a decision authorising the development of Boshkov Most's project has been already issued.

The report did not provide conclusions from the EIAS or monitoring study allowing to judge about possible impacts of the project on the species, and their habitat, referred to by the complainant.

The report further informed that the MEPP instructed the ELEM to implement an Environmental Impact Assessment Study for the hydropower plant project Lukovo. An international tender was published and the company BRL from France was selected to develop the EIA Study by engaging international and national experts. When accomplished, the ELEM will send the Study to the independent expert committee established by MEPP, for review.

At its meeting in September 2013, the Bureau decided to keep the complaint in stand-by pending the authorities' reply and asked the Secretariat to contact the national authorities with request to provide more detailed information about the possible impacts of the hydropower project implementation in Mavrovo National Park on species and habitats.

In a short report submitted in January 2014 the complainant informed that a lawsuit was pending before the Administrative court against the decision of the Ministry of environment to approve an incomplete EIA study for the hydropower plant project Boshkov Most. The complainant underlined that the irregularities on the EIA study are confirmed by a EBRD compliance review report (January 2014) which concludes that the EIA is “not sufficiently comprehensive and conclusive”.

In a short report submitted in March 2014, the national authorities inform that the situation regarding the two Hydropower plan (HPP) projects is the following:

- HPP Boshkov Most – The Environment Administration of the Ministry of Environment and Physical Planning confirms again that the EIAs for this project was prepared and sent to them. They further confirm the study was amended to include information on and measures according to the national Law of Environment and relevant international conventions including the Bern Convention and its Emerald Network. Unfortunately no additional information is made available on the lawsuit the complainant informs on in its report.
 - HPP Lukovo Pole – the Environment Administration of the Ministry of Environment and Physical Planning informs that the EIAs study is currently being prepared. Some delays were observed as the company hired for the preparation of the EIAs was changed. The results of the study are expected in April 2014. The Ministry will analyse the study and send official information on the results of the EIAs to the Bern Convention Secretariat.
- **Implantation of an asphalt plant in a flood risk area with possible threats to the otter (*Lutra lutra*) and the European mink (*Mustela lutreola*) (France)**

The complaint was submitted in March 2013 by the French association «Halte à la pollution» and focusses on the presumed threats to the European otter (*Lutra lutra*) and the European mink (*Mustela lutreola*), both species included into Appendix II to the Bern Convention (strictly protected fauna species).

The complainant denounces the supposed pollution of the habitat of these species due to the implantation of a bitumen manufactory LGE (Lot & Garonne Enrobés) in a flooding area of the Avance valley in the Lot-et-Garonne (47), in Aquitaine (France). The complainant considers the situation as urgent taking into account the floods’ frequency and the presence of hydrocarbon wastes contained in the holding tanks of the manufactory. According to the complainant, hydrocarbons washed out by the river cause pollution that threatens the local fauna and flora and in particular the European otter and the European mink.

The Secretariat sent a reporting request to the French government in April 2013. Despite the reminders sent by the end of July and the beginning of September, the Secretariat hadn’t received any reply before the Bureau meeting in September 2013.

The Bureau considered that it needed more information, and particularly the reply from the government, in order to properly assess this complaint. It therefore decided to re-assess it as a complaint on stand-by at its first meeting in 2014.

The Secretariat reiterated the reporting request to the French authorities in January 2014.

On 5 March 2014, the complainant sent further documents to the Secretariat. The copy of a leaflet from October 2012, showing a picture of otter in the basin of the Avance, confirms the otter presence already stated by the certificate attached to the original complaint. On the other hand, the complainant noticed that in the appendices to the request of authorisation to implant the LGE factory, the otter had not been considered as potentially present within the geographical sector of the implantation.

The French authorities sent the Secretariat their report and several appendices containing studies to support their position, among which two were already produced by the complainant.

The report considers that, as the location of the plant is at 10 km down-river from the Avance Natura 2000 area, the only Natura 2000 area which could be subject of a negative impact study, is the Garonne, located at 4.6 km. Therefore, an inventory list of fauna, on which the otter does not appear, has been established for Garonne.

The government's report assures, that, contrary to what the complaint mentioned, the bitumen manufactory does not reject industrial waste water, but only rainwaters, into the tributaries of the Avance river. The plant is supplied with adequate equipment and biannual imperative controls are done to comply with the regulations. According to the results of the analysis, the concentrations of hydrocarbon were not significant in any of the three tributaries of Avance.

If there was a potential danger of pollution by hydrocarbon, it could only come from the tanks of bitumen and from the barrels and containers implanted in a covered and closed shed. The tanks are embedded in basins of retention conceived so that the height of the low walls of retention is superior to the most known high tides. Moreover, the flood which occurred on the LGE site in January 2013 had not engendered any pouring of products or dangerous substances in the natural environment.

In conclusion, the government's report indicates that, the operating conditions of the LGE site, the absence of rejection of industrial waters, the equipment of treatment of the rejections of rainwaters, the constructive capacities of the basins of retention taking into account the potential risk of flood, allowed the inspection of the classified installations to conclude that the risk of infringement towards the natural environment, in particular the Avance basin, is mastered.

- Presumed impact of a construction of Overhead Power Line (OHL) in an environmentally sensitive area in the Lithuanian-Polish borderland

This complaint was lodged in May 2013, for denouncing a possible breach of the Convention by Lithuania with regards to permissions issued for the construction of a 400 kV, 1000 MW Overhead Power Line (OHL) in an environmentally sensitive area in the Lithuanian-Polish borderland. According to the complainant, the construction of the OHL will not only have a direct impact on a number of species and habitats protected under the Convention, but also involve the development of other infrastructures and disturbing activities (for instance a new road network, clearance of forests, cultivation of land, increased pollution levels, technical maintenance, etc.). These infrastructures may result, among others, in destruction and fragmentation of the habitats and the migration routes, disturbance of the species by the noise and vibration caused by the operation and the necessary service works, accidental killing by vehicles, chemical pollution.

Moreover, the complainant considers that the EIA procedure was not transparent and that the EIA report (approved in January 2011), is of insufficient quality. It further highlights that reasonable alternatives to the chosen OHL route and its technology were identified by the community and experts, but not considered for the EIA because the OHL project has a short deadline due to the current EU financial framework.

End of May 2013 the Secretariat sent a reporting request to Lithuanian authorities.

In their report, sent on 6 September 2013, the authorities expressed disagreement with the arguments of the complainant and informed that the OHL was approved by law as a project of Strategic State importance (i.e. relevant for the well-being of the society). The project is also important for the strategic security of the country.

Furthermore, the authorities detailed the process according to which the EIA was carried out, stressing that this was prepared in full compliance with the national legislation. Information on the EIA was published in the newspapers, while the EIA programme was available on the website and in the municipality. A specific booklet was published and printed for broader distribution. The authorities further list the numerous public presentations done. The comments received by different sources, including the public, were integrated in the final version of the report.

The authorities considered that the decision to approve the EIA report on the construction of the Power Line was made after comprehensively and fully considering and evaluating the conclusions and proposals of all EIA subjects, in accordance with all the procedures set out in the Law on Environmental Impact Assessment of the Proposed Economic Activity and by ensuring submission of proper information and participation of public in all stages of EIA procedure.

The authorities further recalled that the OHL construction is carried out in two countries (Lithuania and Poland) and that the EIA procedures were carried out in both national territories. In addition, the applicant already questioned the lawfulness of the EIA report before national courts in

Lithuania (first instance and appeal). The application was dismissed in May 2013 by the Supreme Administrative Court of Lithuania.

Concerning the non-establishment of two protected areas near the Polish Natura 2000 Network area PLH200007, the authorities informed that the possibility of setting-up two landscape and geologically sensitive protected sites nearby the area of dispute was being studied, but that the process for this had not started yet and it was anyway independent from the OHL construction. They further stressed that no new roads have been constructed in the area identified by the complainant, and that only reconstruction of the existing local road was carried out.

On the presumed lack of assessment of the impact of the OHL on an important bird migratory corridor, the authorities affirmed having carried out comprehensive biodiversity studies which included measures to avoid or mitigate possible negative effects and that no negative impact on migrating birds could be found. As a consequence, the EIA report was validated by the State Service for Protected Areas under the Ministry of Environment.

Lithuanian authorities further informed that the submission of comments by the complainant, including the technological alternatives, were comprehensively assessed and rejected as unfounded, not because of the financial obligations to the EU, but rather due to the fact that the proposed alternatives were considered contrary to a number of already adopted territory planning documents and could have an unacceptable negative environmental impact on another Natura 2000 area, Kalvarija Biosphere Polygon.

Regarding the allegation of negative impact of the OHL on the European pond turtle (*Emys orbicularis*), the authorities considered that the applicant didn't prove the presence of the species in the exact area where the power line will be constructed and that this species was not confirmed by the survey of amphibians and reptiles performed by the NGO Lithuanian Fund for Nature in July/August 2013 in part of the area or by the investigations which took place for the preparation of the EIA report. To conclude on this point, and based on all the surveys research done, the authorities affirmed that there are no European pond turtle and its habitats in the the planned route of the Power Line from Žemaitkiemis village, Lazdijai District Municipality to Filicijanavas village, Lazdijai District Municipality.

Moreover, the authorities also detailed the main negative impact reducing measures foreseen in the EIA report, which will be taken into account during the construction of the OHL, namely for reducing the significant negative impact to fauna of the construction works.

On the possible impact of the power line on Galadusys Lake hydrological regime, the authorities informed that the digging works will not be performed along the whole OHL route but only at the power line support building places. Again, they referred to the EIA and to the measures identified to reduce possible negative impact.

Finally, the report submitted by the authorities of Lithuania informed that there are no other development or infrastructure projects planned in the area other than the power line building works. The authorities considered having taken all necessary legislative and administrative measures, including those foreseen by the Convention, to conserve wild flora and fauna and their natural habitats.

On 9 September the complainant sent a reply, informing about the results of five half-day visits carried out in 2013, which would suggest that the European pond turtle (*Emys orbicularis*) is present in the area, so as the European fire-bellied toad (*Bombina Bombina*), Great crested newt (*Triturus cristatus*), Common spadefoot (*Pelobates fuscus*) and the European tree frog (*Hyla arborea*). For the European pond turtle, the complainant recalled that the species is listed as present in the Polish Natura 2000 site which forms one ecosystem with the Lithuanian area. The complainant further provided a list of birds which have been observed in the area, and mentioned some other plant habitats maintaining that the rich biodiversity of the area has not been properly assessed.

At its meeting on 17 September 2013, the Bureau decided to keep the complaint in stand-by and to consider it again at its first meeting in 2014. The Secretariat was charged to request further clarification concerning the presence of protected species, and in particular the European Pond Turtle, in the area where the OHL will be built.

In the reply sent on 7 March to the Secretariat, the national authorities informed that no additional information could be provided on the presumed presence of the species as no research or surveys were carried out due to the unsuitable winter season. The non-governmental organisation Lithuanian Fund for Nature informed the authorities that surveys on the presence of nesting sites within the area concerned will be conducted during the spring season of 2014. This NGO is presented by the authorities as the results of these surveys will be sent to the Secretariat as soon as available.

The authorities further recall that during the preparation of the EIA report, the qualified experts participating did not find any European pond turtle nesting places in the area of investigations. They also remind that the technical project for the construction of the OHL has been prepared and the building permit issued. Construction works are expected to start in spring 2014. In the building contract, special clauses foresee mandatory ecological supervision and works and direct inspection of the future construction sites before the works start by an ecology expert.

In its report of March 2014, the complainant provides some recent evidence (through photos) of the OHL project works that have already started and created presumed damage to the area. The complainant provides further information to support the data already submitted for the September Bureau meeting on the presence of the species in the area of concern.

Opinions of eminent experts of the European pond turtle from the country seem to confirm that the area is an important habitat for the species and that individuals were found by local people at less than 1 km from the planned OHL. The presence of the rare species is further confirmed by recent biology students' thesis. Supporting letters are also provided on behalf of an expert from the University of Warsaw, testifying that the area on the Polish side comprises a lot of good habitats for the pond turtles. He further explains that the area is very poorly investigated and requires detailed research.

In a last e-mail sent to the Secretariat, commenting the report received by the national authorities, the Complainant expresses some doubts on the objectivity of the organisation that would conduct research in the area in spring 2014. According to the complainant, the NGO would depend financially from the Ministry of Environment, even though their past work on the species is of quality. In addition, the complainant reminds that the construction works have already started - a fact not without a consequence on the surveys planned. The complainant also reminds that their complaint concerned other protected species as well, while the reply from the authorities only concerned the pond turtle.

- **[2006/1: France: Protection of the European green toad (*Bufo viridis*) in Alsace]**
- **[2010/3: Ukraine: threats to natural habitats and species in Dniester River Delta]**
- **[2011/5: France / Switzerland: threats to the Rhone streber (*Zingel asper*) in the Doubs (France) and in the canton of Jura (Switzerland)]**

The Secretariat reminds that complaints under brackets on the meeting Agenda will be assessed at the second Bureau meeting.

Reporting requests, where appropriate, have been addressed to the competent authorities.

4. Other complaints

- **2013/7: Presumed risk of national extinction of badgers (*Meles meles*) in England**

Since September 2013 the Secretariat has incessantly received complaints, e-mails and calls about the presumed risk of national extinction of badgers in England as a result of indiscriminate cull of the species, in the absence of updated census. The complaint registered under the reference 2013/7 is the most comprehensive received by the Secretariat: it was submitted in October 2013 and includes all the concerns expressed by the other complainants.

The complaint concerns the extension of the period and localities in England where a trial free-shooting of badgers takes place, in view of reducing Bovine TB.

According to the complainants, the pilot badger culls in parts of England, through free-shooting of the species, are currently extending to the catching and killing of individuals. This situation,

together with a presumed lack of clear data on badgers' populations by national authorities, could potentially lead to the extinction of the species.

The complainant explains that the initial aim of the pilot culls was to test the efficacy of the free-shooting, which has conclusively proved to be inefficient in terms of both money and time, although the roll-out of the method is considered for the rest of England. The complainant advances some population estimates from several locations in England and insists that in some of these the original cull target was bigger than the population estimates there.

In a report submitted in November 2013 and complementary information submitted in February 2014, the national authorities confirm that the decision to extend the culling period concerned only the two pilot areas of Somerset and Gloucestershire, on the basis that further badgers needed to be culled from a disease control perspective after the initial 6-week period.

The estimates of the badgers' populations were collected immediately before the start of the culling and the estimates of the badgers removed in each area were done both after the initial 6-week period and after the extension period of 3 weeks for Somerset and 8 weeks for Gloucestershire. The objective was to remove at least 70% of the total badger population in each of the two areas.

According to the Chief Veterinary Officer of the UK, there are significant uncertainties in the estimates of the badger population and thus in what constitutes a 70% reduction. However, according to the culling efficacies of the randomised badger culling trial, benefits can be expected to accrue by effective culling over four consecutive years.

Regarding the two localities concerned by the culling, the national authorities have taken a precautionary approach and will monitor the 20-30% remaining badger activity.

The national authorities also remind that the badger's natural range stretches across the whole of Great Britain and that the badger's population's conservation status is uniform across this natural range. The two areas currently concerned by the culling represent only 0.4% of the total area of England.

The authorities conclude that if the practice is rolled out more widely, which is not confirmed by the authorities yet, it will only take place in control areas which represent a high risk in relation to cattle TB.

- Presumed abusive eradication of European badgers (*Meles meles*), France

This complaint was submitted in October 2013 by a French citizen, to denounce a possible breach of the Convention by France with regards to the policy of control of the European badger (*Meles meles*) with its possible eradication on the national territory.

In complainant's report states that the badger has no more been classified as damaging species since 1988 and thus its trapping cannot be authorized. But the Code of the environment foresees an article which allows the prefects to order badger hunting and culling in case of culture damages.

The report mentions that the hunting with hounds is authorised for badgers during the hunting season and ends most often by killing the badger. Several examples of events, such as championships, organised in different French departments around this particular type of hunting are enumerated.

Furthermore, the report lists several examples of French departments where actions of trapping, unearthing, or night shooting, sometimes with use of light sources are organised. The night shooting with use of light sources is forbidden by ministerial decree, excepting for lieutenants of "louveterie", who organised and led these operations.

On the other hand, the detection of bovine tuberculosis, *Mycobacterium bovis*, in wildlife in 2001 and the resurgence of infection in cattle farms since 2004, have highlighted cases of bovine tuberculosis on wild species, among which the badger, in the neighbourhood of the infected flocks. The report lists several examples of French departments where actions of badgers capture and drastic regulation for the purpose of testing for bovine tuberculosis and population control have been ordered.

The complainant's report mentions a draft ministerial order on certain measures to fight against tuberculosis in wildlife, which was open to public consultation on 21 July 2013. Among the

prevention and control measures, there is an article which states that for the badger, in case of proven infection on individuals, a program of population control and destruction of infected specimens and their burrows can be implemented.

The complainant considers that all these operations can damage the survival or the preservation of the concerned populations.

The Secretariat assessed the complaint and noticed that the European badger (*Meles meles*) is a protected fauna species listed in the Annex III to the Bern Convention, and therefore benefits from a less strict degree of protection, as the Contracting parties are authorized to make certain exceptions to the Convention.

The Secretariat informed the French authorities about the new complaint and requested them to send a report by 14 March 2014, eventually delayed to 25 March 2014. Unfortunately, the report has not reached the Secretariat by the preparation of the present document.

- 2013/9: Presumed destruction of birds' and bats habitats due to tourism developments in Ukrainian Natural Reserves (Ukraine)

The complaint was submitted by the "Nature Protection Squad "Green Future" in November 2013 and concerns a presumed breach by Ukraine of Article 6 of the Convention. According to the complainant, the destruction of important habitats of bats and rare bird species due to the issuing of permits (ceiling limits) for the boating of tourists along the cliffs and the walking tours of caves in two Nature Reserves in Ukraine (Opuk and Karadag), is adversely affecting the populations of the above-mentioned species.

The ceiling permits would concern the Karadag Nature Reserve (Crimean peninsula), while the walking tours permits would concern the Opuk Natural Reserve. Both areas are presented as two of the most important habitats for endangered species like the peregrine falcon, Saker falcon, European Shag, Rosy starling, Lesser mouse-eared bat, Greater horseshoe bat and Geoffroy's bat.

The complainant further explains that as a result of the stress caused by the tourists visiting the habitats, many bats die and birds abandon their nests with eggs and squabs. In the last years, the number of shags nesting would have decreased by 200.

It should further be noted that the Karadag Nature Reserve is an applicant for the award of the European Diploma of Protected Areas. During his on-the-spot appraisal of the area in view of the award the Diploma, the independent expert appointed by the Council of Europe witnessed illegal recreational activities within the nominated area, like boating and jet skis, in particular in the marine area of the strict reserve.

In their report, sent on 13 March 2014, the national authorities inform on initiating an investigation immediately after receiving the letter of request for more information from the Secretariat. The investigation was conducted with the involvement in the process of all relevant stakeholders (managers of the areas, NGOs, wider public, experts, etc.). A Workshop was held at the Ministry of Ecology and Natural Resources of Ukraine on 20 February on the same matter, to which the Head of the Nature Protection Squad "Green Future" was also invited.

The national authorities further inform that according to the Head of the Nature Protection Squad "Green Future", the author of the complaint Mr Ivan Parnicoza was fired from the organisation before the official submission of the complaint and that this complaint was therefore not official.

In their report, the national authorities inform that visiting of strict nature protected areas takes place under very strict conditions and only for scientific and ecological purposes. Such visits take place only by predefined routes and are headed by PA guides. The authorities further develop on the dynamics of the nest numbers for the bird species and bat colonies in both National Reserves. These have been discussed at the meeting organised by the Ministry and the conclusions show that the small variations in the number of some of the mentioned species are within the natural short term fluctuations, with a general trend for increasing the numbers. In particular, the authorities confirm that the small fluctuations are not linked to the limited amount of official visits.

Nevertheless, as a result of the meetings and expert conclusions, the Ministry issued some recommendations for the authorities of both Reserves, in particular to enhance the protective measures by warden services, which are already very well established, to reconsider the terms, location and regime of marine eco-tourism visiting the Karadag Reserve based upon scientific evidence from 2014 and to enhance the general public awareness on the need of protection of rare wildlife species.

- **[2013/10: Impact of corn monoculture on the conservation status of protected species in Alsace, France]**
- **[2014/1: Presumed risk of national extinction of badgers in Ireland]**

The Secretariat reminds that complaints under brackets on the meeting Agenda will be assessed at the second Bureau meeting.

Reporting requests, where appropriate, have been addressed to the competent authorities.